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Assam Police Manual

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Assam Police Manual

Part IV

SECTION I - COURT OFFICE

Prosecution Staff

(Rules 1 to 7)

1. Prosecution Staff

The prosecuting staff of each district-consists of –

(a) The Public Prosecutor appointed under Section 492 (1) of the Criminal Procedure Code, who conducts prosecutions before the Sessions Court and in important cases before the Magistrates - All Government pleaders are ex officio public prosecutors. In districts and subdivisions where criminal work is specially heavy another pleader or advocate is appointed to be public prosecutor, and relieves the Government pleader of the conduct of prosecutions. In addition any District Magistrate, or Subject to the control of the District Magistrate, any sub divisional Magistrate, may in the absence of the public prosecutor or where no public prosecutor has been appointed, appoint under Section 492 (2) of the Criminal Procedure Code any officer of police in the State of Assam not below the rank of an Inspector to be public prosecutor for the purpose of any case.

(b) An Inspector or Sub-Inspector of police at the headquarters station of every district and sub-division.-These officers are styled court officers. They are assisted by a staff of Sub-inspectors, Assistant Sub-Inspectors and Constables according to requirements.

Under the provisions of Section 495 of the Criminal Procedure Code, State Government have prescribed that police officers not below the rank of Sub-Inspectors shall conduct prosecutions.

See also rules in Chapters I and II-Part II-criminal Rules-Assam Law Department Manual.

NOTES

Section 492 (1) of the old Code corresponds to Section 24 of the 1973 Code, as substituted by Cr. P. C. Amendment Act, 1978 and read as follows:-

"24. *Public Prosecutors* - (l) 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 State Government, as the case may be.

(2) The Central Government may appoint one or more Public Prosecutors, for the purpose of conducting any case or class of cases 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.

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to- be a Public Prosecutor as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a penal of names of persons, who are, in his opinion, fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(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 penal of names prepared by the District Magistrate under sub-section (4)

(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).

(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.

(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.

(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 Code) 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."

Section 495 of the old Code corresponds to Section 302 of the 1973 Code and provides for permission to conduct prosecution, which reads as follows:

"302. *Permission to conduct prosecution* - (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 not 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:

Provided that no police officer should 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 a pleader."

2. Duties of court officers.

(a) The Court Inspector at district headquarters will be responsible for the prosecution of all police cases before Magistrates at headquarters, and will assist the circle Inspectors and sub-divisional Court Sub-Inspectors with advice relating to the prosecution of cases when required by them to do so. He will conduct prosecutions at sub-divisions only when so ordered by the Superintendent of Police. The sub-divisional court officer will be similarly responsible for the prosecution of all police cases in his sub-division.

(b) The Superintendent of Police must not depute the headquarters Inspector to take up cases at a subdivision without satisfying himself that there are no urgent cases at headquarters for him to conduct, or without informing the District Magistrate of the proposed deputation.

(c) Should a sub-divisional Magistrate, sub-divisional police officer or circle Inspector consider that any cases at a sub-division ought to be conducted by the headquarters Court Inspector, he will apply to the Superintendent of Police for the services of that officer.

(d) When on a case coming before the Magistrate, it appears to him that the Court Inspector or Sub-Inspector should prosecute personally, he may order him to prosecute. The officer so ordered will inform the Superintendent of Police. If the Superintendent of Police finds that a particular Magistrate habitually makes use of this power unnecessarily, he should bring the fact to the notice of the District Magistrate.

(e) The Court Inspector whether at district or sub-divisional headquarters will not be employed on clerical duties or the upkeep of registers, but he should exercise general supervision over the work of his subordinates, and will be held generally responsible for the efficient working of the court office.

(f) The Officer-in-charge of a court office being responsible for the work of his subordinates must arrange to be kept promptly informed of everything that goes on his office, Prisoners must be produced before him directly they are brought to the court office and all papers and property received in the court office must also be shown to him without delay.

(g) The headquarters Court Inspector will appear in appeals in police cases before the District Magistrate when such appeals are contested or when the circumstances of a particular case demand it, and the public prosecutor is not engaged to appear.

(h) The Court Inspector at headquarters may not be taken into mufassil by Magistrates without reference to the Superintendent of Police.

(i) Court officers will have the use of law books, law reports and the Assam Gazette in the Magistrate's library and such books, reports and gazettes may be issued to them from the Magistrate's library on their own requisition.

(j) Court Inspectors and Sub-Inspectors must make themselves thoroughly acquainted with the contents of the Case diaries and with all particulars connected with those cases which they have to prosecute. If the case diaries do not contain full details of evidence the court officers should ascertain from the witnesses the facts they will prove, and prepare themselves for the proper conduct of the case.

(k) All applications made to a Magistrate by a Court Inspector, or Sub-Inspector in the course of a trial should be in writing and should be filed in the same way as is done by private parties.

3. Assistance of legal practitioners or other police officers.

(a) When any other officer or person is employed by the Magistrate to conduct the prosecution of a police case, the court officer must give him all information needful to enable him to conduct the prosecution efficiently.

(b) No prosecuting Inspector or Sub-Inspector may leave the prosecution of police cases in the hands of legal practitioners engaged by private persons without the express sanction of the Superintendent of Police or the Magistrate. He may take instructions from legal practitioners so engaged, and allow them to assist him.

4. Court constables.

One or more constables will be placed on duty in courts when police cases are being tried, and in all other criminal courts when available. Their duties are-

(a) to guard prisoners in the dock.

(b) to look after exhibits produced before the court.

(c) to keep order in the court.

(d) to assist the court officer in any way that he may direct.

5. Relation of court officer to superior police officers.

The Court Inspector at the headquarters station of the district is directly subordinate to the Superintendent of Police and in sub-divisions to the Deputy or Assistant Superintendent of Police, if any, in charge of the sub-division. The Sub-Inspector in charge of a court office is subordinate to the circle Inspector and sub-divisional police officer, if any, who is responsible to the Superintendent of Police for the working of the police in his circle or sub-district, respectively.

6. Criticism of judicial work.

All court officers must observe the instructions given in Part I, and should occasion arise for them to draw attention to what appears to them a judicial error or irregularity on the part of Magistrate they must do so in temperate and respectful language.

7. Court officer's qualifications.

No officer may be appointed to hold charge of a court office unless he-

(a) has passed completely all the departmental examinations in Law and Procedure prescribed for his work;

(b) holds at least a "Proficiency" certificate in the "Finger Print Identification" system.

Prosecution of Cases

(Rules 8 to 22)

8. Prosecution of non-cognizable cases and cases under Section 353, Indian Penal Code.

Although Section 24 of the Police Act (Act V 1861), empowers a police officer to lay any information before a Magistrate and to apply for any legal process as may by law issue against any person committing an offence, prosecution for non-cognizable offences, or for an offence under Sec. 353, I. P. C., when the public servant assaulted a police officer, must not be instituted, as a rule, without the previous permission of a Superintendent of Police. The court officer will report to the Superintendent of Police, whenever a police officer institutes a noncognizable case

without authority.

NOTES

Section 353 of Indian Penal Code deals with the offence of assault or criminal force to deter public servant from discharge of his duty and the punishment prescribed in imprisonment of either description for a term which may extend to two years, or with fine, or with both. The ingredients of this section are:

(1) The person assaulted was a public servant.

(2) Who was acting in exercise of his duties as such public servant was-

(i) intended to prevent or deter him from discharging his duty as a public servant; or

(ii) used as a consequence of anything done or attempted to be done by the said public servant in lawful exercise of his .duties as such public servant.

Mere objection or protest does not fall within the expression "prevent or deter", as held in AIR 1953 Mad 963 (Ganapathi), Resistance and assault in self defence is no offence, AIR 1959 Bom 284 (Devaraman Shamji). No sanction is required to for the offence under this section, AIR 1967 SC 170 (Chandrika Rao). Acting in discharge of public duty in an essence of the offence. It must be proved that the accused assaulted or used criminal force to a public servant acting in discharge of his public duty, AIR 1954 MB 33 (Kesho Rao). Mere use of force is not enough to bring an act within the terms of this section. It has further to be shown that force was used intentionally to any person without that person's consent in order to commit an offence or with the intention or with. the knowledge that the use of force will cause injury, fear or annoyance to the person against whom force is used, AIR 1967 SC 170 (Chandrika Rao).

9. Cases against police officers to be reported to the superintendent of police.

Whenever a complaint, cognizable or non-cognizable, is made against a police officer, the court officer will immediately send to the Superintendent of Police direct a copy of the complaint together with a copy of the order passed by the Magistrate thereon. The report of any judicial enquiry held, the result of each day's hearing and the final orders of the court when the case is proceeded with, will similarly be sent to the Superintendent of Police (*see* rules in Parts II and III resubmission or special reports in cases against the police and procedure for police officer's defence respectively). Should the complaint be lodged at a sub-divisional headquarters, the court officer will send copies also to the sub-divisional police officer.

10. Prosecution of cases instituted by Government officers.

When a prosecution is instituted by a Government officer and the charge is of a cognizable offence, the prosecution will ordinarily be conducted by the police.

11. Report of criminal charges against ex-reformatory school boys.

Court officers will report to the Superintendent of Police all cases in which ex-reformatory school boys are concerned, but which do not result in their imprisonment, e.g., cases in which a sentence of whipping is inflicted or where the benefit of the doubt is given, or cases in which the evidence is insufficient for conviction. When an ex-reformatory school boy is bound down under the preventive sections of the Criminal Procedure Code the fact will be similarly reported.

12. Prosecution of police officers under Act V of 1861.

No prosecution of a police officer under Section 29 of the Police Act (Act V 1861), may be instituted except under orders of the District Magistrate or Superintendent of Police. The court officer will be responsible for the prosecution of such cases.

13. Prosecution of bad livelihood and gang cases.

(I) Cases under Section l09, Criminal Procedure Code -

The court officer on receipt of an accused person arrested under Section 55, Criminal Procedure Code, with a view to proceedings under Section 109 of that Code must at once adduce before the Magistrate evidence to prove the circumstances which justified the arrest. It is to be observed that this evidence, if believed is sufficient to justify the initiation of proceedings and no more evidence is essentially necessary for this purpose. It will however be the duty of the court officer to see that there is no delay in producing further evidence required to prove identity and the character or antecedents of the accused

person, etc. The examination of witnesses to prove the reasons for the arrest must not, however, be delayed pending enquires on these points.

(II) Cases under Section 110, Cr. P. C.-

(a) In the report for proceedings under Section 110, Criminal Procedure Code no more should be stated than what the prosecution propose to endeavour to prove. Before trial a note shall be prepared for the use of the prosecuting officer of the evidence obtainable from records and to be given by each witness, and this evidence should be grouped, so far as circumstances permit, according as it relates to prevalence of crime, suspicion in particular cases, movements under surveillance, association free living without apparent means of livelihood, general repute' or any other facts it is proposed to prove.

(b) In the case of bad livelihood proceedings against gangs, it is essential that the evidence should not only be generally arranged in the manner described in clause (a), but it should also be clearly stated and briefed as against each individual accused.

(c) When the case comes up for trial, the first witness called should be the investigating officer, who should give a straight forward account of the reasons for and history of the enquiry against the accused in order to show the court that a fair and painstaking endeavour has been made to ascertain the criminals responsible before proceedings were instituted. The police station records should be produced, and the evidence available from them described, followed by any facts ascertained in the course of enquiry to which the investigating officer can depose.

(d) The court should then be informed of the different points it is proposed to establish against the accused, and the witnesses should be called in groups so far as possible, in a corresponding sequence.

(III) Gang cases –

The prosecution of gang cases both in the Magistrate's court and the Sessions court will be placed in the hands of the public prosecutor. Ordinarily all officers who took part in the investigation must be cited as witnesses and examined at an early stage of the proceedings in order to give the court an idea as to how the case started and how the evidence was collected and sifted.

NOTES

Sections 109 and 110 of the Criminal Procedure Code read as follows:-

"109. *Security for good behaviour from suspected persons* - 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."

"110. *Security for good behaviour from habitual offenders* -When (an Executive Magistrate) receives information that there ill 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

(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 Indian Penal Code (45 of 1860), or under Section 489-A, Section 489-B, Section 489-C or Section 489-D of that Code, or

(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 –

(i) any offence under one or more of the following Acts, namely:-

a) the Drugs and Cosmetics Act, 1940 (23 of 1940);

b) the Foreign Exchange Regulation Act, 1973 (46 of 1973);

c) the Employees' Provident Fund (and Family Pension Fund) Act, 1952 (19 of 1952);

d) the prevention of Food Adulteration Act, 1954 (37 of 1954);

e) the Essential Commodities Act, 1955 (22 of 1955);

f) the Untouchability (Offences) Act, 1955 (22 of 1955);

g) the Customs Act, 1962 (52 of 1962) or

(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 as 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 be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit."

See also decision in *Gopalanachari v. State of Kerala*, 1980 Supp SCC 649, where it was laid down that the Constitutional survival of Section 110 certainly depends on its obedience to Article 21. Words of wide import, vague amplitude and far too generated to be safe in the hands of the police cannot be constitutionalised in the context of Article 21 unless read down to be as a fair and reasonable legislation with reverence to human rights. A glance at Section 110 shows that only a narrow signification can be attached to the words in clauses (a) to (g), "by habit a robber _____", "by habit a receiver of stolen property _____”, "habitually protects or harbours thieves _____", "habitually commits or attempts to commit or abets the commission of _____" ", "is so desperate and dangerous as to render his being at large without security hazardous to the community". These expressions, when they become part of the preventive chapter with potential for deprivation of a man's personal freedom upto a period of three years, must be scrutinised by the court closely and anxiously. The poor are picked up or brought up, habitual witnesses swear away their freedom and courts ritualistically commit them to prison and Article 21 is for them a freedom under total eclipse in practice.

As observed by Krishna Iyer, J –

"Section 110 cannot be permitted in our free Republic to pick up the homeless and the have notes as it did when under British subjection because to-day to be poor is not a crime in this country. George Bernard Shaw, though Ignorant of Section 110, did sardonically comment that-the greatest of evils and the worst of crimes is poverty."

To call a man dangerous is itself dangerous; to call a man desperate is to affix a desparte adjective to stigmatise a person as hazardous to the community is itself a judicial hazard unless compulsive testimony carrying credence is abundantly available. A sociologist may pardonably take the view that it is the poor man, the man without political clout, the person without economic stamine, who is practice gets caught in the coils of Section 110 of the Code, although the courts cannot subscribe to any such proposition on mere assertion without copious Substantiation. Even so, the court cannot be unmindful of social realities and be careful to require strict proof when personal liberty may possibly be the casuality. After all, the judicial process must not fail functionally as the protector of personal liberty.

Further observed by Justice Kirshna Iyer (the then):

"We expect any government which has any regard for human rights not to use Section 110 of the Code, torture-some fashion against the weak and the poor merely because they belong to the "have-not" class and can be easily apprehended as "habitual" this or that or dangerous or desperate."

Under Section 55 of the Old Code corresponding to Section 41 (2) of the 1973 Code, any officer in charge of a police station may, arrest or cause to be arrested any person, belonging to one or more of the categories of persons specified in Section 109 or Section 110 of Criminal Procedure Code.

14. Court officer responsible for orders under Sections 106 and 565 Cr. P. C.

(a) Section 106, Cr. P. C., lays down the offences for which an order for security to keep the peace may be passed on conviction. Court officers are specially enjoined to see that in all such cases in which the cause of friction is

likely to recur and on particular in cases of riot arising from a dispute about land, an application is made to the Magistrate for an order under Section 106, Cr. P. C., binding down the persons convicted.

(b) The court officer should move the court for an order under Section 565, Cr. P. C., in the case of all offenders who have been previously convicted of an offence punishable under Sections 215, 489-A, 489-B, 489-C or 489-D of the Indian Penal Code, or of any offence punishable under Chapters XII and XVII of that code with imprisonment for three years or upwards Such previous conviction or convictions must first be established to the satisfaction of the court and set out in the charge as required by Section 221, clause (vii), Cr, P. C.

NOTES

Section 106 of the Code of Criminal Procedure deals with security for keeping the peace on conviction, reading as follows:-

"106. *Security for keeping the peace on conviction* - (l) 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.

(2) The offences referred to in sub-section (1) are-

(a) any offence punishable under Chapter VIII of the Indian Penal Code (45 of 1860), other than an offence punishable under Section 153-A or Section 153-B or Section 154 thereof;

(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 to known to be likely to cause, a breach of the peace.

(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.

Section 565 of the Code of 1898 corresponding to Section 356 of the 1973 Code deals with "order for notifying address of previously convicted offender, reading as follows:-

"356. *Order for notifying address of previously convicted offender* - (1) When any person, having been convicted by a Court in India of an offence punishable under Section 215, Section 489-A, Section 489-B, Section 489-C or Section 489-D of the Indian Penal Code (45 of 1860), or of any offence punishable under Chapter XII or Chapter XVII of that Code, 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 expiration of such sentence.

(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 abetment of such offences, and attempts to commit them.

(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."

Section 221 of Criminal Procedure Code as referred to in this rule dealing with contents of charge, corresponds to Section 211 of the Code of 1973 and read as follows:-

"211. *Contents of charge* - (l) Every charge under this Code 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.

(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.

(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, that the 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."

Section 215 of Indian Penal Code deals with offence of taking gift to help to recover stolen property, providing for punishment of either description for a term which may extend to two years or with fine or with both and the ingredients of the offence are:-

(1) Taking or agreeing or consenting to take a gratification with a view to helping any person to recover movable property.

(2) The owner having lost such property by an offence punishable under this Code; and

(3) That the person who took or agreed to take gratification did not use any means to cause the offender to be apprehended and convicted of the offence.

(4) Knowledge is not the essential ingredient of this offence.

The punishment prescribed in 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.

Section 489-A of Indian Penal Code deals with the offence of counterfeiting currency notes or bank notes and the ingredients of the offence are:

(1) Accused counterfeited or performed any part of the process of counterfeiting,

(2) What was counterfeited or attempted to be counterfeited was 'a currency-note or a Bank-note.

Counterfeit means to imitate, made in imitation of something genuine so as to defraud; forged; pretended; sham; feigned; an imitation made to deceive; something so much like something else as to mislead; to resemble closely.

Section 489-B deals with the offence of using as genuine, forged or counterfeit currency-notes or bank-notes and punishment prescribed is imprisonment for life, or with imprisonment of either description for a term which may extended to ten years, and shall also be liable to fine.

The ingredients of the offence are:

(1) The note in question is a currency-note or a bank-note.

(2) Such currency-note or bank-note was forged or counterfeited.

(3) Accused sold to or brought from or received from any person or otherwise trafficked in or used as genuine any forged or counterfeited currency-note or bank-note.

(4) He knew or had reason to believe it to be forged or counterfeit.

Section 489-C deals with the offence of possession of forged or counterfeit currency-notes or bank-notes. The punishment prescribed is imprisonment of either description for a term which may extend to seven years, or with fine, or with both. The ingredients of the offence under this section are as follows:

(1) The note in question is a currency-note or bank-note.

(2) Such note was forged or counterfeit.

(3) Accused was in possession of it.

(4) He intended to use the same as genuine.

(5) At the time he possessed the note, he knew or had reason to believe it to be forged or counterfeit.

Knowledge and belief of the accused may be presumed from circumstances and need not be proved by direct evidence, AIR 1961 AP 213 (*in re*: Satyanarayana). Once the accused is found to be in possession of counterfeit notes, he must be presumed to know that the notes were counterfeit. If the notes were of such a nature· that a mere look at them would convince anybody that it was counterfeit such a presumption could reasonably be drawn. But the difficulty arose where the prosecution did not .put any specific question to the accused in order to find out whether he knew that the notes were of such a nature. No such evidence has been led by the prosecution to prove the nature of the notes also. Under the circumstances the accused could not be convicted for an offence of the nature, AIR 1979 SC 1705 (M. Mammutti).

Section 489-D of Indian Penal Code deals with an offence of making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes. The punishment prescribed in 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. The ingredients of the offence are as follows:

(1) The thing in question was a machinery, instrument or material necessary for use in forging or counterfeiting a currency-note or bank-note.

(2) Accused—

  (a) made it ; or

  (b) performed any part of the process of making it ; or

  (c) bought it ; or

  (d) sold it.

(3) Accused knew or had reason to believe that it was intended to be used for forging or counterfeiting any currency-notes or bank-notes.

15. Responsibility of court or other prosecuting officers for orders under Section 545, Cr. P. C.

Whenever a court imposes a fine, or confirms in appeal, revision, or otherwise sentence of fine, or a sentence of which fine forms a part, in any criminal case in which any person has met with his death or any serious personal injury at the hands of police as a result of ill-treatment, the court officer or any other officer responsible for the prosecution of the case will move the court to order the whole or any part of the fine recovered to be applied in compensation for the injury caused by the offence committed and forthwith send a report to the Superintendent of Police showing the steps taken and the orders passed.

NOTES

Section 545 of the Code of Criminal Procedure as referred to in this rule correspondents to Section 357, sub-sections (1) and (2), reading as follows:

"357. *Order to pay compensation* - (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-

  (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 (13 of 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.

16. Excise and opium cases.

On the institution of any excise or opium cases sent up by the police without the cognizance of the Deputy Commissioner or sub-divisional officer as the case may be, the court officer should at once inform him so that the Excise Department may, if they choose, watch the proceedings. The procedure as to prosecution by court officers will be the same as in other police cases. But in excise cases sent up by excise, officers the following procedure should be followed:

(a) In cases in which the employment of an officer to prosecute is not considered necessary, the excise officer, though not formally prosecutor, will assist the court.

(b) In cases in which the employment of an officer is considered necessary by the Deputy Commissioner or sub-divisional officer. or in his absence by the senior officer in charge of his office, the police should undertake the prosecution; except when the case is of such importance or intricacy that it is considered necessary to engage a pleader.

17. Rewards under Opium, Excise and other Acts.

Rewards can be granted for successful detection of cases under certain sections of the following special Acts:-

(i) Indian Opium (Act, I of 1878.)

(ii) Eastern Bengal and Assam Excise Act, (I of 1910) (as modified upto 1st April, 1925).

(iii) Assam Forest Regulation, VII of 1897.

(iv) Indian Arms Act, XI of 1878.

(v) Indian Explosives Act, IV of 1884, as amended by Act VI of 1908.

(vi) Bengal Registration of Births and Deaths Act, IV of 1873.

It is the duty of the court officer, when the circumstances are appropriate, to bring the rules connected with the distribution of rewards to the notice of the convicting magistrate and to apply for the authorised rewards on behalf of the police officers concerned.

18. Employment of Government pleader in magistrate's court.

The Superintendent of Police should apply to the Magistrate of the district to retain the services of the Government pleader, or other local pleader, for the prosecution of important cases in Magistrate's courts or to support an important appeal before the District Magistrate. The court officer or other police officer acquainted with the case should, if necessary, be present to assist the pleader throughout the case.

19. Duty of superintendent of police in the prosecution of cases.

The Superintendent of Police and his assistant, where he has one, should themselves take an active and personal interest in the prosecution of cases of all kinds. It will often be useful for him to be present at the trial of important police cases whether before the Magistrate or before a Sessions court. No important case should go to the sessions for trial, which the Superintendent of Police has not personally mastered and carefully discussed with the Government pleader and investigating officer.

20. Distribution of cases amongst magistrates.

The Superintendent of Police will see that the court officer does not burden himself with more cases than he can properly manage, and when necessary, will move the District Magistrate to arrange work so that not more than one case to be prosecuted by the court officer is called up by the different courts at one time.

21. Prosecution of railway cases.

Under Section 145 of the Indian Railways Act (Act IX of 1890), all railway police officers have been authorised by the Manager to conduct the prosecution of railway cases.

The railway police staff' will ordinarily prosecute in railway cases but. if they ask for the assistance of the district prosecuting staff, the District Magistrate will, if possible, comply with the request.

22. Court officer's daily under-trial report.

(a) A statement in Form No. III of Schedule XL (A) (Part I) which will include sessions cases (in the district headquarters only) as well as non-police cases the prosecutions of which are conducted by the court office staff will be submitted daily to the Superintendent of police by the court officer who will fill in the first four columns on his arrival in court. The Superintendent of Police will return it after seeing that all cases are being conducted by the correct prosecuting officers and that the senior prosecutor is conducting the most important cases. On the following day the court officer will fill in the remaining columns and will resubmit it, together with the current day's report. In forwarding the former the Superintendent of Police should invite the District Magistrate's attention to any sentence which is, in his opinion inadequate. to any matter requiring special attention and to any cases which have been remanded too often.

(b) In sub-divisions where there is a Court Inspector he will submit as above the report to the Assistant or Deputy Superintendent of Police in charge of the sub-division, if any, when present at headquarters, who will forward it through the sub-divisional officer to the Superintendent of Police. In the absence of the Assistant or Deputy Superintendent of Police from headquarters or if there is no such officers in charge of the subdivision the Court Inspector will himself send it to the Superintendent of Police through the sub-divisional officer after filling in all the columns of the form.

(c) If there is a Sub-Inspector in charge of a sub-divisional court office he will send the report to the Superintendent of Police through the circle Inspector, the Gazetted Police Officer in charge of the sub-division, where there is one and the sub-divisional officer. In the absence of the circle Inspector and the Gazetted Police Officer from the headquarters or if there is no Gazetted Police Officer at all in the sub-division the Court Sub-Inspector will himself send the report to the Superintendent of Police through the sub-divisional officer after filling in all the columns.

(d) When there are G.R.P. cases the Prosecuting Inspector at District Headquarters and the Sub-Inspector in charge of a sub-divisional court, will prepare a separate daily under-trial report for such cases and submit it to the Superintendent of Railway Police, Assam who after necessary scrutiny will forward it with his comments to the District Magistrate concerned.

NOTE

This clause was added by C.S. No. 52 dated 9-2-50.

Appeals and Withdrawal) of Cases

(Rules 23 to 27)

23. Appeals to High Court and to Sessions.

When an appeal is preferred to the High Court against the orders of a Sessions Judge in a serious case, the Superintendent of Police should on receipt of notice of the appeal from the District Magistrate, inform him of any particularly important facts connected with the case that should be brought to the notice of the Legal Remembrancer and of any reasons why the latte should be asked to enter appearance for the Crown even through the appellant is unrepresented. He should also consider, in consultation with the Magistrate the propriety of deputing the investigating officer or the public prosecutor personally to instruct the counsel representing the State in the High Court. Unless otherwise instructed by a magistrate, a public prosecutor is required to appear in all appeals before the Sessions Judge in which the appellant is represented by a pleader or counsel.

The Superintendent of Police should bring to the notice of the magistrate any other cases in which he considers it desirable that the State should be represented. Such cases include those in which police officers have been convicted

of mol practices, either cognizable or non-cognizable. He should also report for the orders of the magistrate any case in which the public prosecutor fails to appear though required to do so by rule or specific instructions, or in which he considers that the conviction has not been supported properly. A complete brief, i. e. copies of Judgment, depositions, note-sheets, etc., will be prepared by the magistrate when a public prosecutor or a Court Inspector is required to represent the State in appeals Or references under Section 123 (2) Criminal Procedure Code.

NOTES

Section 123 of Cr. P. C. as referred in this rule corresponds to Section 122 of the 1973 Code, which deals with imprisonment in default of security, reading as follows:

"122. *Imprisonment in default of security* - (l) (a) If any person ordered to give security under Section 106 or Section 117 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.

(b) If any person after having executed a bond without sureties for keeping the peace in pursuance of an order of a Magistrate under Section 117, 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.

(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.

(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.

(4) If security has been required in the course of the same proceeding from two or more persons in respect of anyone of whom the proceedings are referred to the Sessions Judge after subsection (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 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 subsection (4) 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 proceeding.

(6) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court of 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.

(8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under Section 108, be simple, and, where the proceedings have been under Section 109 or Section 110, be rigorous or simple as the Court or Magistrate in each case direct.

24. Instructing the Government pleader in sessions cases. –

(a) Whenever a case committed to sessions the case diaries, copies of the depositions and of the exhibits and a copy of the order of commitment should be made over to the public prosecutor within seven days after commitment. These should be return by him at the close of the trial with such remarks as he may wish to make. He should treat the case diaries as confidential documents.

(b) In all cases committed to sessions, whether from the sadar or outlying sub-divisions, the headquarters Court Inspector should ascertain by personal communications with the public prosecutor whether the papers furnished to him under sub-rule (a) above are complete in all details, and if not, the Inspector should supplement them with any information that may be required.

(c) If the public prosecutor requires the presence of particular officers acquainted with the facts of the case these officer should be brought in. He should be supplied with all necessary papers and information in good time, so that if further evidence in his opinion is required upon any particular point a reference may be made to the Magistrate with a view to its being obtained before the case comes on for trial.

(d) The District Magistrate and the Superintendent of Police should frequently in personal interview satisfy themselves that the provisions of this rule are carefully complied with and that the public prosecutor receives all the aid that he needs to enable him to prosecute successfully.

25. Notice of appeals in police cases.

District Magistrates will give immediate notice to the Superintendent of Police of all appeals and of all applications for revision of sentence in which the High Court issues a rule or when an explanation is called for by the court of Sessions, and act in concert with him in such cases.

26. Withdrawal of State cases.

The procedure of withdrawal of pending police cases should not be resorted to except in the following cases:-

(a) Cases in which during the course of the proceedings in Court it has been found that wrong persons have been sent up owing to obvious mistakes during investigation.

(b) Cases which are so weak and are bound almost certainly to end in acquittal and which in the first instance should not have been sent to Court.

(c) Cases in which it is not desirable for reasons of State to proceed. If the investigating Officers as well as the prosecuting Inspectors and the superior officers of the Police exercise adequate vigilance during the course of the investigation and the preparation of the brief, occasions for action under (a) and (b) above should not ordinarily arise. As regard (s) there may be rare cases in which it may not be in the public interest to go on with the prosecution of a particular case but cases of this nature would also be exceptional. In any case where for one of the reasons stated above the Superintendent of Police considers that the pending case should be withdrawn under [Section 494 of the Cr. P. C.] they should make a report through the District Magistrate to Government in the Home Department and await the sanction of Government for the withdrawal of the Court Inspector from the prosecution of the case. The Court before which the case is pending should be informed of the fact that a report has been made to Government and should be requested for an adjournment until the reply of Government is received, On no account is a District Magistrate or a Superintendent of Police to withdraw criminal cases pending in Court on his own authority.

The same remarks *mutatis mutandis* apply to criminal cases which are still in the investigation stage or in which in a charge-sheet has been submitted to the Court but the actual hearing has not started. The Investigating Officer is of course competent to submit a final report for approval of higher officers if the evidence is inadequate for further proceeding in the case but the District Magistrate or the Superintendent of Police should not for any other reason stop the investigation or withdraw the charge-sheet in a case in which the investigation has been completed and the charge-sheet submitted but proceedings in the Court have not commenced.

NOTES

Section 494 of Cr. P. C. referred to in this rule corresponds to Section 321 of the 1973 Code, dealing with withdrawal from prosecution, reading as follows:

321. Withdrawal from prosecution.

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 anyone or more of the offences for which he is tried; and, upon such withdrawal,-

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code 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

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

(iii) involved the miss-appropriation 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,

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.

27. Appeals against acquittal and applications for further enquiry.

Under Section 535, Criminal Procedure Code, the District Magistrate has power to call for the record of any proceeding before any inferior criminal court in his jurisdiction, and under Sections 436, 437 and 438, Criminal Procedure Code, he has certain powers of ordering further enquiry, or ordering commitment to sessions or moving the High Court in revision Whenever the Superintendent of Police thinks that there is proper occasion for the exercise of these powers, he should move the district magistrate for the purpose.

In cases of acquittal where there has been a grave miscarriage of justice and the Superintendent of Police thinks that an appeal is necessary and is likely to be successful, he should with the least possible delay send the District Magistrate a full note on the case so as to enable that officer to move the Local Government to appeal to the High Court under Section 417, Criminal Procedure Code. It should be noted that as a matter of practice the Local Government declines to appeal against an order of acquittal unless moved to do so within a period of less than three months from the date of the order. Hence the need for prompt action.

NOTES

Section 535 of Cr. P. C. referred to in this Rule corresponds to subsection (1) of Section 464 of the Cr. P. C. and read as follows :

"464. *Effect of omission to frame, or absence of, or error in charge* - 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".

Sections 436 437 and 438 of Cr. P. C. as referred in this rule correspond to Sections'398, 399 and 400 of the 1973 Code reading as follows:-

"398. Power to order inquiry.-On examining any record under Section 397 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 203 or sub-section (4) of Section 204, or into the case of any person accused of an offence who has been discharged:

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."

"399. *Sessions Judge's powers of revision* - (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 powers which may be exercised by the High Court under sub-section (1) of Section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of subsections (2), (3), (4) and (5) of Section 401 shall, so far as may be, apply to such proceeding and references in the said subsections to the High Court shall be construed as references to the Sessions Judge.

(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."

"400 *Power of Additional Sessions Judge* - 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.

Section 417 of Cr. P. C. as referred to in this Rule deals with appeal in case of acquittal corresponds to Section 378 of the 1973 Code reading as follows:

"378. *Appeal in case of acquittal* - (1) Save as otherwise provided In sub-section (2) and subject to the provisions of sub-sections (3) and (5), 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 (or an order of acquittal passed by the Court of Session in revision).

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub-section (3), to the High Court from the order of acquittal.

(3) No appeal 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.

(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 (I) or under sub-section (2).

Instruction regarding evidence

(Rules 28 to 35)

28. Production of diaries.

Every page of the case diaries and any connected papers received with them must be stamped with the date immediately on receipt in the court office. The case diaries may be sent for and referred to by any criminal court; but the accused or his agent is not entitled to call for or to see them unless the police officer who made them uses them to refresh his memory, or the court uses them to contradict such police officer.

Care must be taken that case diaries called for by the court under Section 172, Criminal Procedure Code, but not put in as evidence, are not attached to the record, and that they are returned by the court as soon as. done with. *Mutatis mutandis*, the same instructions will apply to any reports of a confidential nature, not admitted in evidence, the publication of which is obviously undesirable.

Section 172 of the Code of Criminal Procedure as referred to in this Rule reads as follows;

"172. *Diary of proceedings in investigation* - (l) 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) 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.

(3) 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 161 or Section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), shall apply.

29. Attendance of witnesses.

The following rule framed by the High Court with regard to the attendance of witnesses in court is reproduced below for the guidance of court officers:-

"The police officer attached to the court, or some other responsible officer of the court, specially appointed to the duty, shall be required to make over to the bench clerk, not later than 12.30 p.m., or, if early morning sittings are being held not later than 7.30 a.m., a list, verified, dated and initialled by him, of the witnesses who, up to 12 noon, or, if early morning sittings are being held, up to 7 a.m., are in attendance for examination. The bench clerk will enter in the register of attendance of witnesses the names of the witnesses entered in the list, and also of those who, though not so entered, are actually examined. The omissions of the name of a witness from the list shall be no bar to such witness being examined if presented for examination; but no cost shall be allowed to any witness on account of his expenses for the day's attendance if he is neither entered in the list, nor actually examined."

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

30. Expenses of complainant and witnesses attending court.

(a) The travelling expenses of complainants and witnesses attending court in railway or district police cases are payable by the criminal courts in accordance with the rules framed by Government under Section 544, Criminal Procedure Code. When necessary court officers will help them to obtain payment.

(b) When the complainant or a witness in a case is a Government servant and no expenses are paid to him by the court; the prosecuting officer shall see that a certificate of attendance is given him by the court to enable him to draw his travelling expenses.

NOTES

Section 544 of Cr. P. C. as referred to in this Rule corresponds to Section 312 of the 1973 Code and reads as follows;

"312. *Expenses of complainants and witnesses* - Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of 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 Code."

31. Statement of witnesses under Section 161, Criminal Procedure Code.

Statements of witnesses recorded by the police under Section 161, Criminal Procedure Code, should be kept distinct from the case diary and any other police papers of the case. The date of receipt in the court office should be stamped on every page immediately on receipt and they should be kept in secure custody unless their production is required by a court competent to demand them for the benefit of the accused. Thus when any court sends for the police diaries, only the diary recorded under Section 172 is to be sent, and not the statements of witnesses recorded under Section 161 unless the production of the latter is demanded by the court under the 1st proviso to Section 162 (1), Criminal Procedure Code. For rules of evidence applicable see Part V. All court officers should commit to memory the instructions contained in those rules regarding case diaries recorded under Section 172, and statements of witnesses recorded under Section 161, Criminal Procedure Code.

NOTES

Section 161 of Cr. P. C. as referred to in this rule, dealing with examination of witnesses by police, reads as follows:

"161. *Examination of witnesses by police* - (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, prescribed 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.

(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.

Section 172 deals with diary of proceedings in investigation and reads as follows:-

"172. *Diary of proceedings in investigation* - (l) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a dairy, setting forth the time at which the information reached him, 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) 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.

(3) 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 161 or Section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), shall apply."

Section 162 provides that the statements to police not to be signed use of statements in evidence, which provision reads as follows:-

"162. *Statements of police not to be signed; Use of statements in evidence* - (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:

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 145 of the Indian Evidence Act, 1872 (1 of 1872); 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.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of Section 32 of the Indian Evidence Act, 1872 (l of 1872), or to affect the provisions of Section 27 of that Act.

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.

CASE LAW

In the case of *Balakrishna Swain v. State of Orissa*, (1971) 3 sec 152 P.W S's blood stained clothes were seized about ten days after the incident. The witness wants the court to believe that for these 10 days he was wearing these bloodstained clothes without removing them. The delayed examination of the witness became fatal of the prosecution.

In the case of *State v. Kapil Deo Shukla*, (1972) 3 SCC 504, the copies of statements of witnesses proposed to be examined by the prosecution recorded under Section 161, Cr.P.C. and copies of other documents proposed to be relied upon by the prosecution were 110t furnished to him, the first on the ground that they were not traceable and the second

inspite of the court's order under Section 173, thus stultifying preparation by him of his defence and cross examining adequately those witnesses. It was observed:

> "It is a matter of some regret that, the respondent against whom serious charges of a public nature stand, should not be proceeded with. But as against that there is equally the fact that long lapse of time and the impossibility of supplying him copies of police statements and other relevant documents is likely to end in the trial not being fair and just. In these circumstances, we have come to the conclusion that it is neither expedient nor in the larger interest of justice that the trial with all the aforesaid deficiencies, should be allowed to proceed."

As held in the case of *R. M. Malkani v, State of Maharashtra*, (1973) I sec 471, tape recorded conversation between two persons is admissible provided first the conversation is relevant to the matters in issue, secondly, there is identification of the voice; and thirdly, the accuracy of the tape recorded conversation is proved by eliminating the possibility of erasing the tape record.

As held in the case of *Nandini Satpathy v. P. L. Dani*, (1978) 2 SCC 424, in Section 161 (2) covers not merely accurations already registered in police stations but those which are likely to be the basis for exposing a person to a criminal charge. In the case of Pakala Narayana Swami v. Emperor, AIR 1939 PC 47, the conclusion was reached that "any person" in Section 161, Cr. P. C. would include persons then or ultimately accused. This view was approved in *Mahabir Mandal v. State of Bihar*, (1972) I SCC 763. Hence, following these decisions, it was held in Nandini Sat patty's case (*supra*) that "any person supposed to be acquainted with the facts and circumstances of the case includes an accused person who fills the role because the police suppose him to have committed the crime and must, therefore, be familiar with facts. The supposition may later prove a fiction but that does not repeal the section.

Scope and ambit of the provisions of Section 162.

As observed in the case of *Raghunandan v, State of U. P.*, (1974) 4 SCC 186 it is true that the ban, imposed by Section 162, Cr. P. C. against the use of a statement of a witness recorded by the Police during investigation, appears sweeping and wide. But, at the same time, the powers of the Court, under Section 165 of the Evidence Act, to put any question to a witness, are also couched in very wide terms authorising the Judge "in order to discover or to obtain proper proof of relevant facts" to "ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant."

Prohibitions under Section 162

It is certainly arguable that Section 162, Cr. P. C. does amount to a prohibition against the use even by the Court of statements mentioned there. Nevertheless, the purpose of the prohibition of Section 162, Cr. P. C. being to prevent unfair use by the prosecution of statements made by witnesses to the police during the course of investigation, while proviso is intended for the benefit of the defence, it could also be urged that, in order to secure the ends of justice, which all procedural law is meant to subserve, the prohibition, by taking into account its purpose and the mischief it was designed to prevent as well as its context, must be confined in its scope to the use by parties only to a proceeding of statements mentioned there. It was held that Section 162 Cr. P. C. does not impair the special powers of the Court under Section 165 of Indian Evidence Act.

Omissions in the inquest report-effect on the statements recorded by police.

In the case of *Pedda Narayana v. State of Andhra Pradesh*, (1975) 4 SCC 153, the details regarding the weapons armed by each of the accused and which accused had attacked on which part of the body of the deceased are not found in the inquest report and from this the learned Sessions Judge sought to draw the inference that the statements of the witnesses now found recorded under Section 161, Cr. P. C. could not have been the statements then read over to the panchayatelars. The High Court held that from the mere fact that these details were not noted in the inquest report it cannot be concluded that the statements given by the witnesses and read over at the inquest did not contain those overt acts and the statements now produced are those of the witnesses which were taken later .. The Supreme Court held that the High Court has thus rightly explained that the omission in the inquest report are not sufficient to put the prosecution out of Court and the learned Additional Sessions Judge was not at all justified m rejecting the prosecution case in view of the alleged infirmity.

Signed statement of witnesses.

In the case of *Datar Singh v. State of Punjab*, (1975) 4 SCC 530, the signed statements of the witnesses had been annexed to the inquest report and proved by the Prosecution. As held, it is rightly pointed out that this looked like a device adopted to get round the bar of Section 162, Cr. P. C. It also shows that the police was not quite confident about the reliability of the two alleged eye witnesses of the occurrence.

As held in *Razik Ram v. Jaswant Singh*, (1975) 4 SCC 769, while it is true that the receipt and registration of an F.I.R. is not the *sine qua non* to the setting in motion of the machinery of criminal investigation the investigating officer must follow the procedure laid down in Section 162, Cr.P.C. provided *inter alia* that no statement of any person, if recorded, by a police officer in the course of investigation, shall be signed by the person making it. Even a statement of a witness recorded by the investigator during the inquest under Section 174 would be within the inhibition of Section 162. Behind this provision is a wholesome rule of public policy that witnesses at the trial should be free to tell the truth, unhampered by anything they might have been made to say to the police, as laid down in the case of *Tehsildar Singh v. State of U. P.*, AIR 1959 SC 1012.

Witnesses at the trial should be free to tell the truth

As observed in *Shakila Khader v. Nausheer Cama*, (1975) 4 SCC 122, under Section 162 only witnesses on behalf of the prosecution could be contradicted by reference to their statements made to the police, and not court witnesses or defence witnesses.

Contradictions not permissible to defence

In the case of *Sarna Bhai v. State of Gujarat*, (1975) 4 SCC 257, both the Sessions Judge and the High Court held that the complaint made by accused before police during the course of investigation was not hit by Section 162, Cr. P. C. and admissible, but the Supreme Court felt that the High Court committed an error of law by having taken this view.

As held in the case of *Sat Paul v. Delhi Administration*, (1976) I SCC 727, under the proviso to Section 162, Cr. P. C. such statements made to the police can be used only for the purpose of contradicting a prosecution witness in the manner indicated in Section 145 of the Evidence Act and for no other purpose. They cannot be used for the purpose of seeking corroboration or assurance for the testimony of the witness in court.

In the case of *Badri v. State of Rajasthan*. (1976) I SCC 442, it was held that where the evidence was led in examination in chief, it was perfectly legitimate for the defence to question him as to whether he had told the police that he informed anybody at the place of occurrence as to his having seen the appellant escaping with the gun. It was further held that the trial court committed a serious error in disallowing the above questions on the ground that these were mere omissions not amounting to contradictions. These questions were clearly admissible under Section 162, Cr. P. C. read with Section 145 of the Evidence Act.

As observed in the case of *Mahabir Mandai v. State of Bihar*. (1972) I SCC 748, according to Section 162, no statement made by any person to a police officer in the course of investigation shall be signed by the person making it or used for any purpose at any enquiry or trial in respect of any offence under investigation at the time when such statement was made. The only exception to the above rule is mentioned in the proviso to that section. According to the proviso, when any witness is called for the prosecution in the enquiry or trial, 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 Sec. 145, of the Evidence Act and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness for the purpose only of explaining any matter referred to in his cross-examination.

Bar of in admissibility.

When a person is arrested for an offence punishable under the Railway Property (Unlawful Possession) Act; Officers of the Railway Protection Force have the power to investigate into the alleged offence and the statements recorded by them during the course of investigation do not attract the provisions of Section 162, Cr. P. C. as held in *State of U. P. v. Durga Prasad*. (1975) 3 SCC 210, as followed *in Srilal Shaw v. State of West Bengal.* (1975) I SCC 366.

Unlawful possession of Railway property

In the case of *Baladin v, State of U. P.*, AIR 1956 SC 181, it was pointed out that statements made by prosecution witnesses before the investigating police officer being the earliest statements made by them With reference to the facts of the occurrence are valuable material for testing the veracity of the witnesses examined in court ..... but the statements made during police investigation are not substantive evidence.

In the case of *Surjau v. State of Rajasthan*. AIR 1956 SC 425, it was observed that the statement in the inquest report is not evidence by itself and it certainly cannot be flitted against the evidence of the medical witness given in Court.

In the case of *Razik Ram v, J. S. Chouhan*, AIR 1975 SC 677, a statement of the witness was recorded by the investigating officer and thumb mark was being used in an election petition. It was held that the statement was hit by Section 162, Cr. P. C.

Any statement made by any witness to a police officer during investigation in clearly hit by Section 162 and can be used only for contradicting or corroborating the other witness and is not a substantive piece of evidence.

Statement of witness during investigation.

In the case of *Jit Singh v. State of Punjab*, (1976) 2 SCC 836, site-plan also was prepared by the Investigating Officer in accordance with the various situations pointed out by the witness; held that it is not permissible to use the site-plan in the manner suggested. The notes in question in the site plan were statements recorded by the Police Officer in the course of investigation, and were hit by Section 162 of Cr. P.C. These notes could be used only for the purposes of contradicting the prosecution witnesses concerned in accordance with the provisions of Section 145.

Site plan prepared-admissibility.

Evidence Act and for no other purpose. In the case of *Rameshwar Dayal v. State of U. P.*, (1978) 2 SCC 518, it appeared that Note No.4 in Ex Ka-18 is not a note which is based on the information given to the Investigating Officer by the witnesses but is a memo of what he himself found and observed at the spot. Such a statement does not fall within the four corners of Section 162. In fact, documents like the inquest report, seizure lists of the site plans consist of two parts one of which is based on the actual observation of the witness at the spot being direct evidence in the case is clearly admissible under Section 60 of the Evidence Act whereas the other part which is based on information given to the investigating officer or on the statement recorded by him in the course of investigation is inadmissible under Section 162, Cr. P. C. except for the limited purpose mentioned in that section.

In the case of *Mannu Raja v, State of M. P.*, (1976) 3 SCC 104, the statement was made out the police station by way of a first information report. It is after the information was recorded and indeed because of it, that the investigation commenced and therefore it is wrong to say that the statement was made to an investigating officer. The Station House Officer who recorded the statement did not possess the capacity of an investigating officer at the time when he recorded the statement.

Statements made in the police station.

As observed in the case of *Laxman Kalu v, State of Maharashtra*, AIR 1968 SC 1390, it is unfortunate that our law does not admit of cross examination of such a witness in respect of statements before the Police.

It was observed in the case of *Rameshwar Singh v. State of J. and K.*, (1971) 2 SCC 715, that the High Court was clearly in error in taking into consideration the contents of the statements recorded under Section 161, Cr. P. C during the course of investigation for the purpose of finding corroboration of the statements made in court. The language of Section 162 is plain and explicit and it admits no doubt of its meaning No reference need made to large catena of decisions reported in law reports and cited in text books stating the legal position with regard to the restricted use of such statement as laid down in Section 162, Cr. P. C. prohibiting the Court from using them as corroborative of the statements in court.

Prohibition of use of statements recorded under Section 161 for corroborating a witness

Any statement made in the Panchanama cannot be used in evidence except for the purpose of contradicting the witness whose statement is contained in the Panchanama, but if it is intended to contradict him by the writing his attention must before the writing can be proved be called to those part of it which are to be used for contradicting him. This is what is required under Section 145 of the Evidence Act but even where a witness is confronted by his previous statement and given an opportunity to explain that part of the statement that is put to him does not constitute substantive evidence, as to observed in the case of *Kanu Ambu Vish v. The State of Maharashtra*, (1971) I SCC 503.

Statement made in Panchanama.

The Statements made by witnesses during investigations should not be got signed by them if they are reduced in writing and in the case of *Makan Jisan. v. State of Gujrat*, (1971) 3 SCC 297, the investigating officer could not have thought that the witnesses so closely related to one another could ever have been gained over. Evidently the accused was trying to exploit the statement made by the witness under same misapprehension. But the learned trial Judge would have done well to clear this point by questioning the investigating officer and by looking into the relevant records.

Statement of witnesses during investigation not to be got signed.

As held in the case of *Tapinder Singh v. State of Punjab*, (1970) 2 SCC 113, the bar created by Section 162 (1), Cr. P. C. is in application dying declarations.

Dying declaration

32. Confession.

For instructions regarding the recording and verification of confessions, their object and value, etc. *See* Part V.

33. Witnesses to house search.

Upon receipt in the court office of the list of property found on a search made under Section 103 or 165. Criminal Procedure Code, the date of receipt will at once be stamped on it.

The police have no power under the law to compel the attendance in court of witness to a search but if any court appears to entertain doubts regarding the identity of the articles given in the list of properties, the prosecuting officers should request the court to summon the witnesses to the search.

NOTES

Section 103 of Cr. P. C. as referred to in this rule corresponds to subsections (4) to (8) of Section 100 of the 1973 Code, reading as follows:

"100(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.

"100(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.

"100(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.

"100(7)-When any person is searched under sub-section (3), a list of all things taken in possession of shall be prepared, and a copy thereof shall be delivered to such person.

"l00(8)-Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when call upon to do so by an order in writing delivered or tendered to him shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).

Section 165 of the Code deals with search by police officer reading as follows:-

"165- *Search by police officer* - (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 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.

(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 Code as to search-warrants and the general provisions as to searches contained in Section 100 shall, so far as may be apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith 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."

In the case of *State of Madhya Pradesh v. Mubarak Ali*, AIR 1959 SC 707, the requirements of Section 165 to be complied with have been set out and analysed. As observed in *Shyam Lal Sharma v, State of M. P.,* (1972) I SCC 764, it was observed that non-conformity with any of the requirements of the provisions contained in Section 165 must be conformed to that part of the investigation which relates to the actual search and seizure but once the search and seizure is complete that provision ceases to have any application to the subsequent steps in the investigation. In the case of *the State of Rajasthan v. Rahman,* AIR 1960 SC 210, a Deputy Superintendent of Central Excise, who accompanied by an Inspector of Central Excise, a sepoy, a chowkidar and two motbirs, without complying with the provisions of Section 165 had gone to the house of the respondent with a view to search the house for finding out whether he had stored tobacco there. When they declared their intention to do so, they were obstruction and as a result the officials received injuries. The accused was prosecuted for an offence under Sec. 353 I.P.C. and the Supreme Court held that the search made was in contravention of the provisions of Sec. 165 of the Code was illegal but even so, it did not go into the question whether the omission to record the reason was only an irregularity and that the respondents had no right to prevent the officer from making the search because as that contention had not been raised till then it felt that there was no justification to allow it to raised before it for the first time. This case was considered in *Bai Radha v. State of Gujarat,* (1969) I SCC 43, where the search was made under Section 15 of the Suppression of Immoral Traffic in Women and Girls Act, 1956, the provisions of which were in parimateria with Sec. 165 of Cr. P.C. in that (1) if the special police officer empowered to search the premises has reasonable grounds in respect of a woman or a girl living in any premises and that such search of the premises with warrant cannot be made without undue delay; such officer may, after recording the grounds of his belief, enter and search such premises without a warrant; (2) before making a search the special police officer, was required to call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search. It was contended that since these provisions have not been complied with, the conviction of the appellant was illegal. The High Court in that case was of the view that the power to conduct the search was derived from the statute and not from recording of reasons and, therefore the search was not rendered illegal on account of the contravention of Section 15 (1) of the Act. In this view, it did not agree with the decision in *Public Prosecutor v. Uttaravalli Nageshwararao,* AIR 1965 AP 176, which held that the directions contained in sub-section (2) were of mandatory nature. Hence the non-observance of the provisions of Section 15 (2) was held to be not an illegality but a mere irregularity having regard to the provisions of Section 537, Cr. P. C. (Section 465 of 1973 Code), and unless it is shown that such irregularity has caused a failure of justice the conviction cannot be set aside. It would, therefore appear that the Supreme Court has not finally decided whether a search already made in contravention of the provisions of Section 165 Cr. P. C. makes it illegal or void or merely provides a justification for an obstruction to the search when it is intended or in the process of its being conducted. As held, by no stretch of logic or reason can the justification for obstruction during the course of a search in contravention of the provisions of Section 165 entitle a person to force a public servant or any other person to do acts contrary to the violation.

obstruction to search made in contravention of the provisions.

34. Interviewing convicts and application for conditional pardon.

(a) With reference to the instructions contained in Part V it is most important that the court officer should at once report to the Superintendent of Police when he thinks that a convicted prisoner can be interviewed with advantage.

(b) All applications for conditional pardon of approvers should be made in plain paper.

35. Finger prints and photographs of approvers.

Approvers in important cases should have their photographs and finger prints (3 sets) taken without delay. There have been many cases of approvers: absconding at important stages of an investigation or trial.

Instructions Regarding Certain Police Papers and Records

(Rules 36 to 41)

36. Concise memoranda.

Investigating officers are required to despatch the charge sheet form with the original file of cases diaries to the court officer in time to reach him at least one day before the date fixed for the trial of the case.

On receipt of the charge sheet form which should be marked with the date stamp as is done with case diaries, the court officer, if an Inspector, will submit direct, or if a sub-inspector through the circle Inspector when that officer is at headquarters and the sub-divisional gazetted police officer, if any, to the Superintendent of Police a concise

memorandum in Form No. 112 of Schedule XL (A) (Part I) showing the dates on which the investigation commenced and closed, the date fixed for hearing, the main features of the case, the points to be proved, the evidence to prove them and the name of the officer who will prosecute or watch the case. The memorandum in a railway police case will be sent by the Superintendent of Police to the Superintendent of Railway Police.

If the case is to be prosecuted by a junior sub-inspector, the court officer, after preparation of the memorandum, will make over the charge sheet and other connected papers to him with such instructions as may be necessary to enable him to prosecute the case.

The court officer will return the original file of the case diaries to the investigating officer when the case is finally disposed of (vide rule regarding instructions for writing case diaries in Part V).

37. Prosecution of maliciously false cases and the duties of the court officer in connection therewith.

When a final report in false cases accompanied by a complaint in writing for the prosecution of the informant or complainant under Sections 182 and 211 of the Indian Penal Code is submitted by the station police as laid down in Part V, the court officer shall first prepare a précis of the case from the investigation officer's diaries. This précis will contain-

(i) a brief history of the facts of the case,

(ii) a list of the witnesses who will prove the case false together with the points each one of them will depose to, and

(iii) a short criticism of the evidence. The court officer at headquarters will submit this direct to the Superintendent of Police. The court officer in sub-divisions will submit it through the Deputy or Assistant Superintendent of Police in charge, if any. The précis will be filed, with the record of the case in Superintendent of Police's office.

After submitting the précis the court officer will request the Magistrate receiving the police papers to satisfy himself as to the correctness or otherwise of the report by reference to the case diaries and immediately enter up the report in the general register. Immediately after .the case is disposed of as false the written complaint will be put up to the Magistrate.

NOTES

Section 182 of I.P.C. deals with the offence of giving false information, with intent to cause public servant to use his lawful power to the injury of another person. The punishment prescribed is imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. The ingredients of the offence are:

(1) Accused gave some information to a public servant.

(2) Such information was false.

(3) Accused knew or had reasons to believe that such information was false.

(4) Intending thereby to cause such public servant to do or hit anything which he ought not to have done if the true state of facts respecting which such information is given were known by him or to use the lawful powers of such public servant to the injury or annoyance of any person.

Section 211 of I. P. C. deals with the charge of offence made with intent to injure. The punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine, or with both and if any criminal proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, The ingredients of the offence under this section are;

(1) Accused instituted or cause to be instituted criminal proceeding or that he made a charge of that offence;

(2) There were no just or lawful grounds for such proceedings; or that such charge was false;

(3) The accused knew at the time of making the charge that there was no just or lawful ground;

(4) He made the charge intending to cause injury to the persons against whom the charge is made.

The essential ingredients of an offence under this section is to institute or cause to be instituted any criminal proceeding against a person with intent to cause him injury or with similar intent to falsely charge any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge. *Santokb Singh v. Izhar Hussain* AIR 1973 SC 2190.

38. First information reports and Final Report Forms by whom to be laid before the Magistrate.

First information reports and final report forms must be laid as they come in, before the District Magistrate or Magistrate in charge of police cases at headquarters and before the sub-divisional officer at sub-divisions by such officers as are detailed below:-

(1) *First information reports* - By the 2nd court officer (Sub-Inspector or Assistant Sub-Inspector) both at headquarters and sub-divisions.

(2) *Charge sheets* - By the officer who prosecutes or watches the case.

(3) *Final report forms* - By the 2nd court officer (Sub-Inspector or in his absence assistant sub-inspector) at the headquarters and at sub-divisions where there is a Court Inspector. At the headquarters and sub-divisions where the officer-in-charge of the court office is a sub-inspector this duty will devolve on him. The final report forms will not be submitted for the orders of the Magistrate until they have been subjected to the scrutiny of the circle Inspector.

The officer putting up these forms before the Magistrate is responsible for obtaining the latter's initial or order either on the forms or on the magistrate's general register as the case may be.

39. Copies of judgment to be sent to the criminal investigation department.

(a) Superintendents of Police must obtain copies of judgments in the following cases and send them to the Deputy Inspector General of Police in charge of the Criminal Investigation Department as soon as possible after their delivery-

(i) Gang cases.

(ii) Special report cases ending in acquittal or discharge, in which there has been miscarriage of justice or any criticism made against the Police. In no other case need a copy of the Judgment be set, unless specially called for from the office of the Criminal Investigation Department, since the Superintendents of Police are themselves expected to take action in cases where this is necessary and must realise their responsibility for taking such action.

(iii) Cases in which Europeans figure as accused.

(iv) Cases against the police in which special reports are submitted.

(b) The court officers of the places where the trials are held are responsible for the prompt supply of copies of such judgments to the Superintendent of Police of the district.

40. Custody of case diaries and other police papers.

All case diaries and any other papers connected with cases, will invariably be regarded as confidential and kept under lock and key in a secure box or locked almirah until the case to which they relate is finally disposed of by the orders of a magistrate or a judge, and appeal, if preferred has been decided, or the period allowed for appeal has expired. Each prosecuting officer will, for this purpose, be supplied with a box or almirah with a good lock and the key should always be kept by him. No assistant Sub-Inspector, constables or outsider will be allowed to see the case diaries unless specially authorized by Superintendent of Police or any other officer enumerated in Part V. All covers containing case diaries will be subscribed with the words "case-diaries" all will be opened only by the court Sub-Inspector or Inspector or any person specially authorised by him or his superior officers in writing. For further rules regarding the treatment of case diaries in Police Stations and Superintendent of Police's offices, see rules in Parts II and V.

No copies of such papers may be given without the order of the Superintendent of Police or Magistrate.

41. Court officer's connection with records.

As soon as the police papers of a case are laid on trying Magistrate's table, the court officer's responsibility with regard to them ceases. He should, therefore, take care, whenever necessary, to make copies of such papers as are likely to be filed with the judicial proceedings previous to their being put in. He has no concern with the custody of the

judicial records of cases or with the record office. He is on no account to retain in his possession the records of a case under trial unless ordered in writing to do so by the trying Magistrate. If he subsequently requires a copy of any portion of the record, he should make an application to the trying Magistrate and ask to be allowed to take the copy in the presence of a responsible official of the court.

Bail and recognizance

(Rules 42 to 44)

42. Bail and recognizance bonds.

(a) The duty of drawing up bail and recognizance bonds and getting them duly executed devolves on the court officer.

(b) Witnesses, parties to cases, and sureties, who are required to execute bonds, shall be taken to the court office after the Magistrate's orders are passed, to have the bonds drawn up and executed.

(c) A register of bail and recognizance bonds should be kept by the court officer in Form No. 113 of Schedule XL (A), (Part I). Court officers will obtain in column 9 of the register an acknowledgment of the receipt of bail and recognizance bonds made over to the Magistrate's office to be filed with the record.

(d) The forms to be used by the court officers for bail and recognizance bonds are prescribed in Schedule V of the Code of Criminal Procedure, 1898 (Act V of 1898).

(e) Whenever a case is committed to the court of sessions, the prosecutor and witnesses should be bound over to appear "at the next criminal sessions commencing on ……". It should be carefully explained that failure to attend will be severely dealt with.

43. Sureties.

(l) Court officers should make careful enquiries into the position in life of proposed sureties and, if there is any objection to their being accepted, a report should be at once made for the orders of the Magistrate dealing with the case.

(2) If any person who offers himself as a surety habitually makes a business of standing security the fact should be brought to the notice of the Magistrate.

(3) In proceedings under Sections 109 and 110, Code of Criminal Procedure, 1898, the prosecuting officer will apply in writing to the court as soon as the order to give security is passed, not to accept the securities offered without first affording him an opportunity of objecting, is necessary, to any of such securities, und of producing evidence, if required, in support of the objection.

(4) The fitness or unfitness of a security is a matter for the Magistrate's discretion, and such discretion is not limited to any particular kind of unfitness; e.g. pecuniary unfitness is not the only kind of unfitness which a Magistrate is entitled to take into consideration.

Notes - For text of Sections 109 and 110 of Cr. P. C. - *see* under Rule 13.

44. Money security.

When money is deposited by a party as security under Section 513, Code of Criminal Procedure, 1898, the court officer will be answerable for its being promptly deposited in the treasury for safe custody. As money security cannot be taken for good behaviour, the sureties in such cases should be approved by the Magistrate.

NOTES

Section 513 of the Code of Criminal Procedure as referred to under this Rule, corresponds to Section 445 of the 1973 Code reading as follows:

> "445. *Deposit instead of recognizance* - 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."

Absconders, warrants and other processes

(Rules 45 to 54)

45. Court officer to apply at once for warrant.

Whenever the charge sheet contains the names of absconders the court officer will at once apply formally, in writing for the issue of warrants against all the absconders named therein and, if the trying Magistrate refuses to issue warrants against all or any of these absconders without giving reasons for his action, or postpones the issue of warrants or declines to pass orders, the court officer will ask the Superintendent of Police to move the district or Sub-divisional Magistrate to withdraw the case under section 528 of the Code of Criminal Procedure, 1898, to his own file and then to issue warrants for the arrest of the absconding accused.

NOTES

Section 528 of the Code of 1898 as referred to in this Rule corresponds to Sections 408 to 412 of the Code of 1973, reading as follows:

"408. *Power of Sessions Judge to transfer cases and appeals* - (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.

(2) The Sessions Judge may act either on the report of the lower Court, or on the 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 407 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 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein, the words "two hundred and fifty rupees" were substituted.

409. *Withdrawal cases and appeals by Sessions Judges* - (1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to, any Assistant Sessions Judge or Chief Judicial Magistrate subordinate to him.

(2) At any time before the trial of the case or the hearing of the appeal has commenced 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 a 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 Code to another Court for trial or hearing, as the case may be.

410. *Withdrawal of cases by Judicial Magistrates* - (l) 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.

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of Section 192 to any other Magistrate and may inquire into or try such case himself.

411. *Making over or withdrawal of cases by Executive Magistrates* - Any District Magistrate or Sub-Divisional Magistrate may-

(a) make over, for disposal, any proceeding which has been started before him to any Magistrates subordinate to him;

(b) withdraw any case from, or recall any case which he has wade over to any Magistrate subordinate to him, and dispose of such proceeding himself, or refer it for disposal to any other Magistrate.

412. *Reasons to be recorded* - A Sessions Judie or Magistrate making an order under Section 408, Section 409, Section 410 or Section 411 shall record his reasons for making it.

46. Issue of warrants and action to be taken on them by the police.

(a) The court officer will ask the Magistrate to fix a date, when issuing a warrant, on which the police should return the warrant executed or report that this has not been done. The date should be so fixed as to allow the police a reasonable time for proper action in obedience to the warrant.

(b) If the warrant cannot be executed after due efforts a report to the Magistrate through the court officer must be submitted in time to reach the court without fail not later than the morning of the date fixed, explaining fully the attempts made to execute the warrant and giving all particulars necessary to satisfy the Magistrate that the offender is really absconding and to justify proceedings being taken under Sections 87 and 88, Criminal Procedure Code. A list of property, movable or immovable, belonging to the absconder will also be sent along with this report.

(c) Warrants of arrest will usually be directed to the police for execution, but in cases of urgency may be directed to court peons.

(d) Under Section 77 of the Criminal Procedure Code when issuing a warrant to a police officer, the court may address him either by name, or by the title of his office. A warrant intended to be executed by the police should be addressed not to the court officer but the officer in charge of a police station or outpost. If the officer thus addressed desires to entrust its execution to some other police officer, the endorsement must be by name and designation. It is moreover important that he should make his authority clear by adding the words "Officer in charge" after his signature. Warrants of arrest issued in non-cognizable cases to be executed by the police will be similarly dealt with. The court officer is responsible for the despatch of warrants to the officer in charge of a police station .and outpost to whom they are addressed and it will be his duty to scrutinize all warrants received by him for despatch, and to bring to the notice of the Presiding Magistrate any case in which the process is unsuitably directed.

(c) Warrants should be sent by the court officer direct to police station except when a special officer is necessary for the duty to be performed, in which case the court officer should take the orders of the Superintendent of Police or Sub-divisional Police Officer or, in their absence, the Magistrate of the district or Sub-divisional Magistrate. They should, When executed, be returned to the court officer direct-see also Part V.

NOTES

Sections 87 and 88 of the Code of Procedure, 1889 correspond to 82, 83, 84 and 85 of the Code of 1973 reading as follows:

"82. *Proclamation for person absconding* - (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.

(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 or to some conspicuous place of such town or village;

(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;

(c) a copy thereof shall be affixed to some conspicuous part or 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.

(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.

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 Of 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, -

(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 simultaneously with the issue of the proclamation.

(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 within 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 –

(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 anyone on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit,

(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

(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 the proceeds of the sale abide the order of the court.

(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 (5 of 1908).

84. *Claims and objections to attachment* - (1) If any claim is preferred to, or objection made to the attachment of, any property attached under Section 83, 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 83, the claim or objection shall be inquired into, and may be allowed or disallowed whole or in part:

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.

(2) Claims or objections under sub-section (l) 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 83 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 of any Magistrate subordinate to him.

(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.

85. *Release, sale and restoration of attached property* - (l) If the proclaimed person appears within the time specified in the proclamation, the court shall make order releasing the property from the attachment.

(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 the expiration of six months from the date of the attachment and until any claim preferred or objection made under Section 84 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.

(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 not 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.

Section 77 of the Code of 1898 referred to in this Rule corresponds to Section 72 of the Code of 1973 reading as follows:

"72. *Warrants to whom directed* - (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.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by anyone or more of them."

47. Proclamation and attachment.

(a) On receipt of a report of non-execution of a warrant the court officer will apply to the Magistrate for issue of proclamation and attachment under sections 87 and 88, Criminal Procedure Code, respectively, against the absconder. An application for action under Section 87, Criminal Procedure Code, should be made in all cases whether the accused has or has not any property as Section 87 is not dependent on Section 88 of that Code. Unless an absconder is proclaimed under Section 87, Criminal Procedure Code, a private person cannot arrest him without a warrant (Section 59, Criminal Procedure Code). There is no objection to the proclamation and attachment being issued simultaneously.

(b) Three copies of the proclamation should be obtained from the Magistrate's office-one for the Magistrate's court, one for the police station and the third for the absconder's village.

(c) Police officers must comply strictly with the provisions of Section 87, Criminal Procedure Code, relating to the publication of the proclamation. The court officer will affix the copy for the court house in the presence of witnesses and will submit a report to this effect. The station officer will (i) have the copy for the absconder's village duly read out in a conspicuous part of that village and afterwards posted up at the ordinary place of abode of absconder in the presence of some of the principal resident thereof, (ii) have the third copy put up on the notice board of the police station and (iii) submit a report that action has been taken accordingly giving the names of the witnesses.

(d) On receipt of the report if everything is in order; the court officer will move the Magistrate to record a proceeding stating that the proclamation was duly made and declaring the date on which it was made. The term of 30 days within which the absconder must appear (vide Section 87, Criminal Procedure Code), will run from the date so declared.

(e) Property of absconders other than land paying revenue to Government which is ordered to be attached, will be specified in the warrant of attachment. The court officer therefore must always take care to annex the list of property of the absconder furnished by the station officer, to his application for orders under Section 88, Criminal Procedure Code. When it is found that no property is specified in a warrant the court officer will bring the omission to the notice of the Magistrate. (See also Part V).

Notes - Sections 87 and 88 of the old Code correspond to Sections 82 to 84 of the new Code see Rule 46.

48. Disposal of the attached property of proclaimed offenders .

(a) If the accused does not appear within the time specified in the proclamation the Magistrate should be requested by the court officer to record proceedings declaring the property attached, to be at the disposal of the Government.

(b) If, however, the proclaimed person appears within the aforesaid time the court officer should move the Magistrate to pass an order releasing the property from attachment.

49. Recording of evidence under Section 512, Criminal Procedure Code.

(a) If all measures provided by law to compel the appearance of the absconding accused have failed, the police in important cases should apply to the Magistrate to summon the prosecutor and witnesses to appear before him on a fixed date for the purpose of having their evidence recorded under Section 512, Criminal Procedure Code.

(b) Court officer must report to the Superintendent of Police all persons' proclaimed in form No. 25 of Schedule XL(A) (Part I) and their particulars will be published in the Criminal Intelligence Gazette.

(c) The various steps taken from time to time to cause the appearance of an absconding accused should be briefly noted in the Magistrate's general register of cases (vide Rule 73 below).

NOTES

Section 512 of the Code of 1898 as referred to in this Rule corresponds to Section 299 of the 1973 Code reading as follows:-

"299. *Record of evidence in absence of accused* - (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.

(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 held an inquiry and examine any witnesses who can give evidence concerning the offence and any deposition 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.

50. Despatch of verification rolls.

The court officer will despatch to the court officer of the district in which the house of the accused is believed to be situated or in which he is believed to have been convicted or where his antecedents are likely to be known, a verification statement in Form No. 115 of Schedule XL (A) (Part I). This application will be signed by the court officer and be despatched direct to the court officer concerned. The detachable foil of the form headed. "Notice of application for verification of antecedents of under trial prisoners within the province" will at the same time be sent to the Superintendent of Police concerned for information and necessary action. When however, the court officer from whom the information is required belongs to another province the application will be sent through the Superintendent of Police to whom the officer requiring the information is subordinate, and in such cases the detachable for will not be sent.

Enquiries regarding persons previously convicted in Calcutta should be addressed by the court officers to the chief court officer, Presidency Police Court, Calcutta. Those regarding persons convicted in cases disposed of at the Sealdah and Alipore suburban police courts should be addressed to the sadar Court Inspector of the 24 Parganas, Alipore.

51. Action to be taken by court officer on receipt of verification roll.

On receipt of the verification application, which will be sent in a cover with the words "Verification application" prominently marked in red ink, the court officer to whom it is addressed will at once consult his indexes to the conviction register, record in the application the result of his search and will return the application direct to the officer

from whom he received it, by return of post, if possible. In no circumstances should it be detained for more than four days. If the search has proved ineffectual, but there are grounds for making a reference to police station registers, the court officer will make the reference returning at the same time the verification statement with a note on it that he has done so, and going his reasons for considering a reference to police station registers necessary. To facilitate searches, court officers are directed to keep their index to the conviction register corrected up to date (See Rule 83 below).

Instances of excessive delay on the part of court officers should be reported for orders.

52. Summonses and warrants against railway servants.

A summons on a railway servant should be served through the head of his department. A warrant issued against a railway servant should be entrusted to some Police officer of a superior grade, who will unless immediate execution is necessary, communicate with the railway police and if he finds on proceeding to execute the warrant. that the immediate arrest of the railway' servant would occasion 'risk and inconvenience make all arrangements necessary to prevent escape, and apply to the proper quarter to have the accused relieved, deferring arrest till he is relieved.

53. Court officer to send intimation to police station of surrender of absconder and of cancellation of warrant.

When an absconded offender appears in court or is arrested by parties other than the police of the station to which a warrant was sent in the first instance, or when a warrant is cancelled under Section 75, Criminal Procedure Code, the court officer will send intimation to the police station and ask for the return of the warrant. He will also inform the Superintendent of Police of the surrender or capture to enable him to correct his register.

NOTES

Section 75, Cr. P. C. referred to in this Rule 70 of the 1973 Code reading as follows:-

"70. *Form of warrant of arrest and duration* - (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer of such court and shall bear the seal of the court.

(2) Every warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed."

54. Witness arrested on warrant.

Witnesses brought up under arrest should be dealt with, not as criminals but simply as persons arrested on civil process.

Custody and Production of Prisoners

(Rules 55 to 62)

55. The Hajat register and the custody, escort and release of under-trial prisoners.

(i) A Hajat register in Form No. 51, Schedule VIII will be kept in each court office and produced daily before the magistrate disposing of police papers who will initial it at the bottom.

(ii) The names of all prisoners to be produced each day before a magistrate should be entered in this register by the court officer. The jailor shall make over the prisoners with their warrants to the court officer's guard for production before the Magistrate.

(iii) Prisoners discharged or acquitted shall be released in open court by order of the magistrate; prisoners remanded or convicted shall be sent to jail with their appropriate warrants; and prisoners enlarged on bail or on their own recognizance, if present in court shall be released there. the court officer obtaining the trying Magistrate's initials opposite their names below his order in Column 4 of the *hajat* register in attestation of the release, even if he is the officer referred to in clause (i),

(iv) Whenever the trial of a prisoner, who is detained pending the result of such trial, is adjourned for any reason, and a day fixed by the magistrate for the rehearing of the case, it will be the duty of the court officer to ensure the punctual attendance of the prisoner on the day fixed.

(v) The court police are responsible for escorting prisoners under trial from the jail or lock-up to a magistrate's court and for guarding them while there; also for taking back to the jail under safe escort prisoners sentenced to imprisonment by a Magistrate, or remanded in custody. When there is a reasonable expectation that under-trial prisoners will use violence or that an attempt will be made to rescue them, handcuffs may be used, but not

otherwise.

The court officer's guard will take the *hajat* register with them to the jail after the courts have closed and obtain the jailor's receipt therein for the prisoners returned to the jail. See also rules in Part III.

56. Search of prisoners.

The court officer or any subordinate officer who has been placed in charge of the *hajat* register, Form No. 51 of Schedule VIII, will receive all prisoners, namely, those sent from police stations or from a jail for production in court and those brought from the courts on conviction or on being remanded to custody or to be released on bail. He will forthwith search all the male prisoners and have the female prisoners searched by a woman approved by the Magistrate, and will take possession of all properties and offensive weapons found on them. A receipt should be given to the prisoner on whom any article is found and which is taken from him. These articles and any properties and weapons sent by the station police, with the prisoners in charge of their escort will be entered in the *Malkhana* register, Form No. 116 of Schedule XL{A) (Part I) as required by Rule 63. The woman who makes a search under this rule is entitled to a fee not exceeding four annas per head, the charge being debited to the magistrate's grant for contingencies.

Immediately before the trial of cases, and before the prisoner or prisoners are brought into court and put into the dock it will be joint duty of the prosecuting officer and the police escort in whose custody the prisoner or prisoners are, to make a further and thorough search and satisfy themselves that no offensive weapons or articles capable of being used as weapons or missiles are being carried into court. Similar precautions are to be taken in the case of all other prisoners including those on bail surrendering in court.

57. Interview with under-trial prisoners while in court.

Without the written permission of the presiding officer of the court before which a prisoner stands his trial no one will be allowed to have access to him whilst in the precincts of a court awaiting trial. Facilities will however always be given to a licensed legal practitioner who has obtained the aforesaid permission to see a prisoner for whose defence he is engaged for the purpose of consultation or to get the *Vakalatnama* signed by the prisoners. On no account should a prisoner be left unguarded. Touts should never be allowed to approach an accused under trial.

58. Supply of food and drink to under-trial prisoners in custody and their removal from lock-up.

(a) Prisoners will be supplied with drinking water, whenever required, but no food will be given to a prisoner without the Magistrate's permission. All articles of food shall be carefully examined before they are passed on to prisoners, and no article the introduction of which into a prison is prohibited by any rule under the Prisons Act, 1894, may be given to prisoners or allowed into the lock-up.

(b) The rules in Part V of this Manual regarding the guarding of prisoners in station lock-Ups apply, *mutatis mutandis*, to prisoners in court lock-ups also. No prisoner may be taken out of the lock-up, except with the permission of the court officer or, in his absence, the officer performing his duties.

59. Production of prisoners and properties before the court of sessions.

The court police will produce prisoners committed to the sessions and property connected with such cases before that court on the dates fixed for trial. Where the sessions is not held in the district of commitment the prosecuting officer of that district will send all the property required to be produced before the court to the prosecuting officer of the district where the trial is to be held, and communicate to him the date fixed by the Judge for the trial of each case. The latter officer will be responsible for the production of the prisoners and properties in such cases. The Superintendent of Police of the committing district will take steps to have the Government pleader instructed.

60. Attendance of police at sessions court.

Court officers will arrange for the attendance of a police officer at the sessions court either on the days fixed for the hearing of appeals or on receipt of information that his services are required for the purposed of escorting to a magistrate any accused person who has surrendered to his bail in the appellate court and whose sentence has been confirmed or modified.

61. Court officer to inform jail if prisoner is of dangerous character.

It is the duty of the court officer to inform the jailor, when any prisoner whether under-trial or convict sent to jail is a desperate character, or is accused of a very heinous offence or has ever suffered from lunacy. This information will always be given by writing the word "dangerous" in red ink in the *hajat* register. It should not be endorsed on jail

warrant, which should be drawn up by the magistrate's clerk. Ordinarily this information will be obtained from the charge sheet or chalan sent in by the police with the prisoner – (*See* Part V).

62. Segregation of confessing prisoners.

(a) In the case of confessing prisoners and persons made witnesses under Section 337, Code of Criminal Procedure, 1898, and also in the case in which a magistrate decides that under-trial persons should be segregated, the court officer will communicate the fact to the jail in order that such persons may be kept apart from other accused persons in the same case.

(b) When the accommodation in a sub-jail is insufficient for the purpose, the court officer should at once bring the fact to the notice of the superintendent of police who will suggest to the District Magistrate the desirability of keeping such persons in the headquarters jail whenever practicable, and of sending them to the sub-divisional court on the dates on which they may be wanted.

NOTES

Section 337 of the Code of Criminal Procedure as referred to in this Rule corresponds to Section S8 of the 1973 Code reading as follows:

> "58. *Police to report apprehension* - 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 their respective stations, whether such persons have been admitted to bail or otherwise."

Property Connected with cases

(Rules 63 to 65)

63. Custody of property in the court office; The Malkhana and its register.

(a) *The Malkhana* - A secure room known as Malkhana will be provided for the safe custody of property for which the court police are responsible; such as stolen property sent up for identification; property found on under-trial prisoners; property forwarded as exhibits in criminal trial; unclaimed property taken possession of by the police under Section 25 of the Police Act. (Act V of 1861); suspicious property sent in under Section 523, Cr. P. C. and all other property which may be taken charge of the police and sent to court, or for the custody of which in a Malkhana magistrates may pass orders.

The keys of Malkhana should kept by the court officer who is responsible for the safe custody of its contents. He is also answerable that no one tampers with the exhibits of cases sent to court. In the room which should be kept scrupulously clean, there should be a strong box with a good lock for valuables, such as ornaments, money or documents. Every article kept in a Malkhana should be neatly labelled to tally with the number in the register. To avoid the mixing up of articles the year of the register will be entered on the label below the number of Malkhana register entry, thus, M. R. 40/25 on the label of an article will indicate that the article in the Malkhana register of 1925 is entered as No. 40. No private property belonging to a court officer or anybody also should be kept in a Malkhana. Court officers who are in charge of Government money are authorised to keep their cash boxes in district and sub-divisional treasuries.

(b) *The Malkhana Regtster* - All properties received in a Malkhana should be entered in the book called the Malkhana register - Form No. 116 XL(A), (Part I).

When property is sent to court, full information concerning it should be furnished so as to enable the court officer to fill in the register.

As soon as the property comes in the Magistrate's order concerning it should be obtained and recorded in Column 9 of the register. Similarly the disposal order of a property should be initiated by the Magistrate in Column 10 of the Register, which should be put in routine cases along with Fundamental Rules to Magistrate.

[1][At the end of the year, the Malkhana Register number of all properties of cases which are pending with the Magistrate will be entered in red ink on the first page of the new Malkhana Register, and will be struck off as the properties are disposed of, the final orders being also entered in the old register.

A special Register of property for cases which at the moment are not actually under-trial, but which may in

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[1] Correction Slip No. 50, dated 27-6-1947. Correction Slip Nos. 17, dated 9-8-1935 and 50, dated 27-6-1947

future be subject to revival, such as cases against absconders, or against persons who have been held to be temporarily insane, etc., should be maintained similarly to the Malkhana Register. This register will not be re-written annually, but will be maintained until all the properties entered therein are disposed of finally].

The Court Inspector at Sadar and the Circle Inspector at a sub-divisional headquarters shall certify that all outstanding entries have been correctly brought forward.

(c) The Court officer shall put up his Malkhana register for a thorough Inspection once a month by the Superintendent of Police at headquarters, and by the Sub-Divisional Police Officer or Circle Inspector, as the case may be, at each sub-divisional headquarters.

(d) All exhibits in the Excise and Opium Act cases shall be entered separately in a second part of the same register and the Court Officer shall take steps for their- disposal as soon as the cases concerning them are completed.

NOTES

Section 523 of Criminal Procedure Code as referred to in this Rule corresponds to Section 437 reading as follows:

"457. *Procedure by police upon seizure of property* - (l) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, 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.

(3) 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.

64. Disposal of property kept in the Malkhana.

(a) After a case is disposed of; the court's order for the disposal of the property connected with it should be taken but except where the property is live-stock or subject to speedy and natural decay, such order should not be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

If however the court orders the delivery of such property to any person claiming to be entitled to the possession thereof, on his executing a bond engaging to restore the property to the court if the order of disposal passed by it is modified or set aside on appeal, the property should be immediately delivered to such person.

(b) In cases where any property sent up is not ordered to be sold, confiscated or destroyed but given back to the owner the order for its return will be written across the forms or in the column of remarks in the register and the authority sanctioning it should be entered. A judicial officer ordering the disposal of any property should initial his order and the receipt of the person receiving the property must be taken in the register. [No stamped receipt is to be insisted on, as such receipts come under exemption (b) to Article 53, Schedule I, to the Indian Stamp Act Government Letter No. 3863, dated 8th November 1934] - Correction Slip No. 12, dated 12-1-1935.

(c) When any property is no longer required by the court, such portion of it as consists of cash, bullion, gold and silver ornaments, or other valuable articles of small compass, should be deposited in a treasury, articles other than cash being kept in a separate small box in charge of the treasurer.

(d) Orders should be taken to convert perishable property kept in a Malkhana into cash at the earliest date the law allows.

(e) In the case of property which has been proclaimed under Section 523, Cr. P. C., the date of expiry of the period of proclamation should be entered in the remarks column of the register so as to enable the court officer to obtain orders regarding its disposal.

(f) Police officers are not entitled to any commission for the sale of Unclaimed or other property.

(g) Court and other prosecuting officers should move Magistrates and sessions judges ordering property to be confiscated, etc., to direct that interesting exhibits, such as articles which indicate new methods of committing crimes should be sent for disposal to the Deputy Inspector General of Police in charge of the C. I. D., Assam. After he

has done with item the latter officer will send cash of these articles to the Principal, Police Training College to be kept in the Criminal Museum as appear useful for the training of constables.

NOTE

Instead of 523, Cr. P. C. read 457 of 1973 Code.

64-A.

(i) As soon as a license to possess arms is cancelled, or the licensee dies, an order, with full particulars of the arms covered by the license shall be issued by the Magistrate by registered post to the licensee or to the heir of the deceased licensee directing him to deposit the same at the Police Station in which he lives within 14 days of the receipt of the order and warning him that in the event of his failure to do so he will be prosecuted under the Indian Arms Act, 1939. A copy of such order should be sent to the officer in-charge of the Police Station for information and guidance.

(ii) Within 14 days from the date of deposit at the Police Station, the Officer in-charge shall forward the weapon with the license to the Court officer with a chalan in triplicate,

(iii) **Malkhana Arms Register** - On receipt of the weapon in the Court, the Court Officer shall acknowledge receipt in the duplicate copy of the chalan and return it to the Police Station to be filed. He shall then make the necessary entries in the Arms Register of the Malkhana (Form No. 236 in Schedule XL(A) (Part I) and make over the triplicate copy of the chalan to the assistant in-charge of licenses (with the license, if received), after endorsing on it the date of deposit in the Malkhana and the number of the entry in the Arms Register of the Malkhana. The assistant in-charge of licenses shall enter. the date of deposit and the number of the entry in the Arms Register of the Malkhana, in his Arms Register and shall file the triplicate copy of the chalan,

(iv) The description of arms and ammunition in the Malkhana Register must be full and detailed, so that it may be impossible at any time for other weapons to be substituted without detection. All names, numbers and marks which the weapon may bear must be recorded in addition to other full particulars, viz., whether rifle or smooth bore single or double barrel, muzzle or breach leader, number of chambers in the case of revolvers, numbers of cartridges that fit in the magazine in the case of automatic weapons, etc.

The stock must be verified, item by item, whenever the Malkhana is inspected, and the weapons should be so numbered and arranged as to facilitate verification.

(v) Every officer on assuming charge of a Court office shall personally compare the arms in stock in the Malkhana, item by item with their descriptions in the Arms Register of the Malkhana, and shall enter a certificate to this effect in the register. in his own hand signed and dated.

(vi) The Magistrate in charge pf licenses shall inspect the Court Malkhana twice a year and shall compare the arms in stock with the Arms Register of the Malkhana and. with his Arms Register.

(vii) If a license, which has been cancelled, is subsequently renewed, the Magistrate shall issue to the Court officer an- order, over his own signature, to make over the weapon, covered by it, and shall also inform the licensee that the license has been renewed.

(viii) The court officer shall take the order of the District Magistrate for disposal of confiscated or forfeited weapons in accordance with Rule 55, Chapter IV of the Indian Arms Act Manual, Assam, 1927. The officer who disposes of the arms and ammunition shall satisfy himself that the number and description of the weapon and ammunition agree with those given in the Malkhana register and shall sign Column 12 of the Register.

(ix) The register should be continued for one year, at the end of which all pending entries will be brought forward in red ink on the first page of the new Arms Register of the Malkhana, and will be struck off as the weapons are disposed of, the final orders being also entered in the old Register.

Note - The word "arms" is used in this rule to indicate arms, ammunition and military stores as defined in Section 2 of the Arms Act, 1959 (54 of 1959).

NOTES

Rule 64-A was inserted vide Correction Slip No. 18, dated 19-8-1935 and substituted vide Correction Slip No. 51, dated 27-6-1947.

65. Property found on prisoners and their disposal.

(a) The property found on search of a prisoner's person unless it has any concern with the case should be

given over to any person in the presence of witnesses on the request and on the receipt given by the accused.

(b) An accused person is entitled to use such property in any lawful way he likes save that he may not take it with him into the lock-up or jail, if he is remanded to custody, where he should be allowed to take only necessary clothing.

(c) If an accused does not demand the property it will be sent to the court with the prisoner in charge of escort, a list thereof being forwarded with the prisoner's forwarding report.

Station officers should grant receipts to prisoners from whom they take such property and court officers should see that prisoners hold such receipts; printed receipts in Form No. 50, Schedule II, must be granted for money received. Court officers shall report to the Superintendents of Police any breach of this rule.

(d) When an accused is enlarged on bail by the court or when the case against a prisoner in custody is disposed of, the court's order as to the disposal of such property should be obtained and forthwith carried out. If the accused has been sentenced to imprisonment the property should be sent to the jailor unless the prisoner disposes of it otherwise. If the prisoner has sentenced to a fine which has not been realised a distress warrant should immediately be obtained and the property found in possession of the man be attached and sold in payment of the fine.

Books and Registers

(Rules 66 to 95)

66. Keeping of books, registers and files in the court office.

A list of books, registers and files to be kept up in the court office is given in Appendix A. The senior court officer will be generally responsible for the maintenance of these registers, but prosecuting officers must, as far as possible, be relieved of the duties of writing registers, the work being done by assistant sub-inspectors.

All pages of court officer's registers issued in manuscript should be carefully numbered, and each book should be signed at the commencement by a responsibility officer to be told off for the duty by the Superintendent of Police. This officer should also certify to the number of pages in each book. No certificate is required as regards printed paged registers.

67. Magistrate's general register of cases, Form No. 36 of Schedule VIII.

(a) The principal objects of this register are that a magistrate having jurisdiction may have clearly laid before him all cognizable cases reported to the police, that his final orders may be taken on every individual case, and that facilities may be obtained in making out crime returns.

(b) Cognizable cases in which a magistrate issues process on complaint made to him or of his own motion, but in which no first information has been laid to the police or enquiry conducted by them, will not be entered in the general register.

(c) The duty of dealing with cases submitted in final report form should, if possible, be undertaken by the Deputy Commissioner at headquarters and must be undertaken by the sub-divisional magistrates in subdivisions. If for any reason the Deputy Commissioner is himself unable to undertake the duty he will make it over to an Assistant Commissioner or to a senior Extra Assistant Commissioner.

(d) The senior court officer is responsible that the register is properly written up, but in order to leave the senior officer free to prosecute cases the actual writing of the register and its submission to the magistrate should, at headquarters of districts, ordinarily be entrusted to a competent subordinate officer of the court of not lower rank than an Assistant Sub-Inspector.

68. Custody of first information report and their entries on receipt in the court offices.

(a) The first information report will remain with the court officer until the case comes before a magistrate for enquiry or trial, when it will be made over to the bench clerk of the trying magistrate.

(b) On receipt of the first information report of a case from a police station or outpost the court officer will fill in columns 1 to 8 of the general register and after recording on the top of the first information report its number in the general register, will submit it and the register to the magistrate who will initial column 9 of the register. First information reports of heinous or important cases should, however, be submitted to the magistrate immediately after receipt.

Every case which is reported at a police station during a year, no matter when the crime was committed, will be

entered in the general register and will receive a consecutive number for that year, even though the first information may not have been received until after the end of the year. The monthly consecutive number should also be given

below the yearly number, thus $\frac{\text{119 (yearly number.)}}{\text{5 (monthly number.)}}$

69. Entries to be made on receipt of final papers.

(a) As soon as the final papers of a case are received by the court officer, whether a charge sheet or final report form, he will fill in columns 10 to 14 of the register and again submit it with the final report charge sheet to the magistrate. The Magistrate, if a charge sheet has been submitted, will either take the case on to his own file or will pass orders, to be entered in column 15 as to which magistrate is to try the case.

(b) When the case has been tried and disposed of, the court officer will entered in column 16 the order of the magistrate as to the commitment, conviction, acquittal, or discharge of the accused, and obtain the magistrate's initial to the entry The order should make clear how the case is to be shown in the returns, what amount of property is to be entered in the *Khatian* register as stolen and recovered, and how any property or exhibits connected with the case to be disposed of.

70. Entries to be made when no charge sheet is submitted.

(a) If a charge sheet has not been submitted the magistrate will pass such preliminary order as he may consider necessary, e. g., for further enquiry or for the complainant to produce his witnesses, and such order will be entered in column 15, or if no preliminary order is required he will pass final orders and enter them in column 16.

Here again the entry in column 16 must indicate clearly how the case is to be shown in the returns, what amount of property is to be entered as stolen and recovered in the *Khatian* register, and how any property of which possession has been taken of by the police is to be disposed of.

(b) In cases of alleged theft of property in which investigation has either been refused by the police or in which a final report has been submitted after investigation on the ground that the matter in dispute should be decided by a civil court, no property should be shown as stolen or recovered either in the general or *Khatian* register. Court officer putting up police papers should draw the attention of the magistrate to this when necessary.

Note - No property should be shown as stolen or recovered in the general or *Khatian* register in a case which is decided by a magistrate as civil dispute, even though a charge sheet was submitted by the police.

71. Instructions for entry in column 16.

(a) The order in column 16 for entry of the cases in the returns must take one of the following forms:-

Not investigated	..	..	..	Enter section.
True	..	..	..	Enter section.
Intentionally false	..	..	..	Enter section.
Mistake of law	..	..	..	Enter section.
Mistake of fact	..	..	..	Enter section.
Non-cognizable	..	..	..	Enter section.

(b) The above represents the classification recognized for statistical purposes in crime Statement AI-prescribed by the Government of India, and all cases must be brought under one or other of the above classes.

Orders such as "dismissed", "struck off as false", "doubtful", are not explicit and do not indicate how the case is to be entered.

If a magistrate notwithstanding treats a case as doubtful it must be entered in the returns as true.

72. Miscellaneous instructions.

(a) The names of all accused persons charged with offences under Chapters XII and XVII and Section 215 and 489 (A to D) of the Indian Penal Code whose real names and residences are not known should be underlined in red ink. The names of persons residing outside the district should be doubly underlined.

(b) Persons who have been arrested and subsequently released by the police on bail and have not been required to appear before a magistrate will not be shown as acquitted.

(c) The entries in columns 10 to 14 relating to a case in which the final report has not been submitted within 14 days from the date of drawing up the first information report, will be made in red ink.

Similarly entries in columns 15 and 16 subsequent to a case having been remanded three times, will be made in red ink. Dates of remand should be noted in column 15.

(d) In cases in which the accused are at large and should be arrested, a conspicuous red cross should be made in the column of remarks, so that it may be seen at a glance what cases of this nature are pending.

(e) To ensure absconders not being overlooked, the number of persons charged should always be shown in column 8, and all these persons should be accounted for in column 12, thus:-

Sent up	..	..	..	Madar Buksh.
Not proved against	..	..	..	Sheikh Salim.
Absconded	..	..	..	Mahomed Ali.

(f) When an offender who has been previously convicted is sent up for trial the letters "P.C." should be written in red ink in column 12 against his name.

(g) If the case ends in conviction the orders should be entered on conviction and not on expiry of the period allowed for appeal. If a sentence be quashed or modified on appeal, a note of the order should he made in red ink in the general register to ensure entry of the amended order in the khatian register and information should be sent to the police station as required by Rule 80.

(h) Against the name of any convict regarding whom orders under Section 565, Cr. P. C. have been passed, P. R. T. - 565, should be noted the general register in the column of remarks.

(i) In column 17 the court officer will enter a reference to the corresponding entry in the khatian and note the date of the despatch of the final memorandum.

(j) All railway cases should be distinguished by a conspicuous red ink "R".

(k) The conviction of any wandering gang or any member or member of a wandering gang will be indicated by the letter “V” in red ink in the Magistrate's general register.

(l) At the end of the year the General Register number of all C8IeI which are pending with the police or before the Magistrates will be entered in red ink on the first page of the new General Register and will be struck off as the cases are finished, the final orders being also entered in the old register.

Cases which, though at the moment not actually under trial, but which may in the future be subject to revival, such as those against absconders, whether or not evidence has been recorded under Section 512, Criminal Procedure Code or against persons who have been held to be temporarily insane should be entered in detail in a separate register similar to the Magistrate’s General Resister. The resister will not be re-written annually, but will be maintained until all the case entered therein ant disposed off finally. (Vide Correction slip No. 39, dated 19-8-38).

NOTES

Section 565 of .Cr. P. C., as referred to in this Rule corresponds to Section 356 of the 1973 Code reading as follows:-

> "356. *Order for notifying address of previously convicted offender* - (1) When any person, having been convicted by a Court in India of an offence punishable under Section 215, Section 489-A, Section 489-B, Section 489-C, or Section 489-D of the Indian Penal Code (45 of 1860), or of any offence punishable under Chapter XII or Chapter XVII of that Code, 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 of 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.

(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 abetment of such offences and attempts to commit them."

(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.

For Sections 215, 489-A to 489-D of I. P. C. see notes under Rule 14.

Chapter XII of I. P. C. deals with offences relating to coin and Government Stamps - Sections 230 to 263-A and Chapter XVII deals - with offences against property theft (Sections 378 to 382) of extortion (Sec 383 to 389); of robbery and dacoity (Sections 390 to 402); of criminal misappropriation of property (Sections 403 and 404); of criminal breach of trust (Sections 405 to 409); of receiving stolen property (Sections 410 to 414); of cheating (Sections 415 to 420); of fraudulent deeds and dispositions of property (Sections 421 to 424); of mischief (Sections 425 to 440); criminal trespass (Sections 441 to 462).

In this Rule reference has been made to Sections 176, 212, 216 and 216-A of the Indian Penal Code.

Section 176 of I. P. C. deals with the offence of omission to give notice or information to public servant by person legally bound to give it. The ingredients of the offence under this section are;

(1) Accused was bound to furnish information to a public servant.

(2) The accused has the information required.

(3) Intentionally omitted to give such notice or information.

(4) The notice or information was requisite for the purpose of preventing the commission of an offence or in order to the apprehension of an offender.

The provisions of this section apply only if legal obligation exists - AIR 1933 Lah 515. (Dhara Singh); AIR 1929 Bom 12 (Hiru Satua Desla) and the omission must be intentional.

Section 212 of I. P. C. deals with the offence of harbouring offender and the punishment prescribed is as:

(a) For the offence punishable with death-imprisonment of either description for a term which may extend to five years and shall be liable to fine;

(b) For the offence punishable with imprisonment for life or with imprisonment which may extend to ten years with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

(c) For the offence punishable with imprisonment which may extend to one year arid not more than ten years with imprisonment of the description provided for the offence for a term which may extend to one fourth part of the largest term of imprisonment provided for the offence, or with fine or with both.

Offences in this section includes any act committed at any place out of India which, if committed in India would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396,397, 398,399, 402, 435, 436, 449, 450, 457,458, 459 and 460; and every such act shall, for the purpose of this section, be deemed to be punishable as if the accused person has been guilty of it in India. The ingredients of offence are:

(1) Offence was committed by the offender i.e. the person who harboured;

(2) Such offence was punishable with death, or imprisonment for life or with imprisonment which may be extended to ten Years or with imprisonment which may extend to one year;

(3) Accused harboured or concealed the offender knowing or having reason to believe that he committed the offence; and

(4) Accused thereby intended to screen the offender.

Section 216 of I. P. C. deals with the offence of harbouring offender who has escaped from custody or whose apprehension has been ordered, for which the punishment prescribed is as follows:

(a) For offence punishable with death-imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

(b) For offence punishable with imprisonment for life or imprisonment for ten years imprisonment of either description for a term which may extend to three years, with or without fine;

(c) For offence punishable with imprisonment which may extend to one year-and not more than ten years with imprisonment ~f the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

Offence in this section includes also any act or omission of which a person 'is alleged to have been guilty out of India, which, if he had been guilty of it 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; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in India.

Section 216-A of I. P. C. provides for penalty for harbouring robbers or dacoits that is rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. The ingredients of the offence are:

(1) The person in question was about to commit or had recently committed robbery or dacoity.

(2) The accused knew this.

(3) The accused harboured them or some of them.

(4) The accused did so with the intention of-

(a) facilitating the commission of such robbery or dacoity, or

(b) screening them or some of them from punishment.

73. Non-first information report register for court.

A register of cases in which a first information report is not used, will be maintained in court offices in form No. 138-A of Schedule XL (A), (Part I). In this register cases under Sections 107, 108, 109 and 145, Cr. P. C. cases under the Police Act (Act V of 1861), etc., that is, cases which are entered in the police station non-first information report register, as also cases in which Magistrates send direct complaints to the police for summary enquiry and report, should be entered. A few pages of the register should be set apart for each police station in the sub-division. All reports by the police in cases which come under the category are to be submitted to the Magistrate through the court office. On receipt of the report the court officer will enter shortly the details of the Case in his register, the entries being made serially for each police station separately and put up to the Magistrate for orders. When the Magistrate's final orders have been passed, they will be noted in the proper column in the register and communicated to the police station concerned in the form of a final memorandum, a separate book being kept for this purpose and cross references made to the non-first information register.

NOTES

Sections 107, 108, 109 and 145 of the Code of Criminal Procedure as referred to in this Rule read as follows:

"107. *Security for keeping the peace in order cases* - (l) 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.

(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.

108. *Security for good behaviour from persons disseminating seditious matters* - (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 124-A or Section 153-A or Section 153-B or Section 29S-A of the Indian Penal Code (45 of 1860), or

(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 Indian Penal Code (45 of 1860).

(ii) makes, produces, publishes or keeps for sale, imports exports, conveys, sells, lets to flire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in Section 292 of the Indian Penal Code (45 of 1860).

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.

(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 Books Act, 1869 (25 of 1867), 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.

109. *Security for good behaviour from suspected persons* - 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.

145. *Procedure where dispute concerning land or water is likely to cause breach of peace* - (1) Wherever 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 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.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a 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 then, 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:

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 subsection (1).

(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.

(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, 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.

(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.

(8) If the Magistrate 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.

(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.

(10) Nothing in this section shall be deemed to be inderogation of the powers of the Magistrate to proceed under Section 107.

[1][73-A. Magistrate's Register of un-natural deaths.

A register of un-natural death cases will be maintained in Court Offices in Assam, Schedule, VI, Form No. 24. On receipt of first information of an unnatural death case from a police station the court officer will enter shortly the detail in the register; and put it up to the Magistrate with the F. I. R. for orders. When the Magistrate's final orders have been passed, they will be noted in the proper column in the Register and communicated to the Police Station concerned by a "Final Memorandum", the same form being used as in General Register cases, but a separate book being kept for this purpose].

74. Submission of final memoranda.

(a) A final memorandum in Form No. 118 of Schedule XL (A) (Part I), will be sent by the court officer in the following cases:-

(i) Cases in which a first information report has been used i.e. cases which have been entered in a Magistrate's general register.

(ii) Cases entered in the register maintained in the court office for cases in which a first information report is not used, including cases under Sections 182 and 211. I. P. C. arising out of police cases.

(iii) All unnatural death and railway accident cases-Final memoranda will be sent to the Superintendent. Railway Police in all railway police cases. Copies of final orders of Magistrate in railway accident cases together with any remarks made by them should accompany the final memorandum.

(iv) Cases other than those mentioned above which are required to be entered in the court conviction register and the village crime note book. These are Magistrates' direct cases and the information can be obtained from Magistrates' records.

The court officer will despatch the outer and middle foils of the final memorandum to the Superintendent of Police through the Circle Inspector and sub-divisional police officer (if any) the counterfoil being kept in the court

[1] Inserted vide correction slip No. 47, dated 29-5-45

office for future reference.

In cases of appeal a subsequent final memorandum need only be sent when the orders of the original court are changed by the appellate court.

(b) Action by the circle Inspector and the sub-divisional police officer in forwarding final memoranda - In forwarding to the Superintendent of Police the final memoranda in charge sheet cases and cases under Sections 109 and 110 the circle Inspector and sub-divisional police officer if any, will record their recommendation for surveillance and any remarks they may consider necessary regarding the conduct of the police, the adequacy of the sentence and in cases ending in acquittal or discharge, the failure of the prosecution.

(c) Action by the Superintendent of Police - The Superintendent of Police will note on the final memorandum whether the convict is to be placed under surveillance, whether he is to be made P. R., P. R. T. or P. R. T. - 565 and whether a history sheet is to be opened for him. The outer foil of the memorandum will then be sent to the police station. The final memorandum will not be filed by the Superintendent of Police until final orders regarding all absconders are passed. On the back of the final memoranda of cases ending in acquittal or discharge, the Superintendent of Police, if he takes no other action, should point out to the investigating or prosecuting officer the reasons for the failure of the cases. When the Superintendent of Police makes any observation regarding the prosecution or imparts any instruction to the prosecuting officer in the memorandum a copy of the same will be sent to the court officer.

(d) Action in the police station - The outer foil or the final memorandum with the Superintendent of police's orders thereon forwarded to the police station should be filed with the first information report, case diaries and other papers of the case after proper action has been taken and necessary entries made in the registers concerned.

NOTE

For reference about Sections 182 and 211 of the Indian Penal Code see notes under Rule 37.

75. Instructions for writing final memoranda.

In all cases in which the real names or residences of persons charged with offences under Chapter's XII and XVII and Sections 215, 489-A, 489-B, 489-C, and 489-D of the Indian Penal Code, are not known, the entries should be made in red ink. When cases end in acquittal, or discharge, the reason therefore will be noted briefly on the back of the final memorandum and a full copy of judgment will be attached. A copy of any comment made by a magistrate or judge on the conduct of the police, whether complimentary or adverse, must be attached to each copy of the memorandum.

In order to ensure that the descriptive roll of a convict, as given in the court conviction register, should agree with that given in the history sheet continued in Part V of the village crime note book, court officers when sending the final memoranda of cases which have ended in conviction, will note on the back of the outer foil of each final memorandum, the descriptive roll of the convict which has been entered in their court conviction register.

76. Compilation of annual crime returns.

In August or September court officers will compile and check the figures for the annual returns for the first half-year; in November these figures will be brought up to the end of the third quarter and in December up to the end of November to avoid delay in submission of the returns. Sub-divisional court officers must submit the annual crime returns relating to the sub-division in a complete and correct form, together with a short note of important cases. If, after the returns have been examined at headquarters, the Superintendent of Police considers that in order to reconcile discrepancies the presence of the sub-divisional court officer is necessary, he may direct him to come to headquarters but should not detain him for more than a week. If an assistant sub-inspector or junior sub-inspector attached to the sub-divisional court staff can explain the discrepancies, he should be sent for in preference to the officer in charge of the court. (*See* also Part II).

77. Khatian register.

(a) To facilitate the preparation of the annual crime statements a Khatian register composed of compilation sheets in form No. 119 of Schedule XL (A) (Part I) will be kept at each headquarters and sub-divisional court. Each description of crime to which a separate serial number is assigned in the classified list of crime should have consolidated sheets for all police stations and independent out posts. Offences which are very are may perhaps not require many sheets while cases entered under serials Nos. 29 and 33 and some others may require more sheets. A reference to the statistics of past years will indicate fairly accurately the amount of space to be allotted for each serial

for all police stations and outposts.

(b) (i) Cognizable cases taken up by the police *suo motu* upon report and otherwise than upon report and also cognizable cases of a petty nature in which first Information reports are not sent in, including cases under Sections 109 and 110, Cr. P. C., should be shown in columns 3 to 13 of the Khatian; the total of these columns will give figures for the corresponding columns 4 to 14 of Statement A, Part I. Cognizable cases instituted on complaints made to a magistrate, whether referred by him to the police or not, will, if found true, be shown in column 14 and, if they result in conviction, in column 15 also but nowhere else. If found untrue and dropped by the magistrate, they will not appear in the register or statement. The possible case of a complaint made to a magistrate and referred to and found false by the police which nevertheless is taken up by the magistrate and results in a conviction will appear both in columns 14 and 15.

(ii) Cases in which first information reports are submitted are recorded in the general register of cases, and from this register should be gathered the information for the Khatian with respect to such cases. Cognizable cases instituted by complaint or petition to a magistrate, and referred to the police for investigation, are also entered in the general register, and will be shown in the Khatian in red ink, but will not be entered in Statement A, Part I.

(iii) Cognizable cases under municipal, railway and telegraph bye-laws, cases under Section 34 of the Police Act (V of 1861), Section 120 of the Indian Railways Act, IX of 1890, and under Sections 109 and 110, C,. P.C., are not reported in first information reports, *vide* Part V, and are consequently not entered in the general register of cases. These cases are however entered in the magistrate's register of unimportant cases in which no first information report is used as also in the similar register now maintained in the court office and for the purpose of their entry in the Khatian and inclusion in the annual Statement A, Part I, the former register should always be consulted.

(c) Cases pending with the police and before the magistrates and the sessions courts at the close of the year should be shown in columns 3 and 9 of the Khatian and should be brought forward in red ink in the register of the following year.

(d) When entering a case from the magistrate's general register, register of miscellaneous cases, or from the register of non-first information cases, the number of the entry in column 1 of the compilation sheet should be noted in the column of remarks in the register from which the entry is made, thus creating a perfect link between the registers and the compilation sheets.

NOTES

For text of Section 109 and 110 of Cr. P. C., *see* Rule 13.

(e) District and sub-divisional magistrates will direct the ministerial officer who keeps the registers of miscellaneous cases and of cases in which ne first information reports are used to let the court officer have the book for a short time every day and give him a note of the cases decided since the previous day in order that the Khatian may be written up.

(f) At the end of the year separate totals should be made of black ink entries of completed offences and of attempts. Annual Statement A, Parts I and II, will be prepared from these black ink entries in the Khatian. Separate totals must also be made of the red ink entries to show the cases instituted by complaint to magistrate which were referred to the police for investigation and which are not to be entered in Statement A, Part I, but will serve for the preparation of the departmental report.

As attempts, except under Serial No. 29, are not likely to be many in number, it will be sufficient to make a list of cases of attempts in one of the spare columns at the end of the Khatian form.

(g) The Khatian register should never be allowed to fall into arrears. It should be totalled quarterly.

(h) On receipt of intimation that an appeal has been lodged, the court officer will write a large "A" in red ink on the left hand side of column 1 of the Khatian register against the entry concerned, and when the final result of appeal is known, the necessary alterations, if any, will be made in the columns relating to convictions and acquittals, lastly in one of the spare columns of the Khatian register will be entered the number of cases and persons acquitted by the magistrate, Sessions Judge, Or High Court. The court officer will initial his Khatian register twice: first, when he writes "A" opposite case, the and the second time when he enters the final result of the appeal.

(i) After the close of the year, the court officer will satisfy himself by personal enquiries that he has entered in the Khatian register the result of all appeals finally decided up to the 31st December.

(j) The register will be closed on the 31st December. Pending cases will then be brought forward and

entered in the register of the new year.

78. Instructions for filling up columns of Khatian register.

The following instructions for filling up certain columns of the Khatian should be carefully followed:-

Column 3 should include all cases either pending with the police for investigation or with Magistrates for trial or final orders.

Column 4 should include not only cases taken up by the police upon report but also cases instituted without report, as for instance on the personal knowledge of the police, on the confirmation of a suspicion, rumour or anonymous or pseudonymous petition, etc., as authorized in Part V of the Manual.

Column 7 should include all cases declared by a magistrate to be maliciously false, whether the order was passed after an enquiry or trial or without any judicial enquiry.

Column 8 should include all cases declared by a magistrate to be false owing to mistake of law or fact, or non-cognizable, whether the order was passed after an enquiry or trial or without any judicial enquiry.

Column 9 should include cases pending with police for investigation cases under trial at the close of the year cases pending final orders of the magistrate, and pending cases in which the police did not send up the accused but the magistrate sent for them for trial of his own motion.

Column 10 should include cases sent up for trial by the police and cases in which the police did not send up the accused person, but a magistrate of his own motion sent for him and tried the case. A case should be shown 'as convicted when any of tile accused sent up is finally convicted of a cognizable offence by any competent court. When a case is acquitted on appeal it should be shown as such in columns 11 and 17, necessary corrections being made in these columns.

If a case ends in the conviction of an accused under a non-cognizable section, the case will be shown under columns 4, 6 and 8 of the Khatian and the person in column 25 (and in the spare column for "otherwise disposed of").

Column 11 should include cases which were sent up by the police and cases in which the police did not send up, but a magistrate of his own motion sent for the accused and tried the case. Cases in which the accused died, escaped or was declared a lunatic during trial or in which charges were abandoned compounded or withdrawn (Sections 247,248,259,333, 34S, 494, Cr. P. C. should not be included in this column. They must be shown in additional columns provided for the purpose in the remarks column. Acquittals on appeal will also be shown as such in column 11 if they occur during the year.

Column 12 should include all true cases reported as undetected as well as cases in which it is not known whether the offence was or was not committed.

Columns 14 and 15 - Figures will be obtained from the magistrates' office.

Note - The three columns 14, 15 and 16 should contain all cognizable cases instituted direct to a magistrate whether referred to police for investigation or not.

Column 24 - This column should not include persons released on bail by the police under Section 169, Cr. P. C. before the commencement of the year, But if any such persons are subsequently sent up for trial during the year the entry should be corrected, and they should be shown in this column, a note of the fact being made in the remarks column. As regards those not required to appear by a magistrate, i.e., those released on bail under Section 169, Cr. P. C. a note may be made in a spare column so that all persons pending before the police at the end of the year may be accounted for.

Column 26 should include not only all persons arrested by the police in ordinary course but also (a) any person arrested under a magistrate's order after investigation had been refused by the police or after the police had reported the charge to be false, and (b) any accused who appear voluntarily for trial. In cases (a) and (b) a note should be made in the remarks column.

Column 27 should include, besides persons released by the magistrates, persons who died or escaped and were not recaptured before trial, a note being made in the remarks column of those who died or escaped.

Column 28 should contain figures in columns 2S minus columns (26 plus 27).

Column 29 should include all persons convicted of cognizable offence including those dealt with under Section 562, Cr. P. C., those convicted under a non-cognizable section being shown under a spare column for "otherwise

disposed of"

Note - Columns 28, 29 and -30 are meant for persons concerned in true cases only.

Column 30 - Persons concerned in cases abandoned, compounded, withdrawn (including accomplices, pardoned under Sections 337 and 338, Cr. P. C.) and those who died, escaped or became insane during trial should not be shown in this column but in additional columns in the remarks column. Persons acquitted on appeal will be shown as such in the remarks column if the acquittal takes place during the year, necessary corrections being made in this column.

Columns 33, 34 and 35 should be filled up by figures obtained from the magistrate's office.

NOTES

Sections 247, 248, 259, 333, 345. 494, 169, 562, 337 and 338 of Cr. P.C. have been referred to in this Rule; the corresponding Section in the 1973 Act are as follows:

Old Section	New Section
247	256
248	257
259	249
333	Omitted
345	320
494	321
169	169
562	360 (3) to (6)
337	306
338	307

The new sections as above read as follows:-

256. *Non-appearance or death of complainant* - (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;

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.

257. *Withdrawal of complainant* - 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.

249. *Absence of complainant* - 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, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

320. *Compounding of offences* - (l) The offences punishable under the sections of the Indian Penal Code (45 of 1860) 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:-

TABLE

Offence	Section of the Indian Penal Code 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.	298	The person whose religious feelings are intended to be wounded.
Causing hurt.	323,334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341,342	The person restrained or confined.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426,427	The person to whom the loss or damage is caused.
Criminal trespass.	447	The person in possession of the property trespassed upon.
Houses trespass.	448	Ditto.
Criminal breach of contract of service.	491	The person with whom the offender has contracted.
Adultery.	497	The husband of the woman.
Enticing or taking away detaining with criminal intent a married woman.	498	Ditto.
Defamation, except such cases as are specified against Section 500 of the Indian Penal Code (45 of 1860) in Column 1 of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	Ditto.
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.

(2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) 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 Indian Penal Code applicable.	Person by whom offence may be compounded
1	2	3
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt.	325	Ditto.
Voluntarily causing grievous hurt or grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to danger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	Ditto.
Wrongfully confining a person in secret.	346	Ditto.
Assault or criminal force to woman with intent to outrage her modesty.	354	The woman assaulted to whom the criminal force was used.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed to hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.

Criminal breach of trust by a carrier, wharfinger, etc. where the value of the property does not exceed two hundred and fifty rupees.	407	Ditto.
Criminal breach of trust by a clerk or servant, where the value of the property does not exceed two hundred and fifty rupees.	408	Ditto.
Dishonestly receiving stolen property, knowing it to be stolen, when the value of the stolen property does not exceed two hundred and fifty rupees.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen property does not exceed two hundred and fifty rupees.	414	Ditto
Cheating a person whose interest thereof.	417	The person cheated.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	Ditto.
Cheating by personation.	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc., of any value or any other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage Caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.

House trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Marrying again during the life time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the 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.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.

(3) When any 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) 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 is an idiot or a lunatic, any person competent to con-; tract on his behalf may, with the permission of the Court, compound such offence.

(b) When the person who would otherwise be compound an offence under this section is dead, the legal representative, as defined in the Code of Civil Procedure, 1908 (5 of 1908), of such person may, with the consent of the Court, compound such offence.

(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.

(6) A High Court or Court of Session acting is the exercise of its powers of revision under Section 401 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.

(9) No offence shall be compounded except as provided by this section.

321. *Withdrawal from prosecution* - The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgement is pronounced, withdraw from the prosecution of any person either generally or in respect of anyone or more of the offences for which he is tried ; and, upon such withdrawal, -

(a) If it is made before a charge has been framed the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences;

Provided that where such offences:-

(i) was against any law relating to a matter to which the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946); 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.

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.

169. *Release of accused when evidence deficient* - 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.

360. *Order to release on probation of good conduct or after admonition* - (3) In any case in which a person is convicted of theft, theft in a building dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860) 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 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.

(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;

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 121, 124, and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

307. *Power to direct tender of pardon* - 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.

308. *Trial of person not complying with conditions of pardon* - (1) Where, in regard to a person who has accepted a tender of pardon made under Section 306 or Section 307, 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;

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 195 or Section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under Section 164 or by a Court under sub-section (4) of Section 306 may be given in evidence against him as 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.

(4) At such trial, the Court shall-

(a) if it is a court of Session, before charge is read out and explained to the accused;

(b) 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 Code, pass judgment of acquittal.

79. Utilisation of spare Columns of Khatian.

The spare columns may, with advantage, be headed thus, when necessary:-

(1) Under Serial No. 9	Column No.	44 cases ending in loss of life
	,, ,,	45 cases of serious riot.
	,, ,,	46 persons bound down under Section 106, Criminal Procedure Code.
(2) Under Serial No. 11	,, ,,	44 by strangulation
	,, ,,	45 by poison
	,, ,,	46 number supposed to have been concerned
	,, ,,	47 murder of legitimate children by mothers.
	,, ,,	48 such cases in which Judge recommends reduction of sentence
	,, ,,	49 such cases in which no such recommendation is made.
	,, ,,	50 murder of illegitimate children by their mothers.
	,, ,,	52 murder for gain

(3) Under Serial Nos. 18, 24, 31, 32 and 37.	Column No.	44	cases compromised.
	,, ,,	45	persons acquitted on compromise.
	,, ,,	46	cases withdrawn.
	,, ,,	47	persons acquitted under Section 247. Criminal Procedure Code after appearance before the magistrate.
(4) Under Serial Nos. 2. 8. 9. 10, 27 and 40.	,, ,,	44	cases withdrawn.
	,, ,,	45	persons acquitted under Section 247. Criminal Procedure Code, after appearance before the magistrate.
(5) Under Serial No. 25.	,, ,,	44	house dacoity.
	,, ,,	45	river dacoity.
	,, ,,	46	road dacoity.
	,, ,,	47	technical dacoity.
	,, ,,	48	number of charge sheet forms against tea-garden coolies.
	,, ,,	49	number of such charge-sheet forms convicted.
(6) Under Serial No. 26	,, ,,	44	number of charge-sheet forms against tea-garden coolies.
	,, ,,	45	number of such charge-sheet forms convicted.
(7) Under Serial No. 29.	,, ,,	44	attempts Sec. 457 ----- Indian Penal code 511
	,, ,,	45	attempts with thefts Section 457 ---- Indian Penal Code. 380
	,, ,,	46	attempts with out theft Section 457 Indian Penal Code
	,, ,,	47	number of charge-sheet forms in cases first refused enquiry.
	,, ,,	48	number of such charge-sheet forms convicted
	,, ,,	49	number of persons sent up in cases first refused enquiry.
	,, ,,	50	number of such persons convicted.
	,, ,,	51	number of charge-sheet forms against tea-garden coolies.
	,, ,,	52	number of such charge-sheet forms convicted

(8) Under Serial No. 33 (Theft ordinary)	,,	,,	44 number of charge-sheet forms against tea-garden coolies.
	,,	,,	45 number of such charge-sheet forms convicted.
	,,	,,	46 number of charge-sheet forms in cases first refused enquiry.
	,,	,,	47 number of such charge-sheet forms convicted.
	,,	,,	48 number of persons sent up in cases first refused enquiry.
	,,	,,	49 number of such persons convicted.
(9) Under Serial No. 33 (Cattle theft)!	,,	,,	44 number of charge-sheet forms against tea-garden coolies.
	,,	,,	45 number of such charge-sheet forms convicted.
	,,	,,	46 number of cattle stolen.
	,,	,,	47 number of cattle recovered.
(10) Under Serial No. 35	,,	,,	44 number of charge-sheet forms against tea-garden coolies.
	,,	,,	45 number of such charge-sheet forms convicted.
(11)Under Serial No. 41	,,	,,	44 cases in which the Superintendent of Police personally sanctioned prosecution on police report.
	,,	,,	45 cases in which persons bound down for three years.
	,,	,,	46 cases tried in accused’s village.
(12) Under Serial No. 41 (Vagrancy and bad character).	,,	,,	47 cases in which persons bound down for one year.
	,,	,,	48 cases in which security was accepted.
	,,	,,	49 amount of security ordered.
(13) Under Serial No. 41 {Excise Act).	,,	,,	44 cases instituted by police.
	,,	,,	45 cases instituted by excise officer.
	,,	,,	46 amount of fine imposed.
	,,	,,	47 amount of fine recovered.

Note - (i) Against Serial Nos. 18, 19, 20, 24, 26 and 32 the number of cases ending in deaths should be noted in one of the spare columns.

(ii) Spare columns will also be utilised under different serials for noting information such as-

(1) Cases and persons transferred.

(2) Cases and persons received by transfer.

(3) Cases of death and escape, etc. before trial and persons concerned in them.

(4) Cases of death, escape and lunacy during trial and persons concerned in them.

(5) Cases and persons otherwise disposed of.

(6) Charges abandoned and persons discharged.

(7) Number of persons made approver under Sections 337 and 338 Criminal Procedure Code. (Sections 306 and 307 of the 1973 Code).

(8) Heinous offences supervised by Superintendent of Police, Assistant Superintendents of Police and Deputy Superintendents of Police. Circle Inspectors.

(9) Cases professional.

(10) Number of persons supposed to have been concerned in professional cases.

(11) Number of persons pending on police bail under Section 169 Criminal Procedure Code at the close of the previous year and not required by a magistrate to appear during the year.

(12) Number of cases of attempts.

(13) Result of cases committed to the sessions for trial, i.e. –

Number of cases committed.

,, ,, acquitted.

,, ,, convicted.

,, ,, persons committed.

,, ,, acquitted.

,, ,, convicted .

NOTES

Section 106 of Cr. P. C. as referred to in this rule read as follows:

"106. *Security for keeping the peace on conviction*. – (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.

(2) The offences referred to in sub-section (I) are –

(a) any offence punishable under Chapter VIII of the Indian Penal Code (45 of 1860), other than an offence punishable under Section 153-A or Section 153-B or Section 154 thereof.

(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.

(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.

Section 247 of Cr. P. C. as referred to in this Rule corresponds to Section 256 of the 1973 Code, reading as follows:

"256. *Non-appearance or death of complainant* - (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:

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,

Section 457 of the Indian Penal Code deals with lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years. The ingredients of the offence are as follows:-

(1) The accused committed lurking house-trespass by night or housebreaking by night.

(2) It was done to commit an offence punishable with imprisonment.

(3) It was intended to commit theft.

To support the conviction under this section it is necessary to prove first that there was lurking house-trespass by night or house-breaking by night. The second ingredient is that the house-trespass or house-breaking was in order to commit an offence punishable with imprisonment, AIR 1971 SC 1254 (Nasiruddin).

Section 380 deals with the offence of theft in dwelling house etc. and the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 511 of I.P.C. deals with punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

"Attempt" clearly conveys with it the idea that if the attempt has succeeded, the offence charged with would have been committed. In attempt must be to do that which, if successful, would amount to felony charged, AIR 1961 SC 1698 (Abhyananand Mishra). An attempt to commit a crime is an act done with intent to commit that crime, and forming part of a series of act, which would constitute it actual commission if it were not interrupted. The point at which such a series of acts being cannot be defined; but depends upon the circumstances of each particular case. An act done with intent to commit a crime, the commission of which in the manner proposed was, in fact, impossible is an attempt to commit that crime. The offence of attempting to commit a crime may be committed in cases in which the offender voluntarily desists from the actual commission of the crime itself, AIR 1961 SC 1698 (*supra*) and AIR 1973 SC 2655 (Sudhir Kumar Mukherjee). Preparation to commit an offence is not punishable, AIR 1970 SC 713 (Malkiat Singh).

80. Register of appeals.

A register in form No. 120 of Schedule XL(A) (Part I) will be maintained in all court offices. In the Sadar Court office register should be shown all cases of appeals heard at the headquarters of the district and by the High Court. The sub-divisional court office register should show only such appeals as are heard. at the sub-divisions by the sub-divisional or other magistrates of the first class empowered under Section 407, Criminal Procedure Code to hear appeals.

The orders of Government require magistrates to send early notice of appeals to the Superintendent of Police - The court officer, on receipt of the notice, will make the necessary entry in the register and also in the general and Khatian registers, and then acknowledge receipt of the notice.

On hearing the result of the appeal, the court officer will also make the necessary entries and corrections in the general and Khatian registers. He will also communicate the result of the appeal to the Superintendent of Police, and to the Superintendent Railway Police, in railway cases in final memorandum form (*vide Rule 74 ante*) and note the fact in the column of remarks in the appeal register

The appeal register should be put up once a week at headquarters before the Superintendent of Police, and at sub-divisions before the sub-district police officer or circle Inspector. These officers will satisfy themselves that cases on appeal are properly conducted and that no failure of justice has occurred owing to the State not being represented (*vide* Rule 23 and 24 *ante*). [Copies of any entries referring to appeal in cases sent up by the Railway Police shall be sent without delay to the Superintendent of Railway Police].

In cases of delay in receipt of the notice of appeal, the matter shall be brought to the notice of the District Magistrate. Correction Slip No.8 dated the 31st August, 1933. (Section 407, Cr. P. C. stands repealed).

81. Register of persons convicted of heinous offences, Form No. 121 of Schedule XL (A) (Part I).

The Register will be kept in English at all headquarters (as for the procedure to be followed in sub-divisional Courts see the following rule) –

In it will be entered the names of all persons convicted of the following offences:-

(1) Offences or attempt at, or abetment of offences under Chapters XII and XVII, I. P. C.-Punishable with whipping or with imprisonment for three years or upwards and also offences under Sections 356 and 215, I. P. C.

(2) Murder and culpable homicide Sections 302 and 304, I. P. C.

(3) Criminal conspiracy, when the offence which is the object of the conspiracy is exclusively triable by the Court of sessions Section 120-B, I. P. C.

(4) Personating a public servant, or attempt at or abetment of the offence-Sections 170 and 171, I. P. C.

(5) Causing hurt or attempt at or abetment of-8ection 328, I. P. C.

(6) Swindling or attempt at or abetment of-Section 417, I. P. C.

(7) Offences or attempt at or abetment of, relating to forgery or currency notes and bank notes-Sections 489-A, 489-B, 489-C and 489-D, I. P. C.

(8) Offences mentioned in the schedule to the Indian Criminal Law Amendment Act (XIV of 1908) when the trial has proceeded according to the provisions of that Act.

(9) Bad livelihood - [1][Sections 109 and 1l0, Cr. P. C. (See under Rule 13 for text)].

(10) Gambling-Sections 3, 4 and 11 of the Public Gambling Act (III of 1867).

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[1] Substitute vide Correction Slip No. 45, dated the 8th December, 1941. And No. 40, dated the 10th February, 1939

(11) (Omitted).

(12) Excise Law - Sections 53, 54, 55 and 60, [1][Eastern Bengal Assam Excise Act (I of 1910)].

(12-A) Assam ,Opium Prohibition Act, 1947 (Act No. XXII of 1947), Sections 5 and 7.

(13) Arms Act, 1959 (Act 54 of 1959), Sections 25 (1) (a to m)

(14) (Omitted).

(15) Offences under the Explosive Substances Act (VI of 1908).

(16) Offences in connection with Political agitation punishable with rigorous imprisonment for a term of one year or upwards].

Note - First offenders dealt with by courts under Section 562, Cr. P. C., should be treated as convicted for the purpose of this Register. (Section S62, Cr. P. C. corresponds to Section 360 (3) to (6) of the new Code - See Rule 78).

Section 379 of Indian Penal Code provides for punishment of theft which being imprisonment of either description for a term which may extend to three years, or with fine, or with both. The ingredients of the offence are:

(1) The subject matter of theft is immovable property.

(2) It was in possession of a person.

(3) Accused moved the said property from that person's possession.

(4) Accused did so without the consent of the person in whose possession the said property was.

(5) Intending to take it out of his possession.

(6) He did so dishonestly.

Section 380 of Indian Penal Code deals with the offence of theft in dwelling house etc. for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 381 of Indian Penal Code deals with the offence of theft by clerk or servant, of property in possession of master, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 454 of Indian Penal Code deals with the offence of lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment, for which the punishment provided is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Section 455 of Indian Penal Code deals with the offence of lurking house trespass or house-breaking after preparation for, hurt, assault Of wrongful restraint for which the punishment provided is imprisonment or either description for a term which may extend to ten years, and shall also be liable to fine.

Section 456, I. P. C. provides for punishment for lurking house-trespass or house-breaking by night, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. The ingredients of the offence are:

(a) For lurking house-trespass by night.

(1) The Accused committed lurking house-trespass.

(2) It was done after sunset and before sun rise.

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[1] In this rule Sections 379, 380, 381, 454, 455, 456 and 457 of Indian Penal code have been referred to.

(b) For house-breaking by night.

(1) The accused committed house-breaking.

(2) It was committed after sunset and before sunrise.

Section 457 of Indian Penal Code deals with the offence of lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment, for which the punishment prescribed is imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be is theft, the term of imprisonment may be extended to fourteen years. The ingredients of the offence are:

(1) The accused committed lurking house-trespass by night or house-breaking by night.

(2) It was done to commit an offence punishable with imprisonment.

(3) It was intended to commit theft.

AIR 1971 SC 1254 (Nasiruddin); the intention could be drawn by taking all the relevant circumstances into account, AIR 1964 SC 986 (Mathri).

82. Instructions regarding the maintenance of conviction register.

(a) *Entries when to be made* - Entries will be made as soon as sentence is passed. If, on appeal, the sentence is modified or quashed, necessary corrections will be made by noting in the column of the remarks the date and purport of the order of the appellate court. The names of identifying officers will be entered from the records of the case and from the release notice of the prisoner which should be sent to the police station through the headquarters, or sub-divisional court officer.

Convictions at the sessions will be registered at the court by which the case was committed.

(b) *Extracts when to be forwarded* - Extracts of entries regarding criminals residing in another district or changing their residence will be forwarded to the Superintendent of the district in question for entry in the headquarters court conviction register. In doing so the court officer will note in the remarks column of the magistrate's general register of cases the number and date of the memorandum under which he has forwarded the copy to the aforesaid Superintendent of Police and also the number and date under which the verification statement is sent to the native district of the accused. After' entry the communication will be returned with a note stating the page and volume of the register in which the contents have been duly entered. Such extracts will be sent after orders as to P. R. have been passed, when the convict is likely to be made P. R. or any appeal preferred has been disposed of, or the period of such appeal has expired.

(c) *Entries of unidentified persons to be marked* - In cases in which the real names and residences of persons convicted of offences under Chapters XII and XVII and Sections 215, 489-A, 489-B, 489-C and 489-D of the Indian Penal Code are not known, and cannot be ascertained, the letter "U" in red ink will be entered above the convict's name, and under it, as divisor, the serial number of the entry in the register of unidentified persons.

NOTE

For Sections 215, 489-A, 489-B, 489-C and 489-D of Indian Penal Code (See under Rule 14).

(d) $\frac{\text{P.R}}{\text{T}}$ *prisoners how to be entered* - When a convict is made “P. R.” or $\frac{\text{PR}}{\text{T}}$ by a Superintendent of Police or is ordered by a magistrate to notify after release from jail, his residence or change of residence, under Section 565, Cr. P. C., the letters "P. R.", $\frac{\text{“P.R.”}}{\text{T}}$ or $\frac{\text{“P.R.”}}{\text{T}}$ 565", as the case may be, will be entered against his name in the remarks column in red ink.

NOTE

Section 565 corresponds to Section 356 of the new Code - for text See under Rule 72.

(e) *Entries of convictions how to be made at sub-division* - At subdivisions, entries of convictions which are to be made as they occur during the month on loose sheets of the printed form will be forwarded in original to the headquarters court with a certificate from the sub-divisional officer, as laid down in Rule 84 within the first week of the following month, to be filled with the conviction sheets of the sadar sub-division at the end of the entries for the same month.

83. Index to the conviction register.

An index to the conviction register in Form No. 122 of Schedule XL(A), Part I for the whole district will be kept at headquarters courts only in the prescribed forms –

1. Name of convict, with aliases, if any, and caste.
2. Father's name.
3. Page and volume of register in which the conviction is entered.

The page and volume and year of the index should be entered under each man's name in the conviction register.

In column 3 of the index should be entered the page and volume of the conviction register against each name.

At the close of each month after the sub-divisional conviction sheets (vide proceeding rule) are received, the sadar court officer will prepare an index for the whole district.

The index for every five years will be kept in a bound book.

The sadar court officer should search the index of this register in the case of every accused person sent up to see whether he has been previously convicted or not, and he should certify on the back of the charge sheet form that he has done so.

Sub-divisional court officers are not required to give such certificates as there will be no index to the conviction register maintained at subdivisions.

They will be required to note carefully the certificate given by the station officer and when they find that a person is sent up for trial charged with an offence under Chapter XII or XVII of the Indian Penal Code punishable with imprisonment for 3 years or more, from a police station or outpost other than that in which he resides or has his home, a verification roll in Form No. 115 of Schedule XL(A), (Part I) will be sent direct to the sadar court officer for necessary action as laid down in Rule 50.

84. Weekly verification by magistrate and the Custody of the conviction register.

(a) Weekly verification by magistrate - The conviction sheets should be put up once a week, for examination and signature, before the sub-divisional magistrate at sub-divisions and at headquarters before the magistrate to whom the duty is made over by the Deputy Commissioner.

The sub-divisional magistrate and at headquarters the magistrate to whom the duty is made over will certify at the close of each month, that the entries in the monthly conviction sheet have been checked with the magistrate's general and complaint registers, and that all entries required to be made have been made.

(b) *Custody* - The completed volumes of the register, after they have been neatly bound, will be kept in the magistrate's record room or other safe place, the current volume and the index only being kept by the court officer in his office under safe custody.

85. System of indexing names.

The following system of indexing names is to be adopted. It has been devised with a view to obviate the confusion arising from the uncertainty as to the spelling of vernacular names in English, more specially as regards the employment of vowels and semi-vowels:

(i) The letters of the alphabet are divided into 15 groups of initial letters, and as the number of names under each of these may be large they are further subdivided into a greater or less

number or subordinate groups. This system, it will be observed, takes no heed of medial vowels, the determination of the subordinate group being regulated solely by the consonant which terminates the first syllable of the name. Thus, in searching for Maniruddin, the pages allotted to initial letter group (M) must be turned to, the name itself being found on page or pages sub-allotted to subordinate letter group (N), the letter (N) being taken as terminating the initial syllable of Maniruddin. Other examples will be found in the explanation to the key in Appendix B.

Study of the key will show the number of pages to be allotted to each initial letter group; the subordinate letter groups which require separate space and the subordinate letter groups which may be lumped together for the purpose of allotting page space.

(ii) It will be seen that the key gives all the above details for a register containing 586 pages. With a register containing 100 pages only, the distribution for initial letters would be (vowel group) 12 pages; (B, Bh) 12 pages; (Ch, Chh) 3½ pages ; (D, Dh) 5½ pages ; (G, Gh,) 5½ pages ; (H) 4 ½ pages ; (J, Jh or Z) 5 ½ pages; (K, Kh) 9 pages ; (L) 3 2/3 pages; (M) 9 pages ; (N) 4 ½ pages ; (P, Ph or F) 5 pages ; (R, Rh) 8 pages ; (S, Sh) 9 ½ pages ; (T, Th) 3 ½ pages. The above figures are given to serve as a guide in allotting space in any register which may be opened. As it would be found inconvenient in practice to have fractions of pages, the register selected should consist of not less than 300 pages and the whole pages should be allotted.

(iii) It will further be seen from the key that where the vowel, including semi vowel or (B, Bh) are the initial letters of a name, the page-space allotted to these groups has been sub-divided amongst 14 subordinate letter groups. The necessity for such minute subdivision is obvious as each of these two, i.e., vowel and (B, Bh) initial letter groups contains 12 percent of the total number of names registered. If initial letter (L), the number of names under which is relatively small, be referred to in the key, it will be observed that several subordinate letter groups have been lumped together, there being only 5 subdivisions of the page-space allotted to the (L) group, instead of 14 subdivisions, as in the case of the (B, Bh) group.

(iv) As this key represents the result of indexing over 8,000 names, the allotment and sub-allotment of page-space shown in it may be taken as a guide.

(v) It must be understood that words like Maulavi, Shaikh, Syed Meer, Meerza often treated as an integral part of native names are in reality honorifics and must not be taken into account in classifying; thus the name Maulavi Fakiruddin should be indexed as Fakiruddin Maulavi. Where names begin with a compound letter the initial letter only determines the group thus:- Krishna will be found under the (K, Kh) initial letter group and subordinate group (S, Sh) Brojendra under the (B, Bh) initial letter group, subordinate group (J., Jh, Z). The W or O terminating words like Deo, Bhow, Shew or Sheo is for indexing purposes treated as (b) thus, Deo will be entered under initial letter group (D, Dh), subordinate group (B. Bh), and so forth.

Certain proper names which begin with a consonant and contain no other consonant, such as Howa, Dhuia, Doya, Gui, etc., and are not followed by a name, not a class name or honorific, should be indexed under the first group of the initial letters. etc ., Howa under initial letter group H, and sub-group letter (B, Bh), Dhuia under initial group (D) and sub-group letter (B, Bh) and so on. When such names are followed by names not class names or honorifics, such as Jaygopal Gyaram. etc., they should be indexed in the usual way. i.e., Jaygopal under initial letter group (J, Jh, Z) and sub-group (G, Gh), and so on.

Certain words which, though identical in themselves are pronounced differently by village people, such as Panchu, Pachu, Lakhan. Luchman, Wilayet, Bilayet etc., should be entered and searched for under the initial and group letters for both spellings. Thus for Panchu. groups (P, Ph and C, Ch) and (P, Ph and N) should be examined, arid so on. Names such as Hridoy, Hrishi, which are sometimes spelt with R which is the most distinct sound should be indexed under initial letter group (H) and subgroup (r) or (rh) Where persons are convicted under a name and an *alias*, both name and *alias* are to be separately indexed.

86. Cross-references how to be made.

In cases where the same man has been convicted more than once, cross-references should be made against each conviction, thus, the name of Hyder Ali, son of Mean Bux, may be found at page 25, again at page 28, again at page 30. The cross-reference should be marked as below:-

At page 25 –

C*f*. 28 - 30 Volume I, Hyder Ali, son of Mean Bux.

At page 28 –

C*f* . 25 - 30, Volume I, Hyder Ali, son of Mean Bux.

At page 30 –

C*f*. 25 - 28, Volume I, Hyder Ali, son of Mean Bux.

The index must be carefully examined and when the same name occurs in more places than one, cross-references should be noted in red ink on the left of the name, the page, number and year, of conviction register being given in black ink on the right as usual. This will ensure all convictions against Hyder Ali being found.

87. Elimination of names of deceased persons and striking oft of those periods acquitted On appeal.

Elimination of names of deceased persons - At the close of each year all station officers will submit to the headquarters court, lists of persons whose names have been removed during the year, see Part V. The headquarters court officer will, after making the necessary correction in his register, forward the lists to the Superintendent of Police who will satisfy himself that the register and index have been corrected.

Names of persons acquitted on appeal will be struck off the index as soon as intimation is received by the court offices.

88. Register of cases committed to sessions.

In order that information regarding cases committed to the sessions and High Court and the results of trials may be available in a concise form and to facilitate the registering of convictions at sessions court, court officers at headquarters of districts will keep up a register of cases committed to the sessions in Form No. 123 of Schedule XL (A) (Part I).

89. Register of processes dealt with by the police.

This register should be kept in form No. 124 of Schedule XL (A) (Part I) in two parts or volumes, one for warrants, including fine warrants, and one for summonses and all other processes. The serial number of entries in the register of processes should be annual. When a warrant has been executed or withdrawn or the accused has surrendered, the fact should be noted in the remarks column of the register. This will make it easy to pick out the warrants still pending. At the end of each year all warrants and processes will be brought forward into the new year's register in red ink bearing their original numbers.

The register, at sadar will then be sent to the Superintendent of Police's office, and the red ink entries will be carefully compared with the entries in the absconder's register, so as to ensure that there are no omissions in the latter register.

In sub-divisions instead of sending the register in original a copy of the red ink entries will be sent in January to the office of the Superintendent of Police for comparison with the absconder's register.

90. Receipt book of money, property and prisoners.

This will be kept in manuscript at sadar and also at sub-divisional court offices. In it will be entered the names of prisoners sentenced to imprisonment; their warrants, money and personal property, and the receipt for the same will be obtained from the jailor.

91. Registers of papers received and despatched.

Court officers will keep registers of papers received and despatched in Form Nos. 1 and 10 of Schedule II, in which only papers not entered in any other register, such as verification rolls, monthly copies of station cash accounts, etc., will be recorded.

92. Counterfoil book of receipts.

This will be kept in Form No. 50 of Schedule II. For every sum received by a court officer he must grant a printed receipt cheque, signed by himself, to the person depositing the money.

93. Magistrate's order to police.

(a) A magistrate directing an investigation to be made by the police under Section 155, Cr. P. C., in a case which is not cognizable by the police will send a copy of his order to the court officer for transmission with a copy of the complaint to the officer concerned. In every case referred to the police for investigation under Section 155 or 202, Cr. P. C., a date should be fixed by the magistrate by which the report or an explanation of the cause of delay is to reach him. The complainant will tie informed of the date so fixed and directed to appear before the investigating officer at the scene of occurrence. The court officer will bring to the notice of the sub-divisional police officer or circle Inspector at a sub-division or of the Superintendent of Police at the headquarters any irregular order which in turn should be brought to the notice of the Deputy Commissioner by the Superintendent of Police where necessary. All such orders should find entry in the registers of letters received and despatched.

(b) Court officers on receipt of instructions from a magistrate under Section 155 or 202, Cr. P. C., ordering an enquiry to be made by the Police in cases falling under Chapter XX of the Indian Penal Code "offences relating to marriage" should invariably bring to the notice of the court the Government orders indicating that enquiries in such cases in which the parties are muhammadans may conveniently be made by muhammadan sub-registrars, muhammadan marriage registrars and selected muhammadan panchayats.

(c) Under Sections 155 and 202, Cr. P. C., only a magistrate of the 1st or 2nd class can order the police to investigate.

NOTES

Sections 155 and 202 of the Code of Criminal Procedure as referred to in this rule read as follows :

"155. *Information as to non-cognizable cases and investigation of such cases* – (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 refer the informant to the Magistrate.

(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.

(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.

"202. *Postponement of issue of process* - (l) Any Magistrate, on receipt of a complaint of an offence which he is authorised to take cognizance or which has been made over to him under Section 192, may, if he thinks fit, 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 :

Provided that no such direction for investigation shall be made –

(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 200.

(2) In any 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.

(3) If any 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 Code of an officer in charge of a police station except the power to arrest without warrant.

Offence relating to marriage are dealt with under Chapter XX of the Indian Penal Code (Sections 493 to 498).

94. Half-yearly statement of serious crime and reconvicted persons, etc.

(a) In the statement of serious crime will be shown all cases under the headings given in Form No. 125, Schedule XL(A) (Part I) whether reported to the police or a magistrate –

(i) which have been reported during the half year;

(ii) which have been declared true by a magistrate during the half year.

Pending cases for the previous half-years, which have been declared to be true during the half-year for which the return is due, will be shown in column 3 (1). Column 7 to 12 of the form refer to cases dealt within the return while the information required by the footnote refers to all cases, true or false, whether included in the return or not. (Correction Slip No. 49, dated 4-5-1946).

The number of cases declared true during the corresponding half-year of the previous year shown in column 3 and 3 (a) of that half-year should be shown in column 5 and (a new) column 5 (a) respectively of the return of serious crime under review. (Correction Slip No. 49, dated 4-5-1946).

(b) One copy of the return (Form No. 125, Schedule XL(A) (Part I) should be forwarded to the Special Superintendent, Criminal Investigation Department and another to the Commissioner not later than the 15th of January and 15th of July, respectively. Both the copies should be forwarded through the Deputy Commissioner.

(c) On receipt of all the returns, the Special Superintendent, Criminal Investigation Department, will prepare a review in which he will examine and criticise the figures for the whole province, and where necessary, the figures for any particular district. He should then submit his review to the Inspector General.

(d) Under the head "Burglary" only cases which come under Nos. 29 and 37 of statement A, Part I, will be included. Thefts and burglary cases not investigated under Section 157 (b), Cr. P. c., will also be included. An explanation of the fluctuations in burglaries and theft should be given whenever possible. The explanation should be supported by figures as far as possible; thus when a rise in price is adduced as an explanation, the actual prices of grain for the periods under comparison should be given.

(e) Riots attended with murder will be shown under the head ‘Riot’ and not “Murder”. Similarly dacoities attended with murder will be shown under the head “Dacoity” and not "Murder".

Note 1 - In distinguishing between professional and technical dacoities, the intention and not the character of the offenders has to be considered and the assumption must be that every dacoity is professional until it can be shown to be technical. A dacoity committed for the sake of gain is usually professional; a dacoity committed for some ulterior motive, e.g., to enforce a claim or coerce a ryot is

technical.

Note 2 - Superintendent of Railway Police will submit this return direct to the Special Superintendent of police in charge of Criminal Investigation Department, and no copy need be sent by him to the Deputy Commissioners or Commissioners of Divisions. The return shall be submitted in Form No. l25-A, Schedule XL(A) (Part I), but the other connected returns shall be the same as for the district police.

NOTES

Section 157 of the 1973 Code provides for procedure for investigation, which reads as follows:

"157. *Procedure for investigation*. - (l) 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 156 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 :

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 a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make any investigation on the spot.

(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.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirement of that sub-section, and, in the mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

95. Statement of false cases.

A statement in Form No. 12S - B, Schedule XL(A) showing the number of false cases in which prosecution under Section 182 or 211, I. P. C., were instituted should be submitted to the Special Superintendent, in charge of the Criminal Investigation Department, along with the half-yearly statement of serious crime. The Special Superintendent will scrutinize the statement for the whole province carefully and submit the same to the Inspector General pointing out any cases in which proper action has not been taken by the Magistrate in order that this may be brought to the Commissioner's notice.

Note. - For details about Sections 182 and 211 of Indian Penal Code *see* notes under Rule 37.

Medico legal evidence

For rules see Part V

NOTES

As defined under Section 410, I. P. C., the stolen property is property, the possession whereof has been transferred by theft, or by extortion or by robbery, and property, which has been criminally misappropriated or in' respect of which criminal breach of trust has been committed, whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without India. But if such property subsequently comes into the possession of a person legally entitled to the possession, thereof, it then ceases to be stolen property.

Miscellaneous

(Rules 26 to 103)

96. Disposal of counterfeit coins and forged currency notes.

(a) *Disposal of counterfeit coins* - The High Court and the State Government have made the rules that all judicial officers when passing orders under Sections 517, 523 or 524, Cr. P. C., for the disposal of counterfeit coins or any implements; such as purchase for repairing dies, dies, for striking, and moulds for casting coins, should consider whether the coins or implements should not be forwarded to the nearest treasury Or sub-treasury officer for transmission to the Master of the mint. The remittance to the mint should be made through the Special Superintendent of Police in charge of the Criminal Investigation Department, and should be accompanied by a statement showing the number and date of the case to which the coins or implements relate.

(b) *Disposal of forged currency notes* - Forged currency notes detected by the police or sent, to them for enquiry should be forwarded after the completion of the investigation or trial, If any, in any court, to the Special Superintendent of Police in charge of the Criminal Investigation Department Shillong for transmission to the Currency Officer, Calcutta, for disposal: this procedure should be brought to the notice of the magistrate or-judge when passing orders as to the disposal of exhibits.

NOTES

Sections 517, 523 and 524 of Criminal Procedure Code as referred to in this rule correspond to Sections 452, 457 and 458 respectively of the 1973 Code reading as follows :

"452. *Order for disposal of property* at *conclusion of trial* - (l) When an inquiry or trial in any Criminal Court is concluded, the Court 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.

(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 sureties, to the satisfaction of the Court, engaging to restore such property to the Court if tile order made under sub-section (1) is modified or set aside on appeal or revision.

(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 457, 458 and 459.

(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.

(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.

457. *Procedure by Police upon seizure of property* – (1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, 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.

(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.

458. *Procedure where no claimant appears within six months* - (l) 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 may be prescribed.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

97. Change of court office staff.

(a) A particular officer, if found specially useful for court work may be kept in that duty subject to the restrictions laid down in Part III.

(b) The rules regarding making and taking over charge of an office (vide Part V) must be carefully observed by court officers. The relieving officer must furnish the officer relieved with a receipt for all Government property in the magistrate's Malkhana. Full details respecting each article should be given. Deficiencies will be made good by the relieving officer if they are discovered after he has taken over charge.

98. Stationery and furniture for court office.

(a) The court officer will indent on the Superintendent's office for all stationery, rubber stamps, law books, and police forms required by him, High Court and Assam Government executive forms must be obtained through the magistrate's office. Service labels will be obtained from the magistrate.

(b) Furniture, such as chairs, tables and benches required for court officer will be supplied by the Superintendent of Police and an authenticated list of all articles so supplied will be hung up in those offices. There should be a height measuring apparatus in all court offices.

99. Monthly cash account - how checked.

On receipt of the cash account from a police station or out-post the court officer will obtain from the cashier of the district magistrate or sub-divisional magistrate, as the case may be, a certificate that all sums remitted to the magistrate have been duly accounted for, and after examining the Malkhana register and any other relevant papers, he himself will record a certificate to the same effect in regard to monies remitted to his own office. He will then transmit the cash account to the office of the Superintendent of Police. The audit and comparison with the registers in the magistrate's or sub-divisional office should, as far as possible, be done by somebody unconnected with the keeping of the accounts. The certificate referred to will be given in Form No. 165 of Schedule XL(A), (Part I).

100. Instructions for sending manuscripts to the Government examiner of questioned documents and for obtaining expert opinion on arms, etc.

(a) Instruction for the guidance of police and other officers in sending documents for examination by the Government examiner of questioned documents will be found in the orders communicated with the Government memorandum No. 1234-57J, dated the 5th April 1909, No. 5646-531, dated the 21st July, 1915 and No. J. 377-1781-52G.J., dated the 8th May, 1923.

It should be remembered that the opinion of the Government examiner questioned documents should only be sought for when it is essentially necessary.

(b) [1][All requisitions for expert examination of arms, ammunition and weapons used in heinous case should be sent in duplicate to the Central Forensic Science Laboratory,30, Gora Chand Lane, Calcutta-14 or to any other institution, as may be specified by Government from time to time by the Court Officers concerned and should accompany the arms, etc. to be examined with a clear description of the weapon and a concise statement of points on which opinion is sought.

If necessary, a brief history of the case in duplicate may also be given, but in order that this may not embarrass the expert in giving his unbiased opinion, it should be sent in a. separate sealed envelope addressed to the Director, by name.

Summons to secure the expert's attendance in court should also be sent to the Director for service.

Before sending exhibits for examination, the court officers should obtain permission in writing from the Magistrate dealing with the case. This permission will cover not only the examination of the articles; but their being taken to pieces, if necessary, for the purpose of examination;

Before despatching exhibits for examination, a careful note should be kept of their description and condition and of every mark by which they can be identified. The articles should then be carefully packed, sealed and despatched by special messenger or by registered parcel post. A list of con tents should accompany each package.

When expert opinion in such cases is deemed necessary, the Deputy Inspector General of Police in charge of Criminal Investigation Department should be consulted]

NOTES

Section 403 of I. P. C. deals with the offence of dishonest misappropriation of property, for which the punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine, or with both. The ingredients for the offence under this section are:

(1) The movable property belonged to the complainant.

(2) Accused misappropriated that property and converted the same to his own use.

(3) He did so dishonestly.

101. Summons to police officers.

Whenever a summons to appear as a witness in a criminal case is issued against a police officer it should be served upon such officer through the Superintendent of Police of the district, or the sub-divisional police officer or in the case of officers of the Government Railway Police, through the officer in charge of the Government Railway Police Station concerned. Prosecuting officers should always see that police witnesses are not unnecessarily detained.

The High Court has intimated that, upon a proper application being made in each case to the Judge exercising the original criminal jurisdiction of the court, .the convenience of public officers summoned as witnesses in cases before the High Court from the mufassil will always be duly considered.

Note - A civil court may, if it considers that the summons may be most conveniently so served on a public officer either as a defendant or witness, send it for service to the head of the office in which the officer is employed together with a copy to be retained by officer summoned. (Vide Order V, Rule 27 and Order XVI, Rule 8 of the Civil Procedure Code (Act V of 1908).

(Correction slip No.5, dated 24-7-1933).

102. Court officer responsible for processes served by the police.

Ordinarily warrants of arrest, fine warrants, orders issued under Section 88, Criminal Procedure Code, and such warrants are executed by the police in both cognizable and non-cognizable cases and should be entered in the register of processes served by the police.

The court officer will be responsible for keeping this register and for the· issue of all processes to be

[1] Substituted vide correction slip No. 4 dated 17-6-1933

executed by the police. Summonses in criminal cases other than session cases are not ordinarily served by the police.

NOTES

Section 88 of the Code of Criminal Procedure as referred to in this Rule corresponds to Sections 83, 84 and 85 of the 1973 Code reading as follows:-

"83. *Attachment of properly of person absconding* - (l) 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:

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-

(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 simultaneously with the issue of the proclamation.

(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 whole 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 –

(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 anyone on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(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

(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 the proceeds of the sale shall abide the order of the Court.

(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 (S of 1908).

84. *Claims and objections to attachment* - (1) If any claim is preferred to, or objection made to the attachment of, any property attached under Section 83, 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 83, the claim or objection shall be inquired into, and may be

allowed or disallowed in whole or in part:

Provided that any claim preferred or objection 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.

(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 83, 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 of any Magistrate subordinate to him.

(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.

85. *Release, sale and restoration of attached property* - (l) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(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 84 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 owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

(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 Of 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 apart only thereof has been sold, the net proceeds of the sale and . the residue of the property, shall, after satisfying there from all costs incurred in consequence of the attachment, be delivered to him."

103. Extradition.

If an offender has escaped from India, the District Magistrate should be moved to take action for his extradition.

SECTION II - FINGER PRINT RULES

Definitions

(Rule 104)

104. Definitions - (1) Finger prints -

(a) Finger prints include those of the thumbs and are either "rolled" or "plain".

(i) "Rolled print" - A rolled print is obtained by placing the inked thumb or finger on the paper so that the plane of the nail is at right angles to the plane of the paper. The thumb or finger is then to be pressed lightly on the paper and turned over so that the bulb which originally faced,

say to the left, faces to the right, the plane of the nail being again at right angles to the paper.

(ii) "Plain print" - A plain print is obtained by lightly pressing the inked thumb or finger upon the paper without any turning movement.

(b) Search and record slips:-

(i) "Search slips" - A search slip (Form No. 10 of Schedule XL(A) (Part II) issued in making references to a finger Print Bureau for identification of a person.

(ii) "Record Slip" - A record slip (Form No. 128 of Schedule XL (A) (Part I) is required for record in the bureau, which provides space for rolled prints of ten digits, as well as for the plain prints of the four fingers of both hands on one side, and the person's name, parentage, and conviction, etc. on the other side.

II. Classification of prisoners and suspects:-

(a) By the district police:-

(i) "Identified" means a person whose name, residence and antecedents are fully known to or have been ascertained by the police.

(ii) "Unidentified" means a person whose real name, residence and antecedents are not known to or could not be ascertained by the police. Every person who is a foreigner to the district will be considered to be "Unidentified" in that district, until his residence is traced and verified.

(b) By the Finger Print Bureau :-

(i) "Traced" means a person whose previous convictions or antecedents are traced from the records of a Finger Print Bureau.

(ii) "Un traced" means a person whose previous convictions or antecedents cannot be traced by a Finger Print Bureau.

III. Finger Print qualifications:-

(a) There are two classes of such officers, viz., the "Proficient" and the "Expert" :-

(i) "Proficient" - Proficient means an officer of or above the rank of Sub-Inspector who has received a certificate of 'Proficiency' in the finger print system from the Special Superintendent of Police in accordance with Rule 107.

(ii) "Expert" - Expert means an officer of or above the rank of Sub-Inspector who holds "Expert's Certificate" in the finger print system from the Deputy Inspector General of Police. *Vide* Rule 107.

IV. Classification of P. R. Convictions -

(a) 'P. R. Convict' is a convict whose finger print slip is to be, or has been, prepared for record in the Finger Print Bureau. Vide Rule 127.

(b) 'P. R. T.' Convict is a P. R. convict who is liable to transfer for release from the jail of the district in which he is incarcerated to other jails, viz., to the jail of the native district or of domicile (if the prisoner is a foreigner to the district) or to the jail of the district where he was last convicted (if the prisoner is unidentified).

V. Slips relating to P. R. convicts:-

'P. R. slip' is the slip [Form No. 133 of Schedule XL (A) Part II] is prepared by a court officer for each person made P R. under Rule 127 and submitted to the Superintendent of the local jail to be attached to the prisoner's warrant to commitment. It afterwards becomes the release notice. *Vide* Rule 132.

The Finger Print Bureau

105. Duties of tile bureau and system of record (Rules 105 to 113).

The Finger Print Bureau and its charge –

(a) With a view to the identification of prisoners by means of finger impressions a Finger Print Bureau is maintained at Shillong. Its main duties are to receive finger impression slips for search and record, to make search and answer references to classify, test, index and arrange the slips received for record and to train officers in finger print work.

(b) The bureau is worked under the general control of the Special Superintendent of Police in charge of the Criminal Investigation Department but under the direct charge of an Inspector who is assisted by a staff of Sub-Inspectors, Officer employed in classification and search work will never be below the rank of Sub-Inspector. The Inspector and his assistants must always be experts in the art of deciphering finger impressions. During the absence of the Inspector the charge of the bureau automatically devolves on the senior Sub-Inspector present.

(c) All correspondence with the bureau should be addressed to the Special Superintendent of Police in charge of the Finger Print Bureau, Assam.

[1][(d) The Deputy Inspector General of Police, in-charge of Criminal Investigation Department, etc., Assam, will inspect the working of the Finger Print Bureau at least once a year. At this annual inspection particular attention should be paid to the following points amongst others:-

(i) The capabilities and keenness of the Experts.

(ii) The rectification of any flaws which have been found in the working of the system, either in the Court offices or in the Bureau itself.

(iii) Conditions of the collections, with special reference to the necessity or otherwise of further sub-classification.

(iv) The adequacy and completeness of the Expert's inspections of Court offices.

The inspection should be recorded in an inspection book in Form No. 168 of Schedule XL (A), (Part I), and a copy forwarded to the Inspector General of Police Assam].

106. Duties of the Inspector.

The Inspector will be responsible for the stored and classified records and will keep the keys of the almirahs in which they are filed. He carryon all routine correspondence with regard to the finger print slips which he receives. Besides the duties specially mentioned in the following rules the Inspector will –

(a) examine carefully all finger print slips received and see that the impressions are decipherable and that the slips are complete;

(b) distribute among the experts available all finger print slips . received and supervise their classification and arrangement;

(c) regulate the tours of inspection of district court offices, and depute experts as required to give evidence in courts or do other miscellaneous work;

(d) appear in court to give evidence in criminal cases of special importance requiring expert evidence when ordered by the Special Superintendent of Police to do so and give expert opinion on all impressions sent to the bureau for the purpose;

(e) attach a red slip in Form No. 214 of Schedule XL (A) (Part I) to the record slips in accordance with the orders contained in Rule III and note in the index register the date of elimination of all finger print slips (vide Rule 112);

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[1] Added vide correction slip No. 2 dated 25th May 1933

(f) maintain the registers prescribed;

(g) arrange for the periodical revision of the record slips already stored, and classified, with a view to checking and correcting mistakes in their classification, arrangement or filing. This should be done quinquennially or earlier, if so ordered by the Special Superintendent of Police;

(h) arrange for the elimination of record slips, as required under Rules 112 and 113;

(i) instruct and examine under the direction of the Special Superintendent of Police, officers deputed to the bureau for qualifying themselves as 'proficients' and experts.

NOTES

Sections 283, 290, 426 and 431 of the Indian Penal Code have been referred to in this Rule.

Section 283 of I. P. C. deals with the offence of causing danger or obstruction in public way or line of navigation, for which the punishment prescribed is fine which may extend to two hundred rupees. The ingredients of the offence are:

(1) Accused did some act or omitted to take order with any property in his possession or under his charge.

(2) Such act or omission must cause danger obstruction or injury to any person in any public way or line of navigation.

Section 290 of I. P. C. prescribes for punishment for public nuisance in cases not otherwise provided for, as fine which may extend to two hundred rupees. The ingredients of the offence under this section are:

(1) Accused did an illegal act or was guilty of an illegal omission.

(2) Such act or omission caused or must necessarily cause annoyance, injury, or danger.

(3) Such annoyance, injury or danger was common to the general public or those who dwell or occupy the vicinity or the persons who may have occasion to exercise any public right.

Section 426 of I. P. C. prescribes punishment for the offence of mischief, with imprisonment of either description for a term which may extend to three months, or with fine, or with both. The ingredients of the offence are;

(1) Intention or knowledge of likelihood to cause wrongful loss or damage to any person or the public;

(2) Causing destruction of some property or some change in such property; or in the situation thereof; and

(3) Such change must destroy or diminish its value or utility.

Section 431 of I. P. C. deals with the offence of mischief by injury to public road, bridge, river or channel, for which the punishment prescribed is imprisonment of either description for a term which may extend to five years or with fine or with both. The ingredients of the offence are:

(1) The accused committed mischief.

(2) The mischief consists of an act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, for travelling or conveying property impossable, or less safe.

(3) Such mischief was done with knowledge that it would or was likely to cause such injury .

107. The Expert's and the proficient's training.

A - *The Expert's Course* - (a) Not more than two Sub-Inspectors in all will be deputed to the bureau annually to qualify themselves as "Experts". Ordinarily they should pass the tests laid down by the Inspector in charge of the bureau under direction of the Special Superintendent of Police within a year of their joining the bureau. For the first nine months they should learn the theory of the art and the rules in the

Police Manual relating to finger prints. In the last three months they should learn the practical work of an expert, and should accompany for the purpose of training, the touring expert when the latter goes out to districts for inspection of P. R. work in court offices.

(b) At the close of the training an examination will be held by the Inspector in charge of the bureau under the supervision of the Special Superintendent of Police. On passing this examination an officer will be granted the "Expert Certificate" under the signature of the Special Superintendent of Police declaring him competent to examine, classify and give expert opinion on finger impressions.

The certificates so granted will remain in force –

(i) as long as the officers are attached to the bureau;

(ii) for a period of two years from the date of the officers leaving the bureau after which they will cease to be experts and will surrender their certificates to the Special Superintendent of Police.

These Certificates can however be renewed if the officers serve in the bureau again at any period of their service for a period of not less than three months and satisfy the Special Superintendent of Police that they have retained their knowledge are still fit to hold the certificate.

B - *The Proficient's course* - (a) Sub-Inspectors will be deputed to the Finger Print Bureau every year according to requirements. They will be taught, -

(i) the correct method of taking finger prints;

(ii) the method of comparing finger prints, that is to say, how to recognize the different types and to distinguish differences in prints of the same type;

(iii) and the orders regarding the preparation of P. R. and record slips and the finger prints rules applicable to court offices.

(b) At the end of three weeks an examination will be held by the Inspector in charge of the bureau under the supervision of the Special Superintendent of Police and officers passing this examination will be given certificates of proficiency under the signature of the Special Superintendent of Police, which will qualify them to hold the post of Proficient in a district.

(c) (i) Officers will be deputed for the above purposes to the bureau twice every year - once in the month of May and again in November. They should join the bureau positively on the 15th of the month.

(ii) Besides the Inspectors and Sub-Inspectors actually doing court duties who should always be proficients, *vide* Part IV, every district should have extra officers according to requirements who are considered competent for court duties, trained as proficients to fill up vacancies caused by transfer, leave or other casualties. On return from the bureau after qualifying for the post of a "proficient" each officer will be employed in a sadar court office for at least a fortnight before being-placed on other duties. He should devote this period entirely to finger print work.

(iii) Sanction of Inspector General of Police should be obtained in every case of deputation one month prior to the date of joining the bureau.' Ordinarily Dot more than two officers should be deputed from a district at a time.

Note I - Police officers deputed to the Provincial Finger Print Bureau for a course of training in the finger print system will be treated as being on duty.

Note II - The names of officers who are declared 'Experts' or 'Proficients' will be published in the Police Gazette and a note be made in the officers' service books and in the remarks column of the gradation list.

108. Duties of Inspector's assistants.

The general duties of the Inspector's assistants will be –

(a) to help the Inspector whenever their services are required;

(b) to search for record slips of persons whose search slips have been received in the bureau for identification;

(c) in accordance with the instructions given in the next rule to' classify and arrange in its proper pigeon - hole and its proper order, every record slip received and to check the classification and arrangement of such slips;

(d) to appear in court, and give expert evidence in criminal and civil cases, and to give expert opinion on impressions received in the bureau for the purpose;

(e) to inspect twice a year the finger print work of each district headquarters court office, and to test the record slips pending in districts for test as detailed in Rule 131. Sub-divisional court offices will be inspected only when the Special Superintendent of Police so orders. The expert's notes will be written in the court office inspection book and a copy will be submitted to the Special Superintendent of Police for information through the Superintendent of Police of the district with his marginal notes and remarks on officer concerned, as soon as possible and in any case so as to reach the Special Superintendent of Police not more than three weeks after the date of inspection. Expert should take the opportunity of their periodical inspection of court offices to examine the proficiency in finger print work of the court office staff, a report as to which will be included in the inspection notes. When visiting a district, experts will report themselves to the Superintendent of Police or the officer in charge of his office.

109. How record slips are to be dealt within the bureau.

(a) *Action on receipt of record slips* - When a record slip is received at the bureau, it must be carefully examined. If the prints clear, and the slip is in other respects correct and complete, it will be accepted, and the counter-foil of the despatch cheque accompanying the slip will be returned as a token of acknowledgment. If not fit for record, it will be returned with a memorandum in Form No. 9 of Schedule XL (A) (Part II) explaining what is required.

(b) *Classification and arrangement of record slips* – (i) All classification, sub-classification and arrangement of finger print slips should be done in accordance with the instruction contained in Sir Edward Henry's Treatise on Finger Print. (See Chart at page 81).

(ii) An accepted record slip will be made over to an expert to classify and to mark the arrangement as above. It will then be entrusted to another expert, who will check and attest the correctness of the classification and arrangement with his initials, and after indexing the slip, will place it in the record in its proper order and its proper pigeon-hole.

(iii) Record slips of re-convicted prisoners whose linger print slips are already on record will be attached to the previous slip.

(c) *Procedure on receipt of summons for a record* – (i) Every summons asking for the production of a record slip must be accompanied by a duplicate slip prepared by the prosecuting court officer at whose instance a summons is issued. No record slip should be sent out of the bureau until a duplicate is received.

(ii) Whenever such a summons, accompanied by a duplicate finger print slip is received, the Inspector will himself despatch the record slip in question after comparison with the duplicate by registered post addressed to 'the Magistrate by name, and at the same time notify the Superintendent of Police concerned. The duplicate slip above referred to will temporarily take the place of the original slip despatched to the Magistrate. Necessary entries will be made on the duplicate finger print slips as well as in the register of requisitions for record slips.

(iii) A fee of Rs. 20 per diem per case in addition to other charges consisting of travelling allowance and pay of the officer summoned, must be-paid to the court in advance in all civil cases in which the parties, or any of them, apply to the bureau for the services of an expert. Fee at this rate (Rs. 20) will also be charged for the examination of documents sent to the bureau for expert opinion. In either cases the fee will be credited to Government. In criminal cases experts will be summoned in the ordinary course of

their duties, and no fee should be realised by the court.

[1][(iv) *Cost of photographic enlargement of finger prints in private cases* – When a requisition for photographic enlargement of finger prints is made to the Finger Print Bureau in private cases the following charges shall be realised from the private party by whom or at whose instance the requisition is made:-

(a) Rupees S for each of the first three enlargements.

(b) Rupees 2 for each additional print.

The cost mentioned above shall be sent to the Finger Print Bureau along with the requisition and the money thus received by the bureau shall be credited to Government].

In order to prevent experts in finger prints from being unnecessary summoned from the bureau to give evidence in civil courts, exhibits should, whenever possible, be sent to Shillong addressed to the Special Superintendent of Police, in charge of Criminal Investigation Department, Assam, for the written opinion of the bureau experts prior to their being summoned.

110. Action on receipt of search slips in the bureau.

(a) *Improper1y taken search slips to be returned* - Slips submitted to the bureau for search in which the prints have not been taken in their proper sequence, or are so blurred as to render classification, or sub-classification impossible, should be returned without search and fresh slips called for by telegram. The matter must also be brought to the notice of the Superintendent of Police of the district concerned.

(b) *Action to be taken in ordinary cases* - When a search slip is correct in all respects, it will be made over to an expert who will proceed to classify. After classification it will be passed to another expert, who will test the classification, and return it to the classifier for searching the bureau record for a slip bearing prints identical with those on the search slip.

(c) *Punctual disposal of search slips* - There should be no delay in making searches, since the disposal of the case concerned, and in many cases its progress also, remains pending the reply.

All slips will, if possible, be returned after search, within 24 hours of receipt.

(d) *Of dissected skins* - When the dissected skins of the fingers' of a corpse are received in the bureau for search in accordance with Rule 118 one set of impressions will be taken for search by the local experts and if there be any clue to the deceased's native province another set will be taken for submission to the bureau of that province. If It- is considered advisable in addition to send the impressions for search to other bureaux the required number of impressions should be taken and sent. A record of all such applications will be kept in the register of exhibits. Form No. 213 of Schedule XL (A) (Part 1) necessary details being noted in the remarks column.

(e) *Untraced slips* - When a search has been unsuccessful, the searcher will write on the slip the word "untraced". He will further look up the index register and note on the slips that this has been done. The slip will then be returned to the Inspector for transmission to the district from which it was received.

(f) *Traced slips* - When a search has been successful, the searcher will write on the search slip "traced" and enter on it, from the record slip from which the person in question has been traced, his real name and address and his previous convictions, together with the names of identifying witnesses. He will attach the record slip to the search slip, and make them ever to the Inspector in charge.

(g) *Checking of traced slips* - (i) The Inspector will check the work of the searcher by comparing the two slips to see that the finger prints correspond in every particular, and that the entries have been properly written up. He will then initial the search slip, and after detaching it, will return it to the district from which it was received at the same time reporting that the slip has been traced by telegram, or if circumstances require by express telegram. He will when replace the record slip in the pigeon-hole from which it was taken.

(ii) If the slip refers to an absconder regarding whom action has previously been taken under

[1] Added vide correction slip No. 2 dated 25th May 1993

the provisions of Rule 111 prompt intimation of his arrest will be sent be telegram direct to the district which reported his absence.

(iii) If the slip refers to a member of a registered criminal tribe, the arrest must similarly be reported to the district in which he is registered.

111. Escape or absconding of P. R. Prisoners.

(a) *To be at once reported to the local bureau* - When a person whose finger prints are on record has been declared a proclaimed offender, or has escaped from jail or from police custody or has absconded after committing some offence, intimation of the fact must be forthwith sent to the local bureau by the court police. When communicating such information care Should be taken to quote the name, caste, parentage, and residence of the convict, the classification number of his finger print slip, the number of the first information report with its date, the name of the police station, and whether proceedings have been, or are being taken under Section 512, Cr. P. C. If the convict's record slips is a waiting test, it should be attached to the report.

(b) *Action in the bureau* - On receipt of such a report in the bureau, a red slip in Form No. 214, XL(A) (Part I) duly filled in should be attached to the record slip in question, so that immediate information may be given to the police by whom the absconder is wanted in the event of such absconder's finger prints being subsequently received for search. In such cases a copy of the red slip, together with absconder's classification number, should be sent to all other bureaux in which the absconder's finger prints are known to be on record.

NOTES

Section 512 of Criminal Procedure Code as referred to in this Rule corresponds to Section 299 of the 1973 Code reading as follows:

> "299. *Record of evidence in absence of accused* - (l) 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 (or the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or hit presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.
>
> (2) It if 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.

112. Deaths amongst P. R. convicts and ex-convicts.

During the first week of January each year every Superintendent of Police will forward to the finger print bureau a statement in Form No. 132 of Schedule XL(A), (Part 1) showing the deaths among persons whose finger print slips are on record in the finger print bureau. A file containing the office copies or such statements will be maintained in the office of the Superintendent.

The finger print slips of persons reported to have died in jail will be removed from the records and destroyed at once. In other- cues of reported death, the date of elimination will be entered in red ink in the index register, and the slip will remain on record for another two years when it will be removed and destroyed.

If the record slip of a person whose death is reported was forwarded to other bureaux, (vide Rule 130) a statement in Form No. 132 of Schedule XL(A) (Part 1) will be sent to the bureau concerned. The death

reports received from districts will be preserved for two years.

113. Periodical elimination of record slips.

In addition to the removal of slips on receipt of death reports as laid down in the preceding rule the following rule will be observed in eliminating finger print slips on record in the bureau:

(i) For the purpose of elimination, convicted persons whose slips are on record, should be divided into two classes - class I will consist of:-

(a) all persons reconvicted under Chapters XII, XVII, Indian Penal Code;

(b) all coiners (Sections 231 to 253, Indian Penal Code, except Section 241);

(c) all note-forgers (Sections 489-A, 489-B, 489-C and 489-D, Indian Penal Code);

(d) all arms smugglers (Sections 25 and 26 of the Arms Act, 1959 (Act 54 of 1959);

(e) all professional poisoners (Section 328, Indian Penal Code);

(f) omitted;

(g) all political offenders (Sections 121 to 124-A, Indian Penal Code),

Class II - All others.

Slips of persons of Class I will be preserved until they attain the age of 70 years, and those of Class II will be preserved for ten years from the date of expiry of their last sentence.

(ii) The date of elimination which will take place once every year will be entered in red ink in the Index register.

(iii) Before elimination 'of slips the opinion of the Superintendent of Police of the districts concerned should be taken regarding the conduct of the convicts and in case they object to such elimination the slips may be kept in the record for such period as the Special Superintendent of Police thinks fit.

(iv) Intimation of the removal of the record slip of a foreign convict or of any person whose record slip was transmitted to another bureau, should be sent to the bureau concerned.

(v) No finger print slips received for record from any other bureau, should be eliminated without consulting the bureaux in question.

Action by the Investigating and Court Police

(Rules 114 to 125)

114. Points to be noted when preparing finger print slips.

The following points should be specially noted in preparing finger print slips:

(a) Impression must invariably be taken with the tip of the finger pointing to the top of the form.

(b) The "rolled" prints should show .the complete contour of the bulbs of the fingers; one delta In the case of "loops" and two in the case of “whorls” should be visible.

(c) The "rolled" print of each finger must be taken in the space allotted for that finger and the impression should not project beyond that space. The impression of the upper phalange of the finger only should appear.

(d) All names of persons and places should be hand printed in block capitals, all entries should be as concise as possible, and in the case of the record slip the convictions should be entered in chronological order.

(e) Deformities, cuts, scars, and disease marks interfering with the "legibility; of an impression should be given in definite detail both in the search and record slips, viz.:-

(1) Position, dimension, direction.

(2) Permanent or temporary, cut or puncture, burn or healed sore.

Subjects suffering from open cuts or scars in any of the upper phalanges of the finger should not (if this can be arranged) have the prints of such finger taken until the cuts or scars have healed.

(f) Finger prints of lepers are not to be taken on any account. Persons suffering from a contagious or infectious disease should not have their finger prints taken until they have completely recovered. Whenever an officer abstains from taking a record slip for any of the above reasons he must obtain a medical certificate to support his action, and forward it to the finger print bureau.

(g) The finger print slips of females, whether sent for search or for record, must bear the work "female" in red ink on the side of the slip which contains the impressions.

(h) The finger print slip of one person should be completed before that of another is commenced, otherwise there is a risk of some of the particulars appertaining to one person being entered in the slip of another.

(i) Finger print slips of railway thieves and wandering criminals must bear the words "Railway thief" or "Wandering criminal" as the case may be.

115. Finger print appliances and their preparation.

(a) The appliances for taking finger prints comprise a tin slab, an Indian-rubber roller and a pot of printer's ink which should be kept at each police station, court and reserve office. These must be kept scrupulously clean and free from dust, grit, or hairs the presence of which will spoil any impressions taken. The slabs should be freshly cleaned before use every day, all particles of old ink being rubbed off and a note as to this having been made in the general diary, *vide* Part V. The roller, when not in use, should be wrapped up in a piece of clean oiled paper. Both slab and roller should be periodically cleaned with soap, benzene or kerosene, however, should be used with care on a rubber roller, as it tends to damage the rubber unless wiped off carefully without delay. The pot of ink should be tightly closed when not in use to prevent evaporation.

(b) The slab must be perfectly smooth and should be wiped free of dust before use. A small quantity of the ink should then be put on the slab with the point of a knife and the roller used to bring it down to the finest possible film so that the tin is dimly visible through the ink. Experience has shown that it is easier to start with a small quantity of ink and to increase it as may be found necessary. If too much ink has been put on the slab, a sheet of paper laid on it and rolled over with roller will generally reduce it sufficiently. If the ink is dry and thick it should be thinned with a little oil, when it will be found that with a little preservance it can be worked up smooth on the slab.

An emergency substitute for printer's ink, should this not be available, can be made by mixing lampblack or soot with a small quantity of oil, of indelible ink such as is used for rubber stamps may be used.

[1][116. Taking and record of photographs of convicts and others.

In view of the importance of photography as a means of identification of criminals, the photographs of convicts and others should be taken in accordance with the rules framed by the State Government under the Notification of Prisoners Act, 1920 (Act XXXIII of 1920).

(a) In connection with an investigation, inquiry or trial, and

(b) in the case of prisoners accused of classes of offences for which a photographic record is deemed necessary .

I Classes of criminals to be photographed.

(a) All registered members of criminal tribes who come within the purview of Section 3 of the

[1] New Rule 116 inserted vide correction slip No. 26, dated 9th October, 1937

Identification of Prisoners Act.

(b) Counterfeit coiners (Sections 231 to 235, I. P. C.).

(c) Currency note forgers (Sections 489-A to 489-D, I. P. C.).

(d) The following types of criminals when reconvicted of offences, to which they are addicted, and whose criminal activities extend beyond their native districts and who are likely to revert to crime after release.

(I) Burglars (Sections 454 to 459, I. P. C.).

(II) Pick-pockets (Sections 379 to 382, I. P. C.).

(III) Railway thieves (Sections 379 to 382, I. P. C.).

(IV) Professional dacoits and robbers (Sections 392 to 399, I. P. C.).

(V) Professional swindlers (Sections 417 to 420, I. P. C.).

(VI) Smugglers (Section 9 of the Opium Act).

(e) Persons bound down in selected bad livelihood cases.

(f) Persons convicted in gang cases (Sections 400 and 401, I. P. C.).

(g) Murders for gain (Sections 302 and 403, I. P. C.).

(h) Any person, under order of Magistrate under Section 5 of the Identification of Prisoners Act.

(i) Approves in important cases (*vide* Rule 35).

(j) Any other convict for whom a photographic record is deemed necessary by the Superintendent of Police.

2. During the last week of every month the Superintendent of Police should examine the Court Conviction Resister for persons whose photo should be taken for record and in the first week of the following month he should send a list of these criminals to the Deputy Inspector General of Police with their full names and *aliases*, particulars of their parentage with *aliases*, ,residences (Present and former), convictions, names of jail in which they are confined and probable dates of release. In submitting the list the Superintendent of Police will state the number of photos required.

3. In case where the accused whose photograph is to be taken Is sentenced to a short term of imprisonment (six months or under) early intimation should be given to the Deputy Inspector General of Police to enable him to arrange for the photographer to visit the jail in question at an early date.

4. Photographs shall ordinarily be taken of the head and shoulder only, in full-face and profile and of quarter plate size. The Photographer will take every precaution to see that the facial characteristics of original are clearly brought out in both positions.

5. A register will be maintained in the photographs Bureau in the following form :-

Serial No.	Name with *aliases*	Father's name with *aliases*	Residence (Permanent and former)	Date and place on which photo was taken	C.I.D.H/S. No.	Particulars of convictions	Modus operandi	Distribution of photos to districts -	Remarks

6. The name of the criminal to be photographed as well as the serial number allotted to him in the above register should be written on a slate in large characters which will be photographed with the criminal.

7. In order to ensure that the photo of the right individual is taken, a criminal should be identified by the Jailor, should he be in jail or by police officer not below the rank of Assistant Sub-Inspector if he be at large, and the signature of the Jailor or Police Officer, taken on the slate, together with the date on which the photograph is taken.

8. A card index will be maintained in the photographic Bureau and the names, with aliases of all persons whose photographs have been taken will be indexed - the index card of each individual bearing full particulars of his parentage, address (present and former) and also his negative number i.e., the serial number allotted to him in the register referred to in paragraph 5.

9. A copy of each photograph should be kept, pasted serially in an album and also in the C.I.D. History Sheet of the criminal concerned. The names, father's name with aliases and residence of each criminal should be entered under each photograph in the album.

10. Ordinarily three sets of photographs full face and profile, of each criminal should be sent to the districts concerned (one set to be pasted in the history sheet, another set to be kept pasted in an album at the police station concerned, and the other set for the office of the Superintendent of Police). In special cases, such as those of active criminals whose area of operations is extensive and includes several districts or police station jurisdictions, extra copies will be issued to the Superintendent of Police of the district concerned on demand or as the Deputy Inspector General of Police considers necessary.

11. When any photograph is taken for the purpose of identification by any photographer, other than an officer of the photographic department an officer not below the rank of Sub-Inspector shall be present when the photograph is taken and also when the negative is developed and the prints are taken. When the number of prints required has been completed, the Sub-Inspector Shall take possession of the negative and prints and forward the negative in a sealed cover to the Court Officer for safe custody in the Magistrate's Malkhana.

A photograph intended for the purpose of identification should be placed in a sealed cover with eight

or ten photographs of other persons, taken under similar circumstances and despatched to the officer who conducts the identification with instructions that the packed should not be opened until the time of identification and then only in the presence of witnesses whose identification is to be tested.

12. Negatives sent by post should be carefully packed in soft paper and enclosed in a wooden box. Card-board boxes should not be used owing to the danger of damage in transit].

116-A. Taking of measurements and photographs and the preservation of their records.

Measurements (including finger prints) and photographs should always be taken and the records thereof preserved by police officers in accordance with the following rules framed by the Local Government under Section 8 of the Identification of Prisoner's Act, 1920 (Act XXXIII of 1920).

Rules

1. A Magistrate shall not, under Section 5 of the Act, order a photograph of any person to be taken by a police officer unless he is satisfied that such photograph is required for circulation to different places, or for exhibition, for the purpose of identification to witnesses who cannot easily be brought for test identification to the place where the investigation is proceeding.

2. Measurements and photographs shall invariably be taken in or alongside the court police office or inside a police station or jail or in any other suitable place where proper supervision of criminals, and suspects can be exercised. In no case shall they be taken in view of tile public.

3. Measurements shall be taken in the following manner.

(i) *Finger impressions* -

(a) Rolled prints of the right hand shall be taken first; each finger being inked and impressed before the next finger is inked, when the rolled prints of the right hand have been taken, the operator shall take the plain prints of four fingers of that hand simultaneously. When the right hand is finished, the operator shall proceed to take rolled and plain prints of the left hand in a similar manner.

The rolled prints shall show the complete contour of the bulb of the fingers.

(b) If a finger is missing or so deformed that it is impossible to obtain an impression, the fact shall be noted in the space allotted for that finger by the words "Missing" or "Deformed". In the case of double fingers the prints of both the fingers shall, if possible, be taken but the print of the more prominent of the two, invariably.

(c) Impressions shall be taken generally with printer's ink.

(d) Before inking, the fingers shall be cleaned with a rag moistened with either kerosene oil or turpentine and rubbed dry. The inking shall be done by a light application of the inked roller just sufficient to allow of a thin film of ink on the ridges of the finger. The inner portion of the phalanges of the fingers only shall be inked.

(e) A rolled print is obtained by placing the inked finger on the paper, so that the plane of the nail is at right angles to the plane of the paper and turned over, so that the bulb which originally faced, say to the left, faces to the right, the plane of the nail being again at right angles to the paper. [For convenience in taking rolled prints, the slip should be folded at the lines indicated, and the fold placed in line with the edge of a table.]

(ii) Foot-print impressions –

A tin slab shall be inked with printer's ink by means of a roller. The person to be measured shall be barefooted and shall place each foot in turn first on to inked slab and then upon a sheet of paper, kept ready at hand.

(iii) Height -

A measurement of height shall be obtained by making the person to be measured stand erect, barefooted and bareheaded on a measuring standard and recording his actual height.

4. When a person is being photographed under the provisions of Section 3, he shall wear his ordinary every day attire, or, if he has been convicted of personation, the usual attire of the person or class of persons personated.

5. The records of measurement and photographs shall be preserved as follows:-

(1) during investigation, by the investigating police officer,

(2) during trial, by the police officer conducting the prosecution (hereinafter called the court officer);

(3) after the termination of the investigation of trial:-

(a) if not required to form part of a judicial record and not required to be preserved for permanent record, they shall be filed with the police papers connected with the case and destroyed eventually with those papers;

(b) if required to form part of a judicial record, they shall be filed with the record;

(c) if not required to form part of a judicial record but required as a permanent record they shall be preserved by the court officer until despatched to the Criminal Investigation Department by which department they shall be finally kept.

Note - The rules regarding the safe custody of case diaries shall apply in cases (1), (2) and (3) (a) and (c).

117. Duties of the investigating police - Use of finger print system in investigation.

A. *The tracing of a man's identity by means of his finger prints is of the greatest assistance in the detection of crime* - It is, therefore, important that all police officers concerned in the investigation of crime and preparation of charge-sheets should have recourse to this aid whenever possible. They will make search slip references (Form No. 10, Schedule XL(A) (Part II) the various finger print bureaux enumerated in Rule 123 to trace out the history and antecedents of all unidentified persons, suspected or accused of a criminal offence.

B. *Information to be supplied to court police regarding search references* - (a) When no search references are made the police, station they will furnish, when forwarding the accused to court or sending him up on a charge sheet, such information in writing to the court officer as is required for the latter's guidance for making a search reference immediately when necessary according to Rule 123, (b) when a search slip has been issued by the station police, the fact together with the names of the bureaux referred to will be communicated to the court officer and the replies will also be sent to the latter.

C. *Officers competent to take finger impression* - Under the Identification of Prisoners Act (XXXIII of 1920) a police officer taking finger impression must be - (i) an officer in charge of a police station, (ii) an officer making an investigation under Chapter XIV of the Criminal Procedure Code, (iii) and an officer not below the rank of Sub-Inspector.

Note - Under this Act no court officer below the rank of Sub-Inspector is authorised to take finger prints.

D. *Authority for taking finger prints, etc*. - I. Under the Identification of Prisoner Act, a police officer as defined in clause (C) above can take *suo motu* the measurements (including finger impressions) or photographs of any person who has been:-

(1) Convicted of offences punishable with rigorous imprisonment for a term of one year or upwards or of any offence which would render· him liable to enhanced punishment on a subsequent conviction.

(2) Ordered to give security for his good bahaviour under Section 118, Criminal Procedure Code.

(3) Arrested in connection with offences punishable with rigorous imprisonment for a term of one year or upwards.

II. A magistrate of the first class can order a person's measurements (including finger prints) and photographs to be taken by a police officer for the purpose of any investigation or proceeding under the Criminal Procedure Code provided that such person has at some time been arrested in connection with such investigation or proceeding.

III. Under the Criminal Tribes Act, 1924 (Act VI of 1924) a district magistrate can order the members of a criminal tribe to be registered and to allow their finger impressions to be recorded.

Under this Act a district magistrate or any officer empowered by him in this behalf can at any time order the finger impressions of a registered member of a criminal tribe to be taken.

Note - Resistance of refusal by a person to allow the taking of measurements (including finger prints) and photographs under the Identification of Prisoners Act amounts to an offence under Section .186, Indian Penal Code, and the Act provides for the use of all means necessary to secure the taking thereof,

Section 118 of the Code of Criminal Procedure as referred to in this Rule corresponds to Section 117 of the 1973 Code, reading as follows.

"117. *Order to give security* - 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:

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 111;

(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.

118. Unidentified dead bodies.

(a) When the identity of the corpse of a person regarding whose death there is any suspicion of foul play, or who met with death in connection with the commission of an offence, has not been ascertained by ordinary enquiries, the finger prints should be taken by the court police, at the request of the investigating police on a search slip Form No. 10 (XLA) (Part II) and sent to the local bureau for search.

If any conjecture is possible -

(1) as to the identity of the body, the finger impressions forwarded to the bureau, should, if possible, be accompanied by any documents bearing the supposed person's finger impressions that can be obtained. Such documents may often be found amongst revenue records, bonds executed for borrowing money deeds relating to the sale, transfer and mortgage of property, marriage, contracts, etc.

(2) as to any other province to which the deceased belonged, a search slip should be sent to the bureau of that province.

Ordinarily there is not much difficulty in taking impressions from the fingers of corpse, but it sometimes happens that the skin of the fingers is so contracted and wrinkled that decipherable prints cannot be obtained. In such cases the medical officer holding the post-mortem should be asked to dissect the skin from the fingers. Impressions should then be taken as clearly as possible by padding the skin, and the pieces of skin from the ten digits should be carefully sealed up in separate phials containing spirits or wine, packed in a small box and sent to the bureau for examination together with the finger prints so taken. Each phial should bear a label showing the digit to which the dissected skin belongs. The officer sending the skins to the bureau should note as to sex and whether any conjecture could be made from the

appearance, dress, etc., regarding the residence of the deceased.

(b) *Photographs* - In addition to the transmission of their finger prints to the various bureaux, all corpses whose identity has not been established should, whenever possible, be photographed and the photographs be sent to the Finger Print Bureau, Shillong, with the search slip, for reproduction in the Criminal Intelligence Gazette, A cabinet size photograph should be taken as in most of these cases it will probably be desirable to have a photograph of the whole body. Due care should be paid to decency in photographing corpses.

119. Search for finger prints left upon(article, etc., connected with or surrounding the scene of a crime.

(a) *Cases in which search should be made for finger prints* - In committing crimes culprits often inadvertently leave their finger impressions on articles of all descriptions, and it is desirable that every article which might bear such impressions, more especially glass, metal, polished wood or lacquer work should be most carefully examined by a magnifying glass. Torches abandoned by dacoits should always be examined as good finger impressions are not infrequently found on their charred surface; while upon bottle-torches such impressions are usually clear. In burglary cases finger impressions are often to be found an bamboo mattings near the points of entry or on door posts. In cases of murder immediate search should be, made for blood stained finger impressions.

(b) *Articles to be sent for examination* - When an impression however faint is detected, the investigating officer will ascertain whether the article in question has been touched by anyone since the occurrence. If he is satisfied that the finger print is undoubtedly that of a culprit he should take into his custody either the article or those portions of it which contain the impressions, carefully removing it in the presence of respectable witnesses after putting on it such marks as would make its subsequent identification possible, and should forward it to the Special Superintendent of Police in charge of the Criminal Investigation Department for examination by the Finger Print Bureau. If however the nature of the article is such that the removal of it or of the requisite portion is impossible a photograph of the impression after intensification, when possible, should be taken with the help of a local photographer who will be assisted by a proficient or local expert, if necessary, and then sent to the Special Superintendent of Police for examination by the bureau experts. If required, the services of an expert from the Finger Print Bureau may be requisitioned for this purpose, case being always taken in the meantime to protect the impression and the owner should be warned not to touch or move the article in question:

(i) *Study of impression with a view to help the searching expert* - Finger impressions on articles should be carefully studied by investigating officers with a view to an opinion being formed if possible, as to the finger or hand to which the imprint belongs. If due attention is given to ascertaining the exact position of the article before it was handled by the offender, and also as to its position when found after the commission of the offence, it is frequently possible to form an opinion on this point. 'For instance, when a window has been broken and the shattered glass has been removed by the person breaking it, if the position which the glass formerly occupied is noted it would not be difficult to judge which hand removed the glass and which finger or fingers are likely to have left the imprint on it.

Similarly from the position occupied by a tumbler, bottle, plate or other article, it may be possible to form an opinion as to which hand the offender used in removing or touching,

Occasionally marks are found on article which bear a resemblance to an impression made by the bulb of a finger, but they may be from some other portion of the hand or even from part of the foot. This difficulty will arise in cases where only a single mark is found on an object and every care must be taken to determine, if possible, whether the impression is from the bulb or base of the fingers, palm of the hand, or from the ball or heel of the foot.

The opinion, if any, so formed should be communicated to the bureau as it will afford great assistance to the experts in making their classification for search. Any clue as to the exact position of one or more digits should be furnished as it will make a satisfactory search possible even though it may take a few days to complete it.

(ii) *Protection of finger prints for examination* - When an article bearing an impression has a flat surface, the finger print can easily be protected by covering it with an inverted lidless cardboard box attached by gummed flaps and sealed down.

Many other ways of protecting finger prints will suggest themselves but care must be taken that adequate protection is afforded.

(c) *Method of intensifying* - Finger marks on glass, polished wood, metal and lacquer work may be intensified by sprinkling the surface with a small quantity of a powder known to Chemists as "grey powder" or in the case of light coloured articles of powdered graphite. The article should then be shaken or the powder brushed over it with a camel hair brush. The brush should be drawn lightly across the impressions first vertically and then horizontally until they appear quite clear and decipherable. This treatment has the effect of making visible impressions which cannot be seen with the naked eye. Articles which may have been handled by criminals should always be treated in this way if possible.

(d) *Packing and forwarding of articles bearing prints* - The investigating officer should always remember that while handling articles for packing or for any other purpose he is likely, to impress them with his own finger prints, as well. These therefore should not be handled unless absolutely necessary, when something with a smooth' surface should be slipped underneath. The articles should be carefully lifted into the box in which they are to be packed and nothing with a rough surface should be allowed' to come into contact with the portions bearing impressions. All possible precautions should be taken so that the print may not be damaged during transit.

(e) *Method of despatch* - In important cases, or when exhibits are very heavy or large they should be sent by a special messenger. Ordinarily the package should be sealed and sent by registered post to the Special Superintendent of Police in charge of the Criminal Investigation Department. A label should be attached to each article giving the number of the F. I. R. with date and the name of the police station and district and that of the officer forwarding the package~ and every care should be taken that the identity of the article can be proved as in the case of articles sent to the chemical examiner.

(f) *Apparatus required* - In order that the instructions contained in the foregoing clauses may be carried out each police station should be supplied with:

(1) A magnifying glass for reading finger prints.

(2) Four ounces of graphite or grey powder for sprinkling.

(3) A camel hair brush for brushing.

(4) A few cardboard boxes for protecting finger impressions.

NOTES

In this Rule reference has been made to Sections 400 and 401 of the Indian Penal Code.

Section 400 prescribes for punishment for the offence for belonging to gang of dacoits, being imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 401 prescribes for punishment for the offence for belonging, to gang of thieves, being rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

120. Photography of finger prints.

I. The photographic enlargement of finger print is necessary:-

(a) for the purpose of comparison of impressions on articles by the experts of Finger Print Bureau.

(b) for the inspection and clear understanding of the Judge and Jury in a case in which experts express an opinion which it is necessary to confirm by production in court of the photograph of the impressions on documents or articles relating to the case regarding which evidence is to be placed on record.

The enlargement should be done locally or when this is not possible the articles containing the impressions should be sent to the Finger Print Bureau for the purpose and the latter will have if done by a Photographer at headquarters. Care should always be taken that the identity of the articles containing the impressions from which the enlargement is made can be proved beyond doubt when necessary and that the article is not lost; disfigured, damaged or destroyed. The article should never therefore be parted with and an officer must always be present when the photograph is being taken, and it should be taken back immediately afterwards.

II. As an aid to police investigation also, the photographing of impressions has frequently to be resorted to, before any definite opinion can be expressed. Finger or foot prints which lend themselves best to photography are those which are impressed on glass, glazed earthenware vessels, polished metal articles, tin boxes, paper and occasionally on wood. Finger prints on the ground may be usefully photographed if the impressions are clear. Prints on rough surfaces are, as a rule, of little use. It should be distinctly understood that finger marks which do not disclose clearly defined details when viewed through a magnifying glass are generally useless when photographed. It has already been said that latent impressions can be developed with the aid of powders, but if there is any intention on the part of the investigating officer to forward an impressed article to the Finger Print Bureau for the purpose of an opinion, powder should not be used at the time of discovery, as it sometimes happens that the powder reduces the area available for comparison by obscuring some of the characteristic detail. It is often possible to obtain a satisfactory photograph without the use of powder when the detail is discernible though faint.

121. Duties of proficients and action to be taken by court police before conviction.

Duties of proficients - The proficients attached to court offices will dispose of all work in connection with the finger print system, under the direct supervision of the officer in charge thereof. Their duties are mainly as follows:

(i) To prepare the record slips and the P. R. slips of the persons mentioned in Rule 127 in the manner required by that rule and Rule 128 and to keep the record slips ready for test.

(ii) To test record slips in the absence of an expert as directed in Rule 131.

(iii) To prepare and despatch search slips of accused or other persons referred to in Rule 123.

(iv) To keep release notices as required by Rule 132.

(v) To dispose of record slips and release notices in the manner described in Rules 130 to 132.

(vi) To prepare all statements and returns that may be required by the Finger Print Bureau in connection with the finger print system.

(vii) To maintain and keep the registers prescribed in the Appendix.

(viii) To keep in good order and fit for immediate use all instruments for taking finger print.

In court offices where there are two proficients, the finger print work will be divided between them by a district order in such manner as the Superintendent of Police may deem fit. It is suggested that the touring experts be consulted in this connection. The officer-in-charge of the court police however, should neither be relieved of all responsibility with regard to finger print work nor of the duty of personally attending Jail parade on Sunday morning (*vide* Rule 134) nor must the specification of the proficients' duties above be construed to mean that proficients will have nothing to do except finger print work. The officer-in-charge remains responsible for the work of the "proficient" who is merely to relieve the former of actually having to do the work himself.

NOTES

In this Rule reference has been made to Sections 120-B and 121-A or the Indian Penal Code.

Section 120-B prescribes for punishment of the offence criminal conspiracy, as:

(a) In respect of offence punishable with death, imprisonment for life or rigorous

imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such conspiracy, be punished ill the same manner as if he had abetted such offence.

(b) Other than the above-imprisonment of either description for • term Dot exceeding six months.

Criminal conspiracy is defined under Section 120-A of I. P. C. as; When two or more persons agree to do, or cause to be done, -

(1) an illegal act, or

(2) an act which is not illegal, by illegal means,

Such an agreement is designated a criminal conspiracy.

By terms of the definition itself, there ought to be two or more persons who must be parties to such an agreement and it is trite to any that one person alone can never' be held guilty of criminal conspiracy for the simple reason that one cannot conspire with one self AIR 1956 SC 3 (Topandas), Meeting of minds is an essential ingredient of the offence, AIR 1980 SC 1382, (*State v. V.C. Shukla*). To constitute a single general conspiracy there must be a common design and a common intention of all to work in furtherance of the common design. Each, conspirator plays its separate part in one integrated and unified effort to achieve the common object AIR 1970 SC 45 (*Hussain Umar v, Dafip Singhji*).

Section 121-A, deals with the offence of conspiracy to commit offences punishable under Section 121 or conspires to overawe, by means or criminal force or the show of criminal force, the Central Government or any State Government, for which the punishment prescribed is imprisonment for life or imprisonment of either description which may extend to ten years and shall also be liable to fine. Section 121 deals with the offence of waging or attempting to wage war or abetting waging of war against the Government of India and the punishment prescribed for such an offence is death, imprisonment for life and shall also be liable to fine.

122. Examination of certificates forwarded with the charge sheets by court officers.

Whatever action may have been taken or whatever information may have been furnished by the investigating officer in the accused's forwarding report or elsewhere regarding his antecedents, court officer must carefully examine the certificate given by the former along with the charge sheet in order to be sure whether an accused is 'identified' or not.

123. Search slip references.

A. The court police will prepare and send the finger print search slips [Form No. 10, Schedule XL (A) (Part II)] of the following classes of persons sent to court after arrest as suspects or undertrial on a criminal charge, regarding whom no search reference has been made by the investigating police, to –

(a) the Shillong Finger Print Bureau,

(b) the bureaux of the province of which the persons are believed to be residents, and

(c) the bureaux of the provinces where their operations are believed: to extend.

Note - The court officers or the investigating police will ascertain from the language, dialect and dress of a suspect or an undertrial prisoner whether he is likely to be a resident of say particular province and whether his operations are likely to extend to any particular province or provinces and will issue his search slip accordingly. If the language, etc. spoken by a suspect or an undertrial prisoner is found to be similar to that, used in two or different provinces, search slips will be issued to the Bureaux of all such provinces. (Correction Slip No. 3, dated the 27th May, 1933).

(1) All unidentified persons when they are charged with offences for a conviction in which their record slips are liable to be kept in the bureau or bureaux under Rule 127.

(2) All persons whether 'identified' or 'unidentified'-

(a) who, though themselves residents, are not natives of the province. and are thus likely to have relations with criminals in other provinces,

(b) whose operations are known to extend beyond the limits of the province,

(c) who are members of criminal tribes or wanderers,

(d) who are charged with-

(i) theft of arms or ammunitions.

(ii) serious offences against the coinage in circumstances which' render it likely that they are professional coiners.

(iii) counterfeiting currency notes, bank notes, or Government promissory notes, or offences connected therewith.

(iv) offences punishable under Sections 215, 363 to 373, 170', 171,419 and 420, Indian Penal Code.

(v) poisoning of a professional type.

(vi) offences in connection with political agitation.

(e) who are known or believed to be connected with organized gangs in other provinces, whatever may be offences for which they are arrested In the case.

B. The references detailed in (2) above may also be made by the station police, if necessary. When they have made all the requisite references no action need be taken by the court police in this direction but if the reference made by the station police is incomplete or defective it should at once be rectified by the court police.

C. (a) The names of all these persons for whom search references are made' should be entered in the register of unidentified persons. Form No. 127, Schedule XL (A) (Part I).

(b) A few pages of the register according to requirements may be set apart for entry of the names of Identified persons.

(c) The names of persons regarding whom search reference are made by the station police should also be entered in this register, the letters P.S. being written in red ink across the entry to show that the reference was made from the police station.

Note - In the case of a woman the search slip must be prepared before a gazetted officer and a note made in the counterfoil of each slip testifying the same. This will apply *mutatis mutandis* in the preparation of a record slip (the note being made on the slip).

124. Court officer to apply for remand to ascertain previous conviction of accused for which search slip and verification roll has been issued.

(a) When a search slip and a verification roll have been issued to ascertain whether an accused has been previously convicted or not, and the replies have not been received when the evidence for the prosecution has been completed, the prosecuting officer should apply in Form No. 114 of Schedule XL (A) (Part I) to the trying court for a remand with a view to the adjournment of the enquiry or trial of the case under Section 344, Criminal Procedure Code, or for postponement of the judgment which is to be delivered under Section 366, Criminal Procedure Code, pending the result of the reference. This application will remain with the judicial record.

(b) The application for remand does not mean that the commencement of a trial is to be delayed. The case will be taken up in the ordinary way and .an adjournment is only necessary immediately before a charge is framed under Section 221, Criminal Procedure Code, as the fact, date, and place of previous conviction, if any, have to be stated therein under clause 7 of the section, although when such statement has been omitted the court may add it at any time before the sentence is passed.

(c) Although evidence in-respect of the alleged previous conviction can be taken and a finding

thereon can be recorded, by the court under Section 255-A, Criminal Procedure Code, after the accused has been convicted under Section 255 (2) or Section 258 of the Code, the court officer will nevertheless lose no time in taking steps for adducing evidence in order to prove previous conviction where necessary as soon as possible so that the case may not drag on for any unwarrantable length of time.

(d) If a remand or adjournment applied for is not granted by a Magistrate, the failure to obtain it and the reasons for refusal should be prominently noted in the court officer's daily under trial case report containing an entry of the case for the information of the Superintendent of Police and Deputy Commissioner. If the reasons appear insufficient the Superintendent of Police will make a note to this effect while forwarding the aforesaid report to the Deputy Commissioner. If the refusal of the remand results in the escape of an accused from enhanced punishment or from the operations of Section 565, Criminal Procedure Code, the fact should always be noted in the remarks column of the statement of reconviction in the next half yearly return of serious crime and in important cases (e.g., where the accused is a habitual or desperate criminal) a report should also be submitted by the Superintendent of Police to the Inspector General of Police through the Special Superintendent of Police in charge of the Criminal Investigation Department after the matter has been brought to the Deputy Commissioner's notice as stated above.

NOTES

Sections 344, 366, 221, 2S5-A, 258 and 565 as referred to in this Rule correspond respective sections of the 1973 Code as follows:

Old section	*New section*
344	309
366	353 (1) & (4) to (8)
221	211
255	246 (2) & (3)
258	248 (1)
565	356

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.

353. *Judgment* - (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, -

(a) by delivering the whole of the judgment; or

(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 pleader.

(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 pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced.

(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:

Provided that, where there are more accused 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 pleader 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 pleaders, 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 provision of Section 465.

211. *Contents of charge* - (1) Every charge under this Code 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.

(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 stand 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.

(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.

246. *Procedure where accused is not discharged* - (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.

(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.

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused 18 not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the ease, 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.

(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.

248. *Acquittal or conviction* - (l) 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.

256. *Non-appearance or death of complainant* - (l) 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 reasons 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.

(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.

125. Method of proving previous conviction.

(a) If, on the return of the search slip from the Finger Print Bureau, it is found that previous convictions have been traced against an accused, steps should be taken to prove these convictions, when necessary, under Section 511, Criminal Procedure Code, which requires-

(i) the filing either of a certified copy of the previous conviction, or of a certificate signed by the Superintendent of the jail in which the punishment or any part thereof was inflicted, or the production of the warrant of commitment under which the punishment was suffered ; and

(ii) the proving of the identity of the accused with the person previously convicted as laid down in clause (c) below.

(b) In the case of a person who has been previously convicted more than once, it will generally suffice to prove the last conviction only, provided that the former convictions were proved in the case in which that conviction was obtained and are mentioned in the former judgment.

(c) (i) The identity of an accused should ordinarily be proved by the evidence of a police officer who is cognisant of the previous conviction, or by a jail officer who can recognize the accused as the prisoner who underwent the previous sentence of imprisonment, but if these witnesses cannot conveniently be obtained, identity may be proved under Sections 45 and 73 of the Indian Evidence Act,

1872 (Act 1 of 1872) as amended by Act V of 1899, by means of the expert evidence, supplemented by the evidence of the officer who prepared or tested the previous record slip.

(ii) When it is required to prove the identity of an accused person by means of his finger prints, the following procedure will be observed:-

"The prosecuting officer will move the court to issue, under Section 94, Criminal Procedure Code, a summons of the officer-in-charge of the Finger Print Bureau in possession of the traced slip to send by registered post the original finger print slip containing the finger-prints of the convict whom the prosecution alleges the accused to be. A duplicate copy of the slip containing the finger prints and previous convictions of the convict concerned taken by a "proficient" should invariably accompany such summons, and will be retained in the bureau in place of the original slip sent to the court. A summon will be issued a t the same time to the Shillong Bureau for the services of an expert, irrespective of the bureau to which the previous conviction was traced. Except in Sessions cases experts should not be summoned by name, and in no case should finger print experts employed in districts be allowed to give expert evidence without the permission of the Special Superintendent of Police in charge of the Criminal Investigation Department.

(iii) Any cases in which a Magistrate declines to accept the uncorroborated evidence of a finger print expert should be brought to die notice of the Inspector-General of Police through the Special Superintendent of Police and if the Magistrate makes any comment on the subject, a copy of the Judgment should accompany the report.

Note 1 - No previous conviction need be proved if the accused admits that he has been convicted before as alleged in the charge framed under (Section 221 (7), Criminal Procedure Code. (See Rule 124)

Note 2 - Where a prisoner is charged under Section 221 (7), Criminal Procedure Code, evidence may be adduced in respect of the same after the accused has been convicted Vide (Section 255-A, Criminal Procedure Code). See Rule 124)

Note 3 - For Procedure in case of previous convictions in Sessions cases, see Sections 310 and 311, Criminal Procedure Code.

NOTES

Sections 511, 94, 310 and 311 referred to in this Rule correspond to Sections 298, 91, 236, while Section 311 of the old Act has been omitted. The new Sections 298, 91 and 236 of the 1973 Code are as follows:-

"298. *Previous conviction or acquittal how proved* - In any inquiry trial or other proceeding under this Code, a previous conviction or acquittal may be provided, in addition to any other mode provided by any law for the time being in force,-

(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, together with, in each of such cases, evidence as to identity of the accused person with the person so convicted or acquitted.

91. *Summons to produce document or other thing* - (l) Whenever any Court or any officer in charge of a police station considers that the production of any document or other things is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court. or officer, such Court may issue a summon, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it,

at the time and place stated in the summon or order.

(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 –

(a) to affect Sections 123 and 124 of the Indian Evidence Act, 1872 (l of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

236. *Previous conviction* - In a case where a previous conviction is charged under the provisions of sub-section (7) of Section 211, 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 229 or Section 235, take evidence in respect of the alleged previous conviction, and shall record a finding thereon;

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 229 or Section 235.

For Sections 221 and 255 of the old Code corresponding to Sections 211 and 249, see under Rule 124.

Action by court Police after Conviction

(Rules 126 to 134)

126. Result of trial of traced cases to be reported to the bureau.

(i) The result of trials of traced cases should be reported without unnecessary delay direct to the bureau or bureaux which traced them in Form No. 129, Schedule XL (A) (Part I).

(ii) When an accused is convicted and made P. R. in a traced case the record slip of the convict should also be sent to the bureau concerned .together with the result of the trial with a despatch cheque.

(iii) When a person traced by a bureau is not sent up for trial the fact should be communicated to that bureau.

127. Persons whose finger print should be submitted for record in the finger print bureau.

Subject to the exceptions detailed in Rule 114 finger print slips should be prepared for record of the following persons, juvenile or adult, male or female:-

(a) All persons convicted of offences against property which carry enhanced punishment on reconviction irrespective of the duration of the sentence inflicted, if their real names and antecedents are unknown to the police and cannot be ascertained.

(b) All persons convicted under Chapters XII and XVII, Indian Penal Code, for an offence punishable with imprisonment for three years or more, outside their home districts or who are likely to revert to crime after release.

(c) All persons reconvicted under Chapter XII and XVII, Indian Penal Code, for an offence punishable with imprisonment for three years or more.

(d) All persons convicted under Sections 170, 171,215, 23i to 254, 328, 417 to 420 and 489-A to 489-D, Indian Penal Code.

(e) All persons ordered to execute .bonds under Sections 109 and 110, Criminal Procedure Code, if-

(i) they are convicted outside their home districts, or

(ii) are known, or believed, to commit crime in other districts, or

(iii) are unidentified.

(f) All persons convicted under the Arms, Opium and Excise Acts who are believed to be illicit dealers in arms, opium or cocaine.

(g) (i) [*Omitted*].

(ii) on conviction, on any of the offences under the Indian Penal Code as specified in Schedule I of the Criminal Tribes Act (Act VI of 1924). The offences mentioned therein are as follows:-

Chapter XJI - Sections 231, 232, 233, 234, 235, 239, 240, 242, 243, Indian Penal Code.

Chapter XVI - Sections 304, 307, 308, 310, 324, 325, 326, 327, 328, 329, 332, 333, 369, Indian Penal Code.

Chapter XVII-Sections 382, 384, 385, 386, 387, 392, 393, 394, 395, 397, 398, 399, 402, 457, 458, 459, 460, Indian Penal Code].

(h) convicted or suspected persons, where finger impressions can be taken under the Identification of Prisoners Act, 1920 (Act XXXIII of 1920) not provided for above, regarding whom the Superintendent of Police or Deputy Inspector-General of Police in charge of the Criminal Investigation Department or the Inspector General considers it desirable that there should be a permanent record.

(i) [1][Persons convicted of offences in connection with subversive movements other than those of whose identity there is no doubt].

(j) All persons sent to the Mental Hospital after conviction. The word "Lunatic" should be noted on the slips as above.

(k) All adolescents (between the age of 16 and 21) who after conviction are sent to jail or to a special institution. Such adolescent criminals are not to be treated as P. R. or P. R. T. convicts.

(l) All Non-Asiatic criminals convicted in cases of the types in which finger prints would ordinarily be taken for record under the rules enumerated above. In such cases the name or names of the Bureau or Bureaux, where duplicate slips have been sent for record should be noted on each finger print slip, such slips being sent direct to the Assam Bureau as well as to such other Indian Bureaux, as may be necessary. The word "Non-Asiatic" should be noted on the top of each slip in red ink.

Another set of record slips with photographs should be sent to the Assam Criminal Investigation Department, which department will transmit one set of finger prints and photographs to the Director Intelligence Bureau, Government of India, who, in turn, will forward them to the head of the Police in the country of which the Prisoner is a resident. Before the release of such a prisoner, a report should be sent through the same channels to the Director giving information regarding the date, route, boat, etc., on, or by which, the prisoner will be travelling, in order that such information may be transmitted to the country of the man's origin.

(ii) If any foreign criminal, whether Asiatic or Non-Asiatic is convicted in a coining or note-forgery case which may arouse international interest and in which there is reason to believe that the false coins or notes have been manufactured outside India, a similar report should be sent for the information of the Director.

NOTES

[1] Clause (g) substituted vide correction Slip No. 16, dated the 19th July 1935; 43 dated the 17th April, 1939; 46 dated the 8th December, 1941 and 44, dated the 5th July, 1941

In this rule reference has been made to various sections of the Indian Penal Code. Chapter XII of the I.P.C. deals with offences relating to coin and Government stamps and Chapter XVII thereof deals offences against property-theft (Sections 378 to 382); Extortion (Sections 390 to 402); Criminal misappropriation of property (Sections 403 and 404); Criminal breach of trust (Sections 405 to 409); Receiving of stolen property (Sections 410 to 414); Cheating (Sections 415 to 420); Fraudulent Deeds and Disposition of Property (Sections 421 to 424) ; Mischief (Sections 425 to 440); Criminal trespass (Sections 441 to 462).

For Sections 215 and 489-A to 489-0 of I.P.C. see under Rule 14. Section 170 of I. P. C. deals with the offence of personating a public servant and the punishment prescribed in imprisonment of either description for a term which may extend to two years. or with fine, or with both. The ingredients of this section are:-

(1) Pretends as a public servant.

(2) Either, knowing that he does not hold such office or falsely personate any other person holding as office.

(3) Does or attempts to do any act in such assumed character or colour of such office.

Section 171 of I.P .C. deals with the offence of wearing garb or carrying token used by public servant with fraudulent intent.

Section 231 of I. P. C. deals with the offence of counterfeiting coin fur which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. The ingredients of the offence are:

(1) Accused counterfeited or performed any part of the processing of counterfeiting.

(2) The thing counterfeited was coin used as such currency.

(3) The accused was so knowing.

(4) He did so intending to practice deception.

Section 232 of I.P.C. deals with the offence of counterfeiting Indian coin, for which the punishment prescribed is imprisonment for life, or with imprisonment of either description for a term which may extend to years, and shall also be liable to fine. The ingredients of the offence are;

(1) Coin counterfeited is an Indian Coin.

(2) The accused counterfeited it or performed on it any part of the process of counterfeiting.

(3) He did so knowingly.

Section 233 of I.P.C. deals with the offence of making or selling instrument for counterfeiting coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to three ten years, and shall also be liable to line. The ingredients of the offence are:

(1) The accused made, or melded, or performed some part of the process of making or mending the die or instrument; or that he bought, sold or disposed of it.

(2) He did so, for the purpose that such die or instrument might be used for the purpose of counterfeiting coin, or that he knew or had reason to believe, that the same was intended to be used for that purpose.

Section 234 of I.P.C. deals with the offence of making or selling instrument for counterfeiting Indian coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall be liable to fine. The ingredients of this section are similar to that of Section 233 except that it was intended to be used for the purpose of counterfeiting Indian coin.

Section 235 of I.P.C. deals with the offence of possession of instrument or material for the purpose of using the same for counterfeiting Coin, of Indian coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

The ingredients of the offence are:

(1) The instrument or material in question is one for the purpose of counterfeiting coin (or Indian coin).

(2) The accused was in possession of such instrument or material in question.

(3) He was in possession thereof for the purpose of using it for counterfeiting; or that he knew or had reason to believe that it was intended to be used for that purpose.

Section 236 of I. P. C. deals with the offence of abetting in India the counterfeiting out of India of coin and the punishment prescribed is same as the counterfeiting of such coin within India.

Section 237 of I.P.C. deals with the offence of import or export of counterfeit coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Section 238 deals with the offence of import or export of counterfeit of Indian coin, for which the punishment prescribed is 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.

Section 239 deals with the offence of delivery of coin, possessed with knowledge that it is counterfeit, for which the punishment prescribed is imprisonment of either description for a term, which may extend to five years, and shall also be liable to fine.

Section 240 of I.P.C. deals with the offence of delivery of Indian coin possessed with knowledge that it is counterfeit, for: which the punishment prescribed is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. The ingredients of the offence are:

(1) Coin is an Indian coin.

(2) Coin in question is counterfeit.

(3) Accused became possessed of it.

(4) He delivered to another or attempted to induce him to accept it.

(5) He did so fraudulently or with intention that fraud may be committed.

Section 241 of I.P.C. deals with the offence of delivery of coin as genuine, which, when first possessed the deliverer did not know to be counterfeit, for which the punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin, counterfeited or with both. The ingredients of the offence are:

(1) Coin in question was counterfeit.

(2) Accused was in possession of such coin.

(3) At the time when came into possession he did not know that it was counterfeit coin.

(4) He came to know there about after he possessed it.

(5) He then delivered or attempted to induce another to receive such coin knowing that such coin is counterfeit.

Section 242 deals with the offence of possession of counterfeit can by person who knew it to be counterfeit when he became possessed thereof, and the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. The ingredients of the offence are:

(1) Accused was in possession of coins.

(2) Coin was counterfeit.

(3) He was in possession of it with intent to defraud or that fraud may be committed.

(4) At that time he knew them to be counterfeit.

Section 243 deals with the offence of possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof and prescribes punishment as imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. The ingredients of the offence are:

(1) Accused was in possession of Indian coin.

(2) Which was counterfeit.

(3) He was in possession of it with intent to defraud or with intent that defraud was committed.

(4) He knew it was counterfeit, at the time he became possessed of it;

Section 244 of I.P.C. deals with the offence by person employed in mint causing coin to be different weight or composition from that fixed by law, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. The ingredients of the offence are:

(1) The accused was employed in a mint.

(2) Such mint was established in India.

(3) Accused as such employee did some act or omitted to do what he was legally bound to do.

(4) Such act or omission was with the intention of causing any coin issued from that mint with a different weight or composition from the weight or composition fixed by law.

Section 245 of I.P.C. deals with the offence of unlawfully taking coining instrument from mint, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 246 deals with the offence of fraudulently or dishonestly diminishing weight or altering composition of coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall all also be liable to fine.

Section 247 of I.P.C. deals with the offence of fraudulently or dishonestly diminishing weight or altering composition of Indian coin, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 248 of I.P.C. deals with the offence of altering appearance of coin with intent that it shall pass as coin of different description, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Section 249 of I.P.C. deals with the offence of altering appearance of Indian coin with intent that it shall pass as coin of different description, for which punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 250 of I.P.C. deals with the offence of delivery of coin-possessed with the knowledge that it is altered, for which the 'punishment prescribed is imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Section 251 of I.P.C. deals with the offence of delivery of Indian coin -possessed with the knowledge that it is altered, for which the punishment prescribed is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 252 of I.P.C. deals with the offence of possession of coin by person who know it to be altered when he became possessed thereof, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Section 253 of I.P.C. deals with the offence of possession of Indian coin by person who knew it to be altered when he became possessed thereof, for which the punishment prescribed is imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Section 254 of I.P.C. deals with the offence of delivery of coin as genuine which, when first possessed the deliverer did not know to be altered for which the punishment prescribed is imprisonment of either description for a term which may extend to two years or which fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Section 328 of I.P.C. deals with the offence of causing hurt by means of poison etc., with intent to commit an offence, for which the punishment prescribed is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. The ingredients of the offence under this section are:

Administration of poison with the –

(a) intention of , causing hurt to such person;

(b) knowledge of its likelihood of causing hurt;

(c) intention of committing or facilitating the commission of an offence.

Section 417 of I.P.C. provides for punishment for cheating, which being imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 418 of I.P.C. deals with the offence of cheating with knowledge that wrongful loss may ensure to person whose interest offender is bound to protect, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 419 of I.P.C. provides for punishment for cheating by personation, which is imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 420 of I.P.C. deals with the offence of cheating and dishonestly inducing delivery of property, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven "years, and shall also be liable to fine. The ingredients of the offence are:

(1) By fraudulently or dishonestly deceiving any person and inducing the person so deceived-

  (a) to deliver up any property from him, or

  (b) consent to retention of such property.

(2) Intentionally inducing the person deceived to do or omit to do if he was not so deceived such doing or omission causing or likely to cause to the person cheated, damage or harm in body, mind, reputation or property.

Undoubtedly, a culprit first intends to commit an offence, then makes preparation for committing it and thereafter attempts to commit the offence. If the attempt succeeds, he has committed the offence; if it fails due to reasons beyond his control he is said to have attempted to commit the offence. Attempt to commit, therefore can be said to begin when the preparations are complete and the culprit commences to do something with the intention of committing the offence and which is a step towards the commission of an offence, AIR 1961 SC 1698 (Abhayanand Mishra).

Section 304 of I.P.C. provides for punishment for culpable homicide not amounting to murder, for which the punishment prescribed is imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act in which the death if caused is done with 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, or with fine, or with both, 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.

Section 307 of I.P.C. deals with attempt to murder, for which the punishment prescribed is 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 herein provided. When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

Section 308 deals with the offence of attempt to commit culpable homicide, for which the punishment prescribed is imprisonment of either description for a term which may extend to 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.

Both Sections 307 and 308 are expressed in similar language. An attempt to commit culpable homicide is punishable with imprisonment for a certain period and therefore but for its being expressly made an offence under Section 308, it would have fallen under Section 511, which applies to all attempts to commit offences punishable with imprisonment where no express provisions are made by the Code for punishment of that attempt. A person commit an offence under this section when he has an intention to commit culpable homicide not amounting to murder and in pursuance of that intention does an act towards the commission of that offence whether that act be the ultimate act or not, AIR 1961 SC 1782 (Om Prakash).

Section 310 of I.P.C. deals with the offence of "thug" for which the punishment prescribed under Section 311 is imprisonment for life, and shall also be liable to fine.

Section 324 of I.P.C. deals with the offence of voluntarily causing hurt by dangerous weapons or means, for which the punishment provided is imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 325 of I.P.C. provides for punishment for voluntarily causing grievous hurt, which is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. The ingredients of the offence are:

(1) Accused caused hurt.

(2) Hurt was grievous as specified in Section 320.

(3) Hurt was caused voluntarily.

Section 326 of I.P.C. deals with the offence of voluntarily causing grievous hurt by dangerous weapons or means, for which the punishment provided is 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.

Section 327 of I.P.C. deals with the offence of voluntarily causing hurt to extort property or to constrain to an illegal act, for which the punishment provided is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.. The ingredients of the offence are:

(1) Accused caused hurt.

(2) He did so-

  (a) for committing extortion, or

  (b) for compelling the doing of an illegal act, or

  (c) to facilitate commission of an offence.

Section 328 of I.P.C. deals with the offence of causing hurt by means of poison etc. with intent to commit an offence, for which the punishment prescribed is imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. The ingredients of the offence are:

Administration of poison with the –

(a) intention of causing hurt to such person;

(b) Knowledge of its likelihood to cause hurt;

(c) intention of committing or facilitating the commission of an offence.

Section 329 of I.P.C. deals with the offence of voluntarily causing grievous hurt to export property, or to constrain to an illegal act, for which the punishment prescribed is imprisonment for life, of imprisonment of either description for a term which may, extend to ten years, and shall also be liable to fine.

Section 332 of I.P.C. deals with the offence of voluntarily causing hurt to deter public servant from his duty, for which the punishment prescribed is imprisonment of either description for a term which may extend to three years, or with fine, or with both. The essential under this section are:

Hurt must have been caused to a public servant –

(a) while such public servant was acting in the discharge of his duty as such, or

(b) in order to prevent or deter him from discharging his duty as public servant, or

(c) in consequence of his having done or attempted to do anything in the lawful discharge of his duty as public servant.

Section 333 of I.P.C. deals with the offence of voluntarily causing grievous hurt to deter public servant from his duty, for which the punishment prescribed is imprisonment of either description for a term which may extend to ten years and shall also be .liable to fine. In a given case it was not disputed that the accused tried to trespass into the driver's cabin which was meant for the complainant's driver. While driving the bus or even while standing at the bus stand the driver was discharging his duties and if he tried to prevent the accused from committing trespass by entering into the driver's cabin he was undoubtedly acting in the due discharge of his duties as a driver of the bus belonging to the Transport Department. If despite of the attempt of the complainant to stop the accused from the driver's cabin the accused abused the complainant and gave him a kick which resulted in grievous injury, it cannot be said that this section has no application - AIR 1979 SC 1706 (Manamiya).

Section 369 of I.P.C. deals with the offence of kidnapping or abducting child under ten years with intent to steal from its person, for which the punishment prescribed is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 382 of I.P.C. deals with the offence of theft after preparation made for causing death, hurt or restraint in order to the committing of theft, for which the punishment prescribed is rigorous Imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 384 of I.P.C. provides for punishment for extortion, that is, imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 385 of I.P.C. deals with the offence of putting any person in fear of injury in order to commit extortion, for which the punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 386 of I.P.C. deals with the offence of extortion by putting any person in fear of death or grievous hurt, for which the punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 387 of I.P.C. deals with the offence of putting any person in fear of death or of grievous hurt, in order to commit extortion, for which the punishment prescribed is imprisonment of either description for a terms which may extend to seven years, and shall also be liable to fine.

Section 392 of I.P.C. prescribes, punishment for robbery, that is with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Section 393 of I.P.C. deals with the offence of attempt to commit robbery, for which the punishment prescribed is rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Section 394 of I.P.C. deals with the offence of voluntarily causing hurt in committing robbery for which the punishment prescribed is imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 395 prescribes punishment for the offence of dacoity, that is imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

Section 396 of I.P.C. deals with the offence of dacoity with murder, for which the punishment

prescribed is death, or imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 397 I.P.C. deals with the offence of robbery or dacoity, with attempt to cause death or grievous hurt, for which the punishment prescribed is imprisonment to be not less than seven years.

Section 398 of I.P.C. deals with the offence of attempting to commit robbery or dacoity when armed with deadly weapons, for which the punishment prescribed is imprisonment to be not less than seven years.

Section 399 of I.P.C. deals with the offence of making preparation to commit dacoity, for which the punishment prescribed is rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Section 402 of I.P.C. deals with the offence of assembling for the purpose of committing dacoity, for which the punishment prescribed is rigorous imprisonment for a term which may extend to seven years. and shall also be liable to fine. The ingredients of the offence are:

ROBBERY

(1) Accused committed theft (ingredients of theft to be proved).

(2) He caused or attempted to cause to some persons-

  (a) death, hurt or wrongful restraint;

  (b) fear of death or of instant hurt or instant wrongful restraint;

(3) He did so as above-

  (a) in committing such theft, or

  (b) in order to commit such theft, or

  (c) in carrying away or attempting to carry away the property obtained by such theft.

(4) Accused acted voluntarily as in (2) above.

OR

(1) Accused committed extortion (ingredients thereof to be proved).

(2) He was, at the time of committing it, in the presence of the person so put in fear.

(3) He committed it by putting that person or some other person in fear of instant death. or of instant hurt. or of instant wrongful restraint.

(4) He thereby induced the person so put in fear to deliver up then and there the thing extorted.

WHEN THEFT IS ROBBERY

(1) The property in question is movable property.

(2) In possession of a person.

(3) Accused moved it without the consent of the said person.

(4) Moved it out of his possession.

(5) Intended to commit wrongful loss to the person who had possession of it, and wrongful gain to himself.

(6) The accused caused or attempted to cause death or hurt or wrongful restraint to any person.

(7) Such actions were voluntary.

(8) He did so in order to commit theft or in committing theft or carrying away or attempting to carry away the stolen articles.

See decisions in AIR 1953 Sau 85 (Moghaji Nathaji); A.R 1955 Raj 147 (Jethiaya); AIR 1955 Cal

527 (Ram Bilas Singha Roy); AIR 1976 SC 1430 (Harish Chandra); AIR 1966 Orissa 95 (Nita Naik).

WHEN EXTORTION IS ROBBERY

(1) The extortioner put such person in fear of death, wrongful restraint.

(2) The extortioner was at the time of committing extortion then in the presence of such person.

(3) He did so intentionally.

(4) He thereby dishonestly included that person then and there to deliver up the thing extorted.

ATTEMPT TO COMMIT ROBBERY

(1) Movable property.

(2) Said property in possession of a person.

(3) Accused attempted to move it without the consent of that person.

(4) He did not succeed.

(5) The accused voluntarily attempted to cause death or hurt or wrongful restraint to any person.

(6) He attempted to do so in order to commit theft.

Robbery is an aggravated form of either theft or extortion. Theft is robbery if in order to commit theft or in committing theft, the offender for that end voluntarily causes or attempts to cause to any person instant death, instant hurt or instant wrongful restrain.

DACOITY

(1) The accused committed or attempted to commit robbery.

(2) Persons committing or attempting to commit robbery, and persons present and aiding must not be less than five.

(3) All such person should act conjointly.

There is no difference between robbery and dacoity except in the number of offenders. Robbery is dacoity if the offenders committing robbery are five or more in number. The essential ingredient of the offence is the co-operation of five or more persons to commit or attempt to commit robbery. Conviction under circumstantial evidence - See decisions in AIR 1978 SC 522 (Baiju) ; AIR 1981 SC 1388 (Lakshman Prasad); AIR 1956 SC 400 (Wasim Khan).

For Section 457, I.P.C. *see* under Rule 79.

Section 458 of I.P.C. deals with the offence of lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint and the punishment prescribed therefore is imprisonment of either description for a term which may extend to fourteen years and shall also be liable to fine. The ingredients of the offence are:

(1) The accused committed lurking house-trespass by night or house breaking by night.

(2) The accused did so after making preparations for-

(a) causing hurt to any person;

(b) assaulting any person;

(c) wrongfully restraining any person;

(d) putting any person in fear of hurt;

(e) putting any person in fear of assault;

(f) putting any person in fear of wrongful restrain.

Section 459 of I.P.C deals with the offence of causing grievous hurt whilst committing lurking house-trespassing or house-breaking, for which the punishment prescribed is imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. The ingredients of the offence are:

(1) The accused committed lurking house-trespasser house-breaking.

(2) Whilst committing the said offence the accused caused grievous hurt to any person or attempted to cause death or grievous hurt.

Section 460 of I.P.C. deals with the offence where all persons jointly concerned in lurking house-trespass or house-breaking by night punishable with death or grievous hurt cause by one of them, for which the punishment prescribed is 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. The ingredients of the offence are:

(1) Two or more persons are jointly concerned in committing lurking house-trespass or house-breaking by night.

(2) One or more such persons committed or attempted to commit murder or grievous hurt.

(3) That such persons were engaged in committing lurking house-trespass or house-breaking by night.

For Sections 109 and 11 0 of the Code of Criminal Procedure and the full text thereof refer to notes under Rule 13.

128. Procedure for making P. R. convicts P. R. T. and their release from Jail.

l. In the following cases a P. R. convict should be made P.R.T.-

(a) Unidentified persons.

(b) Convicts on whom orders under Section 565, Cr. P. C., have been passed.

(c) Desperate or habitual criminals who are foreigners to the district and not come under the foregoing clauses, if their transfer is thought fit by a Superintendent of Police.

(d) Deleted.

The P. R. slips of these persons should be marked accordingly so that they may be transferred for release to the jail or sub-jail situated at the headquarters of the district or sub-division in which they reside or were convicted, which in each case should be mentioned in the slips with a view that necessary measures may betaken for the watching of the convicts movement on their release. Whenever, the residence of any unidentified P. R. convict is ascertained after conviction, the Superintendent of Police of the district in which the person was convicted should issue a revised P. R. T. slip to the jail to ensure the transfer of the convict to his native district for release. If however the residence of the convict is verified shortly before his release from jail and there is no time for transfer, the date and place of release should be telegraphed to the Superintendent of Police of the convict's native district to enable him to take such steps as he may consider necessary to prevent the man being lost sight of after release.

2. Jail of release of P. R. T. and $\frac{\text{P. R. T.}}{565}$----------prisoners

(a) When a convict has no fixed residence, the jail of release should be that of the district in which he was last convicted. But in case of a person who has never been previously convicted or of a member of a wandering gang the jail of release should be the jail of the district in which he was sent up for trial.

(b) A prisoner on whom orders under Section 565, Cr. P. C. have been passed should be released from the jail of the district in which he declares his intention to reside.

(c) A tea garden labourer who on conviction is liable to be made P. R. ·T. should be released from the jail or sub-jail of the district or sub-division, respectively, in whose jurisdiction his garden is situate if he wishes to return to the garden unless the authorities thereof refuse to take him back in which case he should be released from the jail of his native district unless he has abandoned his original domicile as laid down in clause (d). If the labourer is convicted in the district or sub-division from the jail or sub-jail, respectively, of which he is to be released he should be made P. R. and not P. R. T.

(d) P. R. T. convicts who have left their native districts and have become permanently domiciled, in some other district, should be transfer red (if the district of conviction is different from the district of domicile) for release to the jail or sub-jail of the district of domicile and not to those of the district of original residence. If however a man is convicted in the district or sub-division from the jail of which he is to be released on account of his permanent domicile he should be made P. R. and not P.R.T.

If any convict who is to be made P. R. for his local release under this and the foregoing clause has been first made a P. R. T. a revised P. R. slip may be issued when necessary.

(e) Deleted.

(f) Prisoners who are inhabitants of Sikkim, Bhutan or Nepal, should be released from the jail nearest their homes. The P. R. slip of such prisoners should be sent to the police of such States for information.

(g) All P. R. T. prisoners other than those mentioned above, if identified, will be released from the jail of their native district. Only in the case of P. R. T. convicts (except those against whom orders passed under Section 365, Cr. P. C. have been passed) the name of the jail of released be noted against heading 5 of the P. R. slip.

(h) If a P. R. T. prisoner is unfit, by reason of sickness, for transfer, the fact will be communicated by the jail authorities by letter, to the Superintendent of Police of the district to which the prisoner belongs, a copy of the letter being sent to the local police for information. If the Superintendent of the jail has reason to believe, six weeks before a prisoner's date of release, that he will not be fit for transfer, he will send a notice of this to the Superintendent of Police of the district to which the prisoner was to be transferred.

(i) Should any such prisoner become subsequently fit for transfer before the date of release, he will be at once transferred but if, when only a fortnight remains, he is still unfit, a note of the fact will be made in the release notices which are made over bi-monthly to the Superintendents of Police. If obliged, through illness, to remain in jail up to the date of his release, the prisoner should be released at the jail gate, timely notice being given in writing to - the local police, as well as to the police of the district to which the prisoner would have been transferred, had he not been unfit.

129. Finger impressions of P. R. prisoners when to be taken.

(a) The finger impressions of P. R. prisoner on record slips should be taken as soon as practicable after P. R. order is passed and before such prisoners ate transferred from the jail of the district of conviction.

(b) If in any case a P. R. prisoner is transferred to the jail of another district before being made P. R. the P. R. slip of such prisoner should be sent to the Superintendent of Police of the district to which he is transferred who will have the slip completed and the prisoner's finger impressions taken and tested. These facts should be communicated to the Superintendent of Police of the district of conviction wherefrom the prisoner is transferred.

(c) If a prisoner, who is made P. R. is transferred to the jail of another district before his finger impressions have been taken, the slip should be sent immediately to the Superintendent of Police of the

district to which the prisoner has been transferred in order that his finger impressions may be taken there. (See clause A of Rule 131 for the procedure of testing of these slips and their-return to the Superintendent of Police of the district of conviction).

(d) If a person is convicted of an offence for which he is liable to be made P. R. and the sentence imposed (e.g., fine, whipping or short period of imprisonment) is such that he will have been released from custody before the P. R. order is passed by the Superintendent of Police, the finger prints should be taken and tested by the court office proficients or experts immediately after sentences is passed and the slips submitted to the Superintendent of Police for orders whether they are to be forwarded or - not to the Finger Print Bureau for permanent record. The ordinary method of preparation and testing of slips will not be applicable in these cases and a note should be made of it by the officers concerned on the slips. If the Superintendent of Police does not pass orders declaring the prisoners P. R. the slips should be destroyed.

Note - In case the prisoner is transferred to another jail in the same district the correspondence regarding P. R. should be made directly with the court officer concerned.

130. Preparation and despatch of record slips to the bureau.

(a) *Duty and responsibility of the officer preparing the slips* - The print of both the hands of a convict should-be taken by a certified proficient or expert on the record slip [Form No. 128, Schedule XL(A) (Part I)] in the space provided for the purpose after which the latter should write down his name, rank, district and the place and date of taking the prints at the bottom. The subject's name, residence and other details as well as his convictions should be put down on the reverse of the form and the subject should then sign his name or, give his left thumb (rolled) impression, if unable to write. The officer taking the prints is responsible not only for the impressions, but also for the correctness of the convictions and other details entered on the slip. The sentence and the previous convictions, if any, must be verified from the judicial records, and the personal details of the convict from the court officer's and the Jail records. Convictions which cannot be judicially proved as previous convictions under Section 75, I. P. C., or those which are admissible within the meaning of Section 75, I. P. C., or Section 565, Cr. P. C., but are not proved for any reason should also always find entry in the record slip. After preparation of the slip the officer will put his signature in full at the bottom of certificate No.1 which is a guarantee for the correctness of the convictions and other details.

NOTES

Section 565 of the old Code correspond to Section 356 of the 1973 Code-for text see under Rule 124.

After having prepared as many record slips as are required under the rules, the proficient or expert will note the words "F. I. taken with his initial and date",

(i) on the back of the P. R. slip;

(ii) against the prisoner's name in the jail admission register; and

(iii)on the history ticket.

(b) Note on the top of the record slip - (i) of "Identified" or "Unidentified" convicts:-

When the convict is identified the word "Identified" and when he remains unidentified, the word "Unidentified" must be stamped in red ink on the top of the record slip on the side containing the prints,

(ii) of female convicts:-

The impressions of a female convict should be taken before a gazetted officer, preferably the trying court, if possible. If the impressions are to be taken in the jail the expert or proficient should go to the female enclosure in company with the jailor and there take the prints in the presence of the female warder, the female convict overseer (where such exists) or the female companion, if any, in charge. The word "female" should be noted on the slip as above.

Note. - In testing a female's slip also the above procedure should be followed.

(iii) of "Reconvicted prisoners":-

On the reconviction of a P. R. prisoner, as many fresh record slips as are required by the rules will be prepared and the word "Reconvicted" stamped on each copy in red ink on the side which contains the prints. Care should be taken that all previous convictions are entered chronologically.

(c) *Number of record and P. R. slips to be prepared* - (i) Ordinarily one record slip and one P. R. slip will be prepared for each P. R. convict. In the cases however, where the record slips are also to be submitted to the bureaux of other provinces as laid down in the sub-clause below, one extra slip is to be prepared for each bureau.

(ii) Record slips after being tested should be submitted to the bureau or bureaux by the court police of the district of conviction before release as follows:-

(1) to the Finger Print Bureau, Shillong;

(2) to the Bureaux of the province of which the persons are or are alleged to be residents ;

(3) to the Bureaux of the provinces where their operations are known or believed to extend, the name of the several bureaux where the slip has been sent for record, being noted in each copy of the finger print slip.

The record slips must be submitted to the Finger Print Bureau before the release of the prisoner from jail, but after the time of appeal is over or the appeal, if any, has been decided. In case the order of a court of appeal or revision setting aside or altering a sentence is received after the submission of the record slip to the bureau or bureaux the fact should at once be communicated to the bureaux concerned for the necessary correction of the slip.

(d) *Record slips returned as unfit for record* - If a record slip is returned by the bureau as unfit for record, the Superintendent will without delay have the slip completed, corrected, or a fresh slip prepared, and will take suitable notice of the carelessness on the part of the "proficient" or "expert" in sending an incomplete or incorrect slip to the bureau. Such negligence must on no account be overlooked.

131. Testing of record slips.

A. *Slips pending test to be kept in open files*. - All finger print slips taken for record in the bureau will be kept by the court officer in open files arranged according to the dates of release pending test which must be done by an expert deputed from the Finger Print Bureau 'or in case of emergency by a local expert or proficient before despatch to the Finger Print Bureau. The record slips of prisoners who have been transferred to other jails before their slips have been tested should be sent to the court officer if the transfer was to another jail within the same district, or to the Superintendent of Police if the prisoner was transferred to another district. These slips will be placed by the court officer in his "pending test" file and after test and expiry of the appeal time be returned to the Superintendent of Police of the district of conviction for transmission to the Finger Print Bureau as required by the rules.

B. *Method of testing the slips*. - (l) The test should take place in the jail when the prisoner is sentenced to imprisonment and the testing officer should satisfy himself at the outset that the prints are those of the convicts named in the slips.

(2) The plain impressions should invariably be compared with the rolled impressions with a view to seeing if the latter have been taken in their proper sequence.

(3) All the rolled impressions should be examined to ascertain if the complete contour of the bulbs of the fingers has been impressed.

(4) The following points in impressions should be examined:-

(a) In case of loops

(i) The delta by bifurcation or by divergence;

(ii) Ridges from the core to the delta for ridge, counting;

(iii) Ridge characteristics, if any.

(b) In case of whorls -

(i) The two deltas on two sides and cores;

(ii) The edges from one delta to another for ridge tracing;

(iii) Ridge characteristics, if any.

(c) In central pocket loops - Whether cores and deltas have clearly been impressed.

(d) In lateral pockets and twinned loops whether their central ridges and deltas have been clearly impressed so that their differentiation may be ascertained.

(e) In case of arch - whether the impression is sufficiently clear to enable the bureau to trace curving ridges from one side to another.

(f) In case of tented arch whether the ridges near the middle and the adjoining ridges are distinctly impressed for examining recurving ridge on either side of the axis.

When the testing officer has satisfied himself as regards all these particulars, he should write his name against the entry "impressions tested by". After examining the name, parentage, residence, etc., of the subject, he should go through the convictions noted on the slip and see whether they have been entered in accordance with the entries on the warrant of commitment and High Court Criminal Form No. 38. When fully satisfied with the correctness of all these entries, he will put his signature in full at the bottom of Certificate No. 2 of the record slip [Form No. 128 of Schedule XL(A) (Part I)].

The testing officer should also see whether the required number of slips have been taken. Any mistake should be brought to the notice of the Superintendent of Police for necessary action. Record slips of which the prints are blurred or indistinct should be replaced by fresh slips prepared by the expert or proficient. After having· tested the slips the expert or proficient will note the word "tested" with his initials and date –

(i) on the back of the P. R. slip,

(ii) against the prisoner's name in the jail admission register, and

(iii)on the history ticket.

C - *Procedure to be followed on the visit of a touring expert* - When an expert from the bureau visit a district for inspection the court officer will send a list of the convicts whose slips are to be tested by the expert to the jailor who will thereupon keep the convicts ready along with the P. R. slips, history tickets, warrants and other connected papers for the expert's inspection.

When an expert visit a district or sub-divisional jail on a day other than Sunday (jail parade day) he will obtain orders from the Superintendent of the Jail for admission therein.

D - *Testing of record slips of prisoners likely to be released before visit of touring expert* - Besides the testing of slips of the prisoners quickly passing out of custody as in clause A, pending record slips should be tested by the local proficients or experts when the prisoners are likely to be transferred to jails of other districts or to be released before the next visit of the touring expert from the bureau.

132. Issue of P. R. Slips.

(i) As soon as the Superintendent of Police has passed P. R. or P. R. T. orders regarding a convict on the final memorandum of the case, a P. R. slip should be prepared in Form No. 133 of Schedule XL (A) (Part I) by the court police and sent to the jail where a convict is confined, to be attached to the prisoner's warrant of commitment. Duplicate P. R. slips shall be issued in the case of persons convicted of

offences under Sections 395, 396, 397, 399, 400, 401, 402 and 412, Indian Penal Code, and other inter-district and inter-provincial habitual criminal who are likely to revert crime after release, one being marked in red ink for the Criminal Investigation Department.

After the appropriate columns have been filled in by the jail authorities, these slips will serve as the notices of release from the jail. In cases in which a P. R. slip is prepared, but the convict is not sent to the jail the slip should be filed at once in the court office. The annual serial number and year of issue of the P. R. slip should be noted in column 15 of the court conviction register.

(ii) On the 1st and 16th of every month court officers will send to the local jail (district and sub-divisional) for the release notices of convicts to be released during the following half month, and a list of prisoners who have died during the preceding half month.

In the case of a convict against whom an order under Section 565, Criminal Procedure Code has been passed, the Superintendent of the transferring jail, after filling up the particulars of the, proposed residences the date on which the convict is to be released with the name for the Jail of release in the P. R. T. slip will send it together with the statement of the convict under [Section 565, Criminal Procedure Code][1] to the Superintendent of the receiving jail, at least six weeks before the date fixed for his release. The Superintendent of the Jail from which the convict is to be released shall immediately forward it to the Superintendent of Police of the district where the prisoner will be released for necessary action.

(iii) When a P. R. prisoner is released before the expiry of his sentence, and there has been no time to include his name in the fortnightly return, a notice of his release should at once be sent to the Superintendent of Police by the Superintendent of jail in which the prisoner is confined. Release notices of convicts about to be released will be sent to the Superintendent of Police of the district in which the prisoners were convicted, a record being kept in the counterfoil in case they are P. R. slips.

(iv) Delay on the part of jail authorities in carrying out the above orders will invariably be brought to the notice of the Superintendent of Police who will, if necessary, report the matter to the Inspector General of Police for action.

(v) On receipt of a release notice from the district jail or from a sub-divisional court office, the headquarters court officer will check it with Part IV of the jail parade report (*vide* Rule 134) and enter it in the release notice register under a consecutive serial number. Release notice registers not being kept up at sub-divisions, sub-divisional court officers will forward the notices to the headquarter court officer for necessary action. After the release notice has been entered in the register it will be issued to the police station within which the convict resides, with orders to the officer-in-charge to report a week after the expiry of the prisoner's sentence whether he has returned home or out. Before however, issuing the release notices to tile police stations, those of railway and river criminals should "be copied and copies forwarded to the Superintendents of Railway and River Police concerned. On their return from the thanas, the notices should be filed in monthly bundies, and in case of P. R. slips they should be pasted to the counterfoils.

(vi) In every P. R. slip book there will be two blank pages, which will be divided into twenty parts for showing twenty different years of release.

(vii) On the issue of a P. R. slip to the jail, the number of the slip should be noted in the blank pages of the P. R. slip book against the year in which the convict is to be released. At the end of each year the slips for the period should be separated and separately filled year by year. When a new book is opened at the commencement of the year, the counterfoil of the P. R. slips of the convicts who are to be released during the year should be stitched into the book.

(viii) The P. R. slips (both the foils) should be divided into .two classes, viz., (a) of ordinary convicts and (b) of convicts against whom an order under Section 565, Criminal Procedure Code, has been passed. The former will be destroyed one year after release of the man from jail, and the letter five years after release.

NOTES

[1] Correction Slip No. 25, dated 19-3-37

Section 565 of the old Code corresponds to Section 356 of the New Code-for full text see under Rule 124.

(ix) Superintendent of jails, shall, not later than the first week of each month, send to the Special Superintendent of Police, in charge of the Criminal Investigation Department, direct, after filling in the release portions, the duplicate P. R . slips issued under clause (i) of the rule who are due for release in the following month.

On receipt of the intimation the Criminal Investigation Department will arrange for photographing, before their release, all convicts whose criminality extends beyond their native districts and shall prepare and publish in the Criminal Intelligence Gazette illustrated release notices, reproducing their photographs and containing a brief history of their career and antecedents.

133. Despatch cheque to accompany P. R. slips and record slips.

(1) In transmitting P. R. slips to the Superintendent of Jailor Police of any district for action or in sending the record slips to any Finger Print Bureau for record or the Superintendent of Police of any district or any court officer for testing, despatch cheques [Form No. 126 of Schedule XL (A) (Part I)] should be used and the slips should be accompanied by the middle and outer foils thereof.

(2) The outer foil should be returned as an acknowledgment of receipt of the slips and the middle foil retained by the receiving officer and filed in yearly bundles according to the consecutive number of the cheques.

(3) At the time of sending the record slips to the bureax the number of the cheque together with the date of its despatch and the names of the bureax where the slips have been sent for record should be noted in Column 15 of the court conviction register in red ink.

(4) On receipt of the outer foil in a court office from the Finger Print Bureau the classification number of the slips noted by the bureau should be correctly copied into Column 15 of the court conviction register against the name of the convict concerned in red ink.

134. Jail parade as a check on P. R. and F. P. system.

(a) A jail parade will be held every Sunday morning at all sub-divisional and district jails. It should be conducted by the court officer himself, or in his absence by such officer as the Superintendent of Police selects who will be assisted by as many of the court staff as he requires. All officers should be present at the jail punctually at 7.30 a.m. The district jail parade should be supervised at least once 'a month by a gazetted police officer, and all officers and constables stationed at headquarters, not exceeding seven in all at one time, should attend the parade in rotation so as to commit to memory the faces of as many prisoners as possible.

(b) An Assistant Sub-Inspector will be told off to the jail at 2 p.m, every Saturday to fill in Columns 1 to 5 of the Jail parade report [Form No. 130 of Schedule XL (A) (Part I). He should collect the P. R. slips, history, tickets, warrants, and other connected papers of each prisoner to be parade on the following day and arrange them in the order in which the prisoners' names appear in the jail parade report. He will particularly see that the names of all prisoners liable to be made P. R. and admitted to the jail up to the preceding Friday are entered in the jail parade report.

(c) As soon as all the prisoners to be paraded have been assembled on Sunday morning the court officer will fill in the columns of the jail parade form, the jail admission register, the jail release diary, the file of jail warrants and other connected papers which should include the release; notice and the prisoners' history ticket.

(d) In case of a prisoner marked P. R. the number of the P. R. slip should be noted under the P. R. entry in Column 4 of the jail parade report.

(e) The court officer should see that the entries in the jail admission register and history tickets tally with those on the back of the release notices, and should enter from the latter, in the jail parade report any information not contained in the above register.

(f) In case of a prisoner admitted by transfer it should be seen if a P. R. slip has been received if the man is liable to be made P. R. If no slip has been received or if any P. R. or P. R. T. convict has not had his finger prints taken or tested the court officer should at once report the fact to the Superintendent of Police who will refer the matter to the Superintendent of Police of the district of conviction. If the prisoner was transferred from another jail within the same district the court officer of the place of conviction should be referred to district. In case of impending release the court officer should, however, before making the reference prepare as many finger print slips of the mail as are required for record under the rules. If his finger print slips have already been prepared by the district of conviction these may be destroyed.

(g) In case of prisoners transferred to other jails, the court officer should see that the P. R. prisoners not made P. R. before transfer, and of P. R. prisoners whose finger prints have not been taken or are awaiting test, are at once transmitted to the authorities concerned.

(h) As a check on the due receipt from the jail of release notices for transmission to the police stations, the number and date of receipt of the release notices should invariably be noted against all impending releases in Column 9 of the jail Parade Form, Part IV.

(i) The jail parade report should be put up before the Superintendent of Police, if possible, on the following Monday morning so that necessary orders may be passed early in the week to allow of ample time for their execution before the next report fails due. As soon as all orders passed have been carried out the jail parade report should again be put up before the Superintendent of Police who will compare the entries in Columns 7 and 9 of the report and satisfy himself that all action has been taken. Thereupon, the report should be filed in the Superintendent of Police's office.

(j) Besides giving a chance to police officers to make themselves familiar with the appearance of known criminals the object of the jail parade is to enable the Superintendent of Police to know what prisoners have been newly admitted into jail, thus affording him an opportunity of correcting any omission in regard to habituals and others who might have escaped being made P. R.

Note. - Sub-classification of "Accidentals" in which more than 2 deltas occur:-

"In tracing the ridge in “W by L” the deltas of the "Whorl" are to be taken while the delta of the "Loop" is to be ignored. In “L by W" the Central and Right deltas are to be taken while the Left delta of the "Whorl" is to be ignored. In "W by W" the deltas of the "Whorl" at the centre are to be taken."

Classification and sub-classification of damaged or missing fingers:-

"When the same digits of both hands are missing. they should be classified as "Whorl" and sub-classified as ‘I’s. If only one finger is missing, it should be classified and sub-classified according to the corresponding finger of the other hand.

Combinations of A (arches) falling in both Index fingers will be arranged in the following order.

(1) A, (2) aA, (3) Aa, (4) A-a, (5) A - - a, (6) aAa, (7) aA - a, (8) aA - - a, (9) A2a, (10) Aa – a, (11) A - 2a, (12) aA2a, (13) aAa - a, (14) aA - 2a (15) A3a, (16) aA3a.

(1) Index, (2) Thumb and Index, (3) Index and Middle, (4) Index - Ring. (5) Index - - Little, (6) Thumb Index – Middle, (7) Thumb Index – Ring, (8) Thumb Index – Little, (9) Index Middle and Ring, (10) Index – Middle - Little, (11) Index - Ring Little, (12) Thumb Index Middle Ring, (13) Thumb Index Middle - Little, (14) Thumb Index - Ring Little, (I5) Index Middle Ring Little, (16) Thumb Index Middle Ring Little.

Groups of *t* and *r* falling in any fingers except Index will be placed immediately after their a groups.

The other combinations of T, R, U, and W will also be arranged in the same order.

Method of Sub-classification

Whorls - I, M, O, according the ridge tracing.

Loops - I, O, viz. – Thumb - up to 18 ridges - l and upwards O.

Index finger - up to 9 ridges - I and upward O.

Middle and Ring fingers - up to 10 ridge - I and upwards O.

Thus there will be the following divisions of records and the slips will be arranged in the order noted below ;-

In both numerators and denominators

1. L = I, O.
2. L = II, I0, OI, OO.
3. L = III, IIO, IOI, IOO, OII, OIO, OOI, OOO
1. W = I, M, O.
2. W = II, IM, IO, MI, MM, MO, OI, OM, OO.
3. W = III, IIM, II0, IMI, IMM, IMO, IOI, IOM, IOO, MII, MIM MIO, MMI, MMM, MMO, MOI, MOM, MOO, OII, OIM, OIO, OMI, OMM, OMO, OOI, OOM, OOO

LW = II, IW, IO, OI, OMM, OO.

WL = II, IO, MI, MO, OI, OO.

LLW = III, IIM, IIO, IOI, IOM, IOO, OII, OIM, OIO, OOI, OOM, OOO.

Either in numerators or denominators

1. Ridge counting of loops or ridge tracing of whorls (as the case may be) in the Index fingers.
2. Ridge counting of loops or ridge tracing of whorls (as the case may be) in the Index and Middle fingers.
3. Ridge counting of loops or ridge tracing of whorls (as the case may be) in the Index, Middle and ring fingers.

T3 Ridge counting of loops in the Thumb, Index and Middle fingers.

Note. - Fingers of right hand will be taken in numerators while those of left hand in denominators.

1. At the right-hand side of the fraction = ridge counting of loops or ridge tracing of whorls (as the case may be) in the right little finger.

2. At the right-hand side of the fraction = the first finger as above and second finger will be the ridge counting of either of the following (if loops) taken in the following order of precedence.

(1) Right Ring, (2) Right Thumb, (3) Left Little, (4) Left Ring and (5) Left Thumb.

If however Ring fingers have been taken in the sub-classification already - the ridge counting of the next loop finger according to the above order of precedence will be taken.

Ridge counting or tracing (as the case may be) will be noted on all fingers which are taken in sub-classification except in $\frac{1}{1}$ ridge counting of all loops will be noted.

Sub-classifications of combinations

$$\frac{1\ A\ T\ 2}{---,\ -----,\ -----} = \frac{----1}{----} = \frac{\text{Ridge counting of right Middle and Ring fingers}}{\text{Ridge counting of left Middle and Ring fingers}}\times$$

Counting of right Little finger.

1 R U 2 Ridge counting of right Index and Middle fingers
---, ---, ---- = ---- 1 = ----------x
1 A , T 2 Ridge counting of left Middle fingers

1 A T 1 Ridge counting of right Middle finger
---, ---, ---- = ---- 1 = ----------x
1 R , U 2 Ridge counting of left Index and Middle fingers
counting of right Little finger.

9 9 A T I Ridge counting of right Middle finger
---, --- ---,= ----I = ----------x counting
1 2 A T I Ridge counting of left Middle finger
of right Little finger.

9 9 R U 2 Ridge counting of right Index and Middle fingers
---, --- --- = --- ---I = ----------x
1 2 A T I Ridge counting of left Middle finger
counting of right Little finger.

9 9 A T I Ridge counting of right Middle finger
---, ---, ---, --- = ---I = ----------x
1 2 R, U 2 Ridge counting of left Index and Middle fingers
counting of right Little finger.

Lettered combinations of $\frac{I,}{I}$ $\frac{9,}{I}$ $\frac{9}{2}$ will be arranged by ridge counting in the right Little finger, if it is loop otherwise of right Thumb in case it is loop; failing both these to be loops not further sub-division will be made.

In all other pigeon holes in which sub-classifications have been made the slips of $\frac{A, T, R, U,}{A}$ $\frac{A, T, R, U,}{T}$ $\frac{A, T,}{R}$ $\frac{A, T}{U}$ and of only A or T whether in numerator or denominator (without lettered combinations) will be arranged by ridge counting in the right Little finger if it is loop.

APPENDIX I

Registers in Connection with P. R. Systems

(a) The following registers and forms will be maintained at the sadar court offices in connection with finger print work:-

No.	Name of registers and files	Order with regard to preservation and destruction
1	2	2
1	The register of unidentified persons [Form No. 127 of Schedule XL (A) (Part	To be destroyed after two years.
2	File book of death statements [Form No. 132 Schedule XL (A), (Part I)]	To be destroyed after five years
3	Despatch cheque books [Form No. 126 of Schedule XL(A), (Part I)].	Ditto ditto
4	P.R. Slip book [Form No. 133 of Schedule XL(A), (Part I)]	*Vi* Rule 132
5	Release notice book [Form No. 134 of Schedule XL(A) (Part I)]	To be destroyed after one year

(b) The following registers and forms will be maintained in the Finger Print Bureau:-

No.	Names of registers and files	Order with regard to preservation and destruction
1	2	3
1	Register of search slips received [Form No. 13 of Schedule XL (A), (Part II)].	To be destroyed after five years.
2	Register of traced cases [Form No. II of Schedule Xl (A), (Part II)].	Permanent.
3	Register of F. P. slips received for record [Form No. 15 of Schedule XL (A), (Part II)].	ditto.
4	Index register of record slips [Form No. 12 of Schedule XL (A), (Part II)].	ditto.
5	Death statement of P. R. convicts [Form No. 132 of Schedule XL (A), Part I)].	To be destroyed after five years.
6	File of search slips [Form No. 10 of Schedule XL (A), (Part II)].	To be destroyed after one year.
7	Register of cases in which experts were employed [Form No. 16 of Schedule XL (A), (Part II)].	Permanent.
8	Register of despatch of record slips requisitioned for evidence [Form No.212 of Schedule XL (A), (Part I)].	ditto.
9	Register of exhibits received in the Bureau for expert opinion [Form No. 213 of Schedule XL (A), (Part I)].	ditto.
10	Register of proficients and experts [Form No. 17 of Schedule XL (A), (Part II)].	ditto.

APPENDIX A

(Rule 66)

Books, Registers and Files to be kept in the Court Office

No.	Names of register or file	Authority under which kept		Remarks
		Rule	Part	
1	2	3	4	5
1	General register of cases cognizable by police	67	IV	Is a record of the magistrate's court and must be sent to the magistrate's record room for disposal according to. High Court Circular No.6 of 1865.
2	Final memoranda of cases	74	IV	Three years
3	*Khatian* or compilation register	77	IV	
4	Register of appeals	80	IV	
5	Conviction register	81	IV	Permanently
6	Quinquennial index of conviction register	83	IV	
7	Register of cases committed to sessions	88	IV	Three years
8	Register of processes dealt with by police	89	IV	Is a record of the magistrate's court and must be sent to the magistrate's record room for disposal under the High Court rules.
9	Register of *hajat* and undertrial prisoners	55	IV	Three years
10	Register of *malkhana* property.	63	IV	Permanently
10-A	Arms Register of the court *malkhana*	64-A	IV	Permanently
11	Register of unimportant cases in which the first information report is not used	73	IV	Seven years
11-A	Magistrate's Register of unnatural deaths	73-A	IV	Seven years
12	Bail and recognizance register	42	IV	To be destroyed on completion

13	Peon book	..	..	Three years
14	Receipt book of money, property and prisoners	90	IV	Ten years
15	Register of papers received	91	IV	
16	Register of papers despatched	91	IV	
17	Inspection book	..	..	Permanent
18	Counterfoil book of receipts	92	IV	Three years

FILES

1	File of verification rolls	..	..	Three years
2	File of daily returns	..	..	
3	File of weekly returns	..	..	
4	File of half-yearly returns	..	..	
5	File of annual returns	..	..	
6	File of circular and circular memoranda	..	..	Permanently
7	File of *Police Gazette*	..	..	Ten years
8	File of *Supplement to Police Gazette*.	..	..	Permanently

N. B. - In the hill districts court officers will also keep up the following registers - (l) Magistrate's order hook, (2) Daily cash book (3) Register of fines, (4) Subsidiary register of outstanding fines, (st Monthly balance sheet of fines. In all other districts these registers are kept up by the magitrate's office - Circular No.4 of 1907.

APPENDIX B

APPENDIX B

Sample Key

To the alphabetical index of the court conviction register (Rule 85)

Examples.	Range of pages.	Initial letter groups	Consonants terminating first syllable of name, with range of search													
			b or bh	*c or ch*	*d or dh*	*g or gh*	h	j or jh or z	k or kh	l	m	n	p or ph or f	r or rh	s or sh	t or th
Abdul huq ..	11-78	A, E, I, U, V, W, Y, Vowel group	bd*11-18 b or bh 19-22	23-24	25-30	31-32	33-34	35-38	39-42	43-46	47-54	55-60	61-62	63-66	67-72	73-78
Binod bihari ..	79-114	B or Bh	79-82	83-86	87-93	93-96	97-102	103-104	105-110	111-118	119-120	121-128*	129-130	131-134	135-140	141-144
Charoo chandra	145-166	Ch or Chh	145	-	-	-148	149-	-	-	-152	153-154	155-158	159-	-162*	163-	-165
Dukhi Ram ..	167-196	D or Dh	167-170	171-	-172	173-174	175-	-176	177-178*	179-180	181-182	183-	-188	189-92	193-	-196
Gauhar ali	197-228	G or Gh	197-198	199-	-200	201-	-*	-204	205-206	207-	-210	211-216	217-222	223-226	227-	-228
Hari charan ..	229-254	H	229	-	-	-	230-	231-	-232	233-	-235	235-	-236	237-250*	251-	-254
Zamen ali or lamen ali	255-280	J or Jh or Z	255	258	259-262	263-268	269-	-	-	-272	273-276*	277-280	281-282	383-284	285-	-286
Kodrat	287-340	K or Kh	287-290	291-292	293-300*	301-	-	-	304-	305-314	315-316	317-	-324	325-330	331-336	337-340
Lachman	341-358	L	341	-344*	345-	-	-	346	347-350	351-456	357-	-	-	-	-	-358
Maniruddin ..	359-414	M	359	362-	363-468	369-370	371-384	385-386	387-388	389-	-392	393-402*	403-	-406	407-408	409-414
Netai shaik "	415-438	N	415-418	419-	-420	421-	422-	423-	-424	425-	-426	427-	-428	429-432	433-434	435-438
Phakira or Fakira	439-468	P or Ph or F	439	-	-440	441-442	443-	-444	445-446*	447-450	451-	-	-454	455-464	465-466	467-468
Rustam	469-514	R or Rh	469	-470	471-472	473-474	475-476	477-480	481-	-482	483-506	507-508	409-	-510	511-512*	513-514
Sita nath	515-566	S or Sh	515-524	525-	528-	529-	-532	533-	-536	537-538	539-546	547-552	553-554	555-562	563-564	565-566
Tahoowar	567-589	T or Th	567	-	-	-	-*	568-	569-570	571-574	575-576	577-578	579-580	581-584	585-	-586

Explanation - The numerals are the page numbers of the court officer's alphabetical index register; the asterisks show the position in this register of the names given as examples.

The name *Lachman* will be found at page 344.

A number of pages are allotted in the register to each initial letter group, and this space is further divided soas to provide room for each of the groups of consonants terminating the first syllable of the name. If 66 pages are allotted to initial letter group (B. Bh), these 66 pages are thus subdivided; initial letter group (B. Bh), terminal consonant of first syllable (B, Bh), 4pages. Initial letter group (B, Bh) ; terminal consonant of first syllable (Ch. Chh) 4 pages, initial letter group (B.Bh); terminal consonant of first syllable (D. Dh), 6 pages, and so on.

The process of search for names may be thus illustrated. *Abdul*: first letter is a vowel, so reference must be made to the vowel group; and to the subdivision (B. Bh), of the group as the terminal consonant of first syllable of the name is b.

Dukhi - Reference is first made to the (D. Dh) group and then to the (K. Kh) subdivision, as kh is the terminal consonant of the first syllable of name. *Hari* - Reference is first made to the H group and then to the (R. Rh) subdivision, as r is the terminal consonant of the first syllable of name.

Alphabetical List of the Districts in India

(Not Printed)

N. B. - Not printed for having become infructuous after Independence and the list needs to be thoroughly revised.

A List of Indian States and the British Jails Situated Nearest to them

I.Having Political Relations Direct with the Government of India

(Not Printed)

II. Having Political Relations Direct with the Government of Fort St. George (Madras)

(Not Printed)

III. Having Political Relations Direct with the Government of Bombay

(Not Printed)

IV. Having Political Relations Direct with the Government of the United Provinces of Agra and Oudh

(Not Printed)

V. Having Political Relations Direct with the Government of Punjab

(Not Printed)

VI. Having Political Relations Direct with the Government of Burma

(Not Printed)

VII. Having Political Relations Direct with the Chief Commissioner of the Central Provinces

(Not Printed)

VIII. Having Political Relations Direct with the Government of Bengal

(Not Printed)

IX. Having Political Relations Direct with the Chief Commissioner of Assam

(Not Printed)

N. B. - Not printed for having become infructuous after Independence and the list needs to be thoroughly revised.

List of Criminal and Suspected Criminal Gang

(Not Printed)

List of Criminal Tribes Declared in the Province of Assam under the Criminal Tribes Act

(Not printed as the Criminal Tribes Act has since been repealed)

FORM REFERRED TO IN PART IV- SECTION I

(COURT OFFICE)

Serial number in schedule	Name of form	Pages
1	2	3
	SCHEDULE II	
1	Register of letters received	151
10	Register of letters despatched	151
50	Counter foil of receipt cheques	145
	SCHEDULE VIII	
36	Magistrate's general register of cases cognizable by the police	146
51	Court officer's daily book of prisoners to be produced before magistrate	145
	SCHEDULE XL(A), (PART I)	
25	Weekly list of proclaimed offenders	143
111	Daily under trial case report of court officers	141
112	Court officer's concise memorandum	142
113	Register of bail and recognizance bonds	142
115	Application for verification of antecedents of under trial prisoners	143
116	Register of all property received in the Malkhana	145
118	Final memorandum showing result of trial and magistrate's final order	147
119	Crime return compilation sheet	149
120	Court order's register of appeals	150
121	Register of persons convicted of heinous offences	150
122	Index to register of persons convicted of heinous offences	150
123	Register of cases committed to sessions	151
124	Register of processes	151
125	Half-yearly return of serious crime	152
125-A	Half-yearly return of serious crime for railway	153
125-B	Half-yearly return of false cases	166
138-A	Non-first information report register	146
165	Station cash account certificate	168

FORM REFERRED TO IN PART IV- SECTION II

(FINGER PRINT RULES)

Serial number in schedule	Name of form	Pages
1	2	3
	SCHEDULE XL(A), (PART I)	
114	Application for remand	179
126	Despatch cheque	183
127	Register of unidentified persons sent up by the police	178
128	Record slip	181
129	Statement showing result of traced cases	183
130	Jail parade report	160
132	Death statement of P. R. Convicts	153
133	P. R. slip	147
134	Register of release notices	165
212	Register of despatch to, and return from, courts of record slips requisitioned for evidence	166
213	Register of exhibits, etc., received in the bureau tor expert opinion	152
214	Red slip	149
	SCHEDULE XL(A), (PART II)	
9	Objection memorandum	150
10	Search slip	145
11	Register of traced cases	167
12	Index Register	169
13	Register of search slips received	170
15	Register of R. P. slips received for record	171
16	Register of cases in which experts were employed	172
17	Register of proficients and experts	173

FORM No. 1

Daily undertrial Case Report of Court Officer

[Assam Schedule XL(A), (Part I), Form No. III)

Referred to in Rule 22

1. Name of Magistrate.
2. Name of P. S., number and date of first information, date of final report, section of law.
3. Name of prosecuting officer.
4. Number of witnesses present, divided into.
   (a) for prosecution;
   (b) for defence.
5. Number of witnesses examined on the.
6. Number of remands already granted.
7. Reasons for present remand .
8. Number of accused divided into committed to *ha at*, (b) admitted to bail.
9. Final orders - noting sentence and in the case of habituals, the number of previous convictions proved.

Explanation - This return is to be submitted daily to District Magistrate through Superintendent of Police. In the event of remands not being granted to enable identity to be established or previous convictions proved, the fact will be carefully noted for District Magistrate's information.

FORM No. 2

Court Officer's Concise Memorandum

[Assam Schedule XL(A), Form No. 112]

Referred to in Rule 36

1. Name of Police Station.
2. Number and date of the first information.
3. Number and date of charge-sheet.
4. Section.
5. { Date of diaries.
   { Date of receipt.
6. Name of the complainant.
7. Name of accused sent up, and whether identified.
8. Name of absconding accused.
9. Names of persons reasonably suspected.
10. Detail of previous convictions.
11. Name of investigating officer.
12. Whether finger prints of unidentified accused have been taken.

Below should be given details in the following sequence:

(A) History of case;

(B) Points to be proved;

(C) Evidence available to prove each Point (B) and (C) should be given in parallel columns facing each other.

N. B. - (1) Explanation should be furnished of delay, if any of receipt of diaries.

(2) Steps taken against absconders should be always noted.

(3) The reasons for suspecting any person to be clearly given and by whom suspected to be noted.

(4) Description and value of property stolen recovered to be noted.

FORM No.3

Register of Bail and Recognizance Bond

[Assam Schedule XL(A), Part I, Form No. 113]

Referred to in Rule 42

1. Consecutive number
2. Details of security and case.
3. Name of party bound down.
4. Date of magistrate's order.
5. Date of bond.
6. Date of expiry of period noted in bond.
7. Names of persons standing security.
8. Number of times each security has stood before.
9. Receipt of magistrate's clerk for bond, after execution and return to the magistrate's office.
10. Remarks.

FORM No. 4

Weekly List of Proclaimed Offenders

[Assam Schedule XL(A), (Part I), Form No 251]

Referred to Rule 49

1. Number.
2. Name and father's name.
3. Village.
4. Police Station.
5. Offence.
6. Magistrate passing order with date.
7. Remarks.

Dated _____

The _____*19*

Superintendent of Police

Magistrate's Order

FORM No. 5

Application for Verification of Antecedents of Under-trial prisoners

[Assam Schedule XL(A), (Part I), Form No. 115]

Referred to in Rule 50

COUNTERFOIL	Assam Schedule XL(A) (Part I), Form No. 115	Assam Schedule XL(A) (Part I), Form No. 115
Application for Verification of Antecedents of under-trial prisoners Serial No. Date of issue To whom issued _____ Court Particulars regarding persons to be enquired into:- (1) Name and caste of accused (with aliases, if any) with father's name. (2) Residence. (3) Due for return on _____ (4) Remarks. *Court Officer*	Application for Verification of Antecedents of under-trial prisoners Memo No. _____ Dated ___ 19 ____ Memo No. _____ Dated ___ 19 ____ Serial No. Reply From _____ Court office _____ Sub-division_____ District To The person named on the reverse is undergoing trial in this District under Section _____ The Indian Penal Code. Court Officer is requested to verify the particulars given and inform this office as soon as practicable of the result of his enquiries. If the man was previously convicted, an authenticated copy of finding and sentence, together with the names and addresses of any persons who can identify him should be sent. The case comes off for hearing on. If the required information cannot be obtained in time to reach this office before the date fixed, intimation to this effect should invariably be sent, it necessary by wire. *Court Officer*	Notice of Application for verification of Antecedents of Under-trial Prisoners within the State. Serial No._____ To The Superintendent of Police Dated _____19_____ Sir, I have the honour to report that the person named below is under-trial in this district in a case under Section _____ Indian Penal Code to be heard on _____, and an application has this day _____ been sent to the Court Officer of _____ for verification of his antecedents and to request that you will be so good as to see that the application is returned duly verified on or before the date fixed for the hearing of the case: Name with aliases, Father's Name, Village, Police Station, District Yours faithfully, *Court Officer*

REVERSE

1. Name and caste of accused.

   (with aliases, if any) with father's name

2. Age and personal description

3. Residence, village, thana pargana with distance and direction of village from thana.

4. Name of chaukidat, zamindar and principal residents of village.

5. Left home on the _____ accompanied by

   _____.

6. Particulars of previous conviction (if any) showing Court by which convicted, date of conviction, sentence and offence with Section of Code.

7. Name and addresses of witnesses to prove previous convictions and identity of accused.

8. Whether the accused is a member of a Criminal Tribe and has been registered or has escaped registration and in case of U.P. registered criminals whether he was present at his registration.

9. Remarks.

Court Officer

_____*Court Officer*

[ ] Sub. Vide Correction Slip No. 28, dated 18th March, 1938

REVERSE

1. Details of further information regarding his antecedents and residence obtained on interview or on return of the verification roll as unidentified, after local enquiry:-

2. Date of re-issue:

3. To whom re-issued:

4. Result of further enquiry:

Signature with date of the Officer filling the roll

FORM No.6

Court Officer's Daily Book of Prisoners to be Produce before Magistrate

[Assam Schedule VIII. Form No. 51]

Referred to in Rule 55

1. Number of warrant.
2. Name of prisoner.
3. Initial of jailor.
4. Initial of court officer.
5. Order of magistrate.

FORM No. 7

Register of all property Received in the Malkhana

[Assam Schedule XL (A)(A), (Part I), Form No. 116]

Referred to in Rule 63

1. Serial number.
2. Date of receipt at court.
3. Thana from which sent up.
4. Parties concerned and monthly number of cases, if any.
5. Nature and description of property.
6. Weight.
7. Value, divided into money columns.
8. Court officer's initials acknowledging receipt of property.
9. Order and its date.
10. Manner of disposal with date and acknowledgment of owner.
11. Property if sold, divided into (a) date of sale and name of purchaser, (b) amount realised.
12. Date of remitting money to the treasury.

FORM No.

Arms Register of the court Malkhana

[Assam Schedule XL(A), (Part I), Form No. 236]

Referred to in Rule 64-A

1. Date of receipt.
2. Serial number.
3. Full description of arms and ammunition deposited.

   (maker's number and maker's name and district symbol and number; single barrelled or double barrelled or magazine; smooth bore or rifle, hammer or hammerless).
4. License number and year.
5. Number of weapons or quantity of ammunition.
6. Police Station.
7. Owner.
8. From whom received.
9. Initials of receiving Police Officer.

10. Date of receipt of information by Arms Act Clerk.
11. Initial of Arms Act Clerk.
12. Mode of disposal with date.
13. Initial of disposing officers.
14. Remarks ,, ,,][1]

FORM No. 9

Counterfoil of Receipt cheque

[Assam Schedule II, Form No. 50]

Referred to in Rules 65 and 92,

For details *see* Part V, at pp. - *Infra.*

FORM No.10

Court Officer's Register of cases in which First Information Reports are not used

(Assam Schedule XL(A) (Part I), Form No. 138-A]

1. Referred to in Rule 70
2. Serial No. for the year.
3. Police station.
4. Police station number.
5. Date of institution.
6. Name of complainant with parentage and residence.
7. Name of accused with parentage and residence.
8. Section of law.
9. Date of arrest in each case.
10. Date of submission of report to magistrate.
11. Date of issue of notice.
12. Magistrate's preliminary order.
13. Magistrate's final order.
14. Remarks

Note - (l) The dates of adjournment of each case should also be noted in column II.

Note - (2) The result of any appeal or application for revision should be entered in the column of remarks.

[1] Inserted vide Correction Slip No. 21, dated the 9th August, 1935

FORM No. 11

Magistrate's General Register of Cases Cognizable by the Police

(Assam Schedule VIII, Form No. 36]

Referred to in Rule 71

(To be maintained in the courts of district and sub-divisional magistrates and to be preserved for seven years).

		1.	Serial No. for the year.
		2.	P. S.
First information of case.	Date of	3.	P.S. Number
		4.	Occurrence
		5.	Information to police
		6.	Report before Magistrate.
		7.	Crime as reported to police, with section of Penal Code or other law
		8.	Names of parties, concerned.
		9.	Magistrate's initials.
		10.	Final report.
		11.	Submission to magistrate.
Result of Police Investigation	Date of	12.	Showing arrests made, etc.
		13.	Crime established before police with section, etc.
		14.	Form of final report.
Order passed with date		15.	Preliminary.
		16.	Final.
		17.	Remarks

N. B. – Note 1 - Every order of transfer shall be entered in column 15.

2. The dates of adjournment of each case should be noted in column 15

3. The result of any appeal or application for revision should the column for remarks.

FORM No. 12

Final memo showing the result of the trial and magistrate's final order

[Assam Schedule XL (A), (Part I), Form No. 118]

Referred to in Rule 74

Counterfoil	For Superintendent's office	For P. S.
Final Mem, of cases sent to P. S. and S. P. by court officer for reference.	*Final Memo. of cases to be sent by the court officer through circle police officer to S. P.*	The third copy with headings similar to those in the S. P.'s copy.
Number and date of first information report.	P. S.	
P. S.	Number and date of first information.	
Number, description and date of final form.	Complainant.	
Date of sending Memo. to P. S.	Accused.	
Date of sending Memo. through circle Inspector to S. P.	Section of I.P.C.	
Whether identified or not.	Number, description and date of final form.	
If a reconviction, all former convictions, place of Conviction, crime, sentence, date and place of residence -village, P. S., and district.	Amount stolen.	
	Amount recovered.	
	Final order of magistrate regarding accused, with crime established and sentence if any, with date.	
Whether finger impression taken or not.	Magistrate's orders concerning discharge of bail, sureties, recognizances, etc.	
	Final order of magistrate regarding, property taken possession of by the police in the case.	

	Magistrate's order of convicted criminal is to be kept under surveillance.	
	Magistrate's orders on each absconded offender; if warrants to issue or not.	
	Remarks on the conduct of police S. P.'s order as to whether the convict is to be placed under surveillance and a history sheet opened.	
	Whether identified or not.	
	If a reconviction, all former convictions, place of conviction, crime, sentence, date, and place of residence, village, P. S. and district.	
	Whether finger Impression taken or not	
	No. of history sheet.	
	No. of entry in conviction register.	
Signature of court officer with date.	No. of entry in surveillance register.	

On the reverse of P.S. copy

Descriptive roll of the convict.

1. Name (including aliases, if any and caste of convict.
2. Father's name.
3. Residence { Former -
   Present
4. Profession or trade.
5. Age or supposed age.
6. Height.
7. Personal description, including any personal peculiarities, scars, birthmarks, etc.

Court Officer

FORM No. 13

Crime return compilation sheet.

[Assam Schedule XL (A) (Part I), Form No. 119.]

Referred to in Rule 77

P. S. OR INDEPENDENT O. P.

1. Consecutive No.
2. Number of cases in magistrate's general register of cases, or resister of unimportant cases, or register of complaints.
3. Number pending from previous year.
4. Number reported in the year.
5. Number in which investigation was refused.
6. Number remaining for investigation.
7. Number proved or declared to be false.
8. Number due to mistakes of law or fact or declared non-cognizable.
9. Number pending at end of year.

Details of cases — True cases

10. Convicted.
11. Acquitted or discharged.
12. Not detected or apprehended .
13. Total true cases columns 5 + 10 +11 + 12

14. Total magistrate's true cases.
15. Total magistrate's cases convicted.
16. Grand total of true cases (columns 13 and 14).
17. Number acquitted on appeal or on revision.

Result of proceeding for false complaints.

18. False cases in which prosecution instituted.
19. Convicted for false complaints.
20. Pending at close of the year
21. Cases in which compensation was awarded under t 250. Cr. P. C.

22. Cases reported by police as false but declared true cognizable by magistrate.
23. Cases reported by police as true but declared as maliciously false by magistrate.
24. Person in custody pending trial or investigation or on bail under t 170, Cr. P. C. at beginning of year as concerned in cases reported to or in cases taken up by the police.
25. Arrested by the police during the year.
26. Released under 169. Cr. P. C.
27. Released by magistrate's order before trial.
28. Number of persons tried.
29. Number convicted.
30. Number acquitted or discharged.

31. Number of persons evading arrest at close of year.

32. Number in custody pending trial or investigation or on bail at the end of year.

Details of persons

Persons concerned in magistrate's cases	33.	Number arrested.
	34.	Number convicted
	35.	Number acquitted or discharged
For departmental reports and returns	36.	Number of persons prosecuted for false complaint
	37.	Number of such persons convicted
	38.	Number of such persons pending trial at close of year.
Detail of property for statement C	39.	Number of cases in which property was stolen
	40.	Number of cases in which property was recovered
	41.	Amount of property stolen
	42.	Amount of property recovered
For departmental report and returns	43.	Number of remands shown in magistrate's trial register

REMARKS. Spare columns. (Here add such additional columns as may be necessary

FORM No. 14

Court officer's register of appeals

[Assam Schedule XL (A) (Part I), Form No. 120.]

Referred to in Rule 80

1. Date of receipt.
2. Date of notice of appeal.
3. Names of parties.
4. Court against whose order, appeal is preferred.
5. Sentence with date and section.
6. Date fixed for hearing of appeal.
7. Result of appeal.
8. Remarks - showing what steps, if any, have been taken to support the conviction.

FORM No.15

Register of persons convicted of heinous offences

[Assam Schedule XL (A) (Part I), Form No. 121]

Referred to in Rule 81

1. Serial Number.
2. Name (including *alias*, if any) and caste of convict.
3. Father's name.
4. Residence, divided into (a) present, (b) former.
5. Profession or trade.
6. Number in general or complaint registers.
7. Age or supposed age.
8. Height.
9. Personal description including any personal particulars, scars, birthmarks, etc.
10. Of what offence convicted.
11. Date of conviction.
12. Sentence passed and by what court convicted.
13. Date of previous conviction (if any) and section of the law under which convicted and by what court convicted.
14. Name of identifying witnesses.
15. Whether impression taken or not.
16. Date of forwarding extract to native district.
17. Remarks.

FORM No. 16

Index to conviction register

Assam Schedule XL (A) (Part I), Form No. 122]

Referred to in Rule 83

1. Name of convict with aliases, if any, and caste.
2. Father's name.
3. Page and volume of register in which conviction is entered.

FORM No. 17

Register of cases committed to sessions

[Assam Schedule XL(A) (Part I), Form No. 123]

Referred to in Rule 88

(To be kept at headquarters court for the whole district)

1. Serial number (annual).
2. Name of committing officer and court.
3. Date of commitment.
4. Section under which committed.

5. Name of P. S. & date of first information and charge sheet.
6. Names of parties.
7. Date fixed for trial.
8. Final order with section and date.
9. Date fixed for appeal by High Court.
10. Final order of appellate court.
11. Remarks.

FORM No. 18

Register of processes

[Assam Schedule XL(A), (Part I), Form No. 124]

Referred to in Rule 89

(To be kept in the courts of district and sub-divisional magistrates and to be preserved for three years)

1. Serial number of process.
2. Nature of process.
3. Court from which the process is issued.
4. Number and nature of case.
5. Name of person on whom to be served.
6. Place and distance from court.
7. Number of duplicate processes accompanying the original.
8. Date of deposit *Talabana*.
9. Date of receipt by court officer.
10. Date of delivery to serving officer.
11. Name of serving officer.
12. Number of days allowed for service.
13. Date of actual service.
14. Date of return to court officer.
15. Date of return to court.
16. Signature of clerk of the court.
17. Remarks.

FORM No. 19

Register of letters received

[Assam Schedule II, Form No.1]

Referred to in Rule 91

[For details see Part II]

FORM No. 20

Despatcher's Register of Dak letters

(Assam Schedule II, Form No. 10)

Referred to in Rule 91

Date of despatch by

1. Letter post.
2. Parcel post.
3. Packet post.
4. Weight of cover, parcel or packet.

Letter

5. Number.
6. Date.

7. To whom addressed.

8. Value of stamps affixed to cover parcel or packet divided into money columns.

FORM No. 21

Half-yearly return serious crime

[Assam Schedule XL (A) (Part I), Form No. 125]

Referred to in Rule 94

Due to the Special. Superintendent of Police in charge of the Criminal Investigation Department and to Commissioner, through Magistrate on the 15th January and 15th July.

RETURN OF SERIOUS CRIME FOR THE HALF - YEAR

ENDING----------

The …….19

DISTRICT----------

The----------19 Superintendent of Police.

Countersigned.

Magistrate.

The----------19

----------DISTRICT.

_____ DISTRICT

RETURN OF SERIOUS CRIME FOR THE HALF-YEAR ENDING THE

Return of serious crime reported during the half-year ending the

Crime	No. of Cases during the half-year		No. of cases during the corresponding half-year of the previous year			Investigation refused under Section 157, Criminal Procedure Code			Total number of cases reported during the half-year, investigated or supervised personally on the spot by			Total number of cases (a) reported (b) declared true up to date from 1st January				Remarks
						Tested by						This year		Last Year		Note – Here explain the fluctuation in reported cases. Opposite murder state motive and fire arms used, if any. Opposite drugging and swindling, state how many professional and method employed very briefly. Opposite dacoity, state if technical or name of gang, if committed by professional gang. Opposite robbery, state if mal or highway. Opposite coining, show number of professional cases and state if any struck coins appeared. Opposite note forgery, state method of production
	Reported	Declared True	Reported	Declared true	Refused	Superintendent of Police	Assistant Superintendent of Police and Deputy Superintendent of Police	Inspectors	Superintendent of Police	Asstt. Superintendent of Police and Deputy Superintendent of Police	Inspectors	Reported	Declared true	Reported	Declared true	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Murder																
Dacoity and assembly and preparation for dacoity -																
River																

Others																
Robbery																
Swindling																
Burglary																
With theft																
Without																
Theft and																
attempts																
Theft																
Cattle theft																
Riot																
Drugging																
Coining																
Manufacturing																
Uttering																
Note - Forgery																
Total																

No. of non-cognizable cases made over to the Police for enquiry under Section 202, Criminal Procedure Code

Total number of cases supervised and tested

Superintendent of Police _____

By Assistant Superintendent of Police and Deputy Superintendent of Police _____

Inspector _____

Statement of re-conviction for the half year ending the _____ 19 .

			Previous Conviction				Present conviction						
Serial No.	Monthly No. of cases with name of police station	Name of convict with father's name and residence	Place	Date	Section	Sentence	Place	Date	Section	Sentence	Whether provision of Section 565, Criminal Procedure Code, was applied, and, if so, the duration of the order	Whether re-conviction was facilitated by FP System	Remarks (If in any case Section 75, Indian Penal Code, or Section 565, Criminal Procedure Code, was not applied, the name of the station together with that of the trying magistrate should be stated and also whether he was empowered to pass orders under Section 565. Criminal Procedure Code, and if not whether application was made for transfer of the case to the file of a competent magistrate. Reference should also be made to cases which should in the Superintendent's of Police's opinion, have been committed to sessions under Section 348, Criminal Procedure Code.
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Statement of serious riot cases

General remarks on the figures of rioting and brief particulars of serious riots stating date of occurrence, final report and the results of the judicial proceedings if any, the reason why preventive action previous to the riots, was not taken by the police should be stated and whether previous warning was sent to the persons on whose behalf the riot was committed and. if not, why not. Also state if professional *lathials* were employed. Reference may also be made hero to the extent to which preventive action is being taken under Sections 107 and 145, Criminal Procedure Code, in disturbed areas and whether Section 106, Criminal Procedure Code, has also been resorted to.

FORM No. 22

HALF-YEARLY RETURN OF SERIOUS CRIME FOR GOVERNMENT RAILWAY POLICE

Statement of bad livelihood cases for the half-year ending, the _____

The number of cases under Sections 109 and 110, Criminal Procedure Code, should be shown separately and by sub-division

Sub-division	Pending from previous half-year		Number instituted		Number convicted		Number discharged or acquitted		Number pending		Number of cases tried locally	Average duration from date of application to magistrates of cases disposed of. If excessive delay has occurred in any case give reason
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons		
1	2	3	4	5	6	7	8	9	10	11	12	13

Return of sessions cases for the half-year ending _____ 19

Cases i.e. crime charged	Date of submission of charge sheet or of the institution of the case, if not cognisable	Date of commitment	Date of trial at sessions	Convicted or acquitted	Sentence and section	Remarks, including name of judge
1	2	3	4	5	6	7

N.B. – Show here the number of cases reversed during the half-year on appeal by –

(i) Sessions Court

(i) High Court

FORM No. 23

Half-yearly return of serious crime for Government Railway Police

[Assam Schedule XL(A), (Part I), Form No. 125-A]

Referred to in Rule 94

GOVERNMENT RAILWAY POLICE

CRIME RETURN FOR THE HALF-YEAR ENDING……..

Due to the Special Superintendent of Police in charge of the Criminal Investigation Department on the 15th January and 16th July.

		True cases reported during the half-year	Investigation refused under Section 157, C.P.C	Total number of cases, reported during the half-year, investigated or supervised personally on the spot by -			True cases during the same period of last year	True cases to date		Property stolen	Property recovered	Cases reported during the half year pending enquiry at the same time of compilation	Un-disposed of cases of previous half year since disposed of as true	Remarks
				Superintendent of Police	Assistant Superintendent of Police and Deputy Superintendent of Police	Inspector		This year	Last year					
1	2		3	4	5	6	7	8	9	10	11	12	13	14
I.	Murder													
II	Dacoity													
III	Robbery													
IV	Drugging													
V	Forged notes-Uttering													
VI	Swindling by means of forged railway receipts													
VII	Coining –													
	(a) Uttering													

VIII	Missing goods (cases treated as theft)-		
	(a) From goods sheds, etc.		
	(b) From running train		
	(c) From trains or wagons in yards		
IX	Riot		
X	Thefts -		
	(a) Pickpocket cases		
	(b) From running passenger train		
	(c) Brass theft		
	(d) Miscellaneous		
	(e) Cattle theft		
XI	Cognizable cases under Railway Act		
XII	Obstruction cases		
XIII.	Opium smuggling		
	Total		

Dated……the……..19

Superintendent of Railway Police

FORM NO. 24

Half-yearly return of false cases

[Assam Schedule XL(A), (Part I), Form 125-B]

Referred to in Rule 95

Return of false cases for the half-year ending _____

Name of district	Name of sub-division	Number of cases declared maliciously false during the half-year	Number of prosecutions pending from previous half-year	Number of prosecution instituted during the half-year	Result of prosecution of cases in column 4 and 5 during the half-year under report								Number of cases in which compensation, was awarded under Section 250 I.P.C	Remarks : (In this column explanation should be given in respect of cases in which no prosecution was instituted and no compensation was awarded)
					Convicted		Acquitted		Otherwise disposed of		Pending at the close of the half-year			
					Under Section 182 I.P.C	Under Section 211 I.P.C	Under Section 182 I.P.C	Under Section 211 I.P.C	Under Section 182 I.P.C	Under Section 211 I.P.C	Under Section 182 I.P.C	Under Section 211 I.P.C		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

Note – Total of columns 12 and 13 will correspond with column 4 of the next half-year

FORM NO. 25

Form of certificate for verification of Monthly Cash Accounts

[Assam Schedule XL(A), (Part I), Form No. 169]

Referred to in Rule 99

P.S

Month of _____ 19 .

Certified that I have examined the cash accounts for police station _____ for the month of _____ and find that all sums mentioned therein, as remitted to this office, as well sums remitted from this office to the Police Station, have been duly received and are properly accounted for, with the exceptions noted below.

Name

Designation

Court Officer Subdivision

Dated

Name

Designation

Magistrate's office

Dated

Name

Designation

Superintendent's office

Dated

N. B.-Each officer's certificate applies 'to receipts and disbursements in his own office order.

Search Slip (Assam Schedule XL(A), (Part II), Form No 10)

Referred to in Rules 104, 117, 118 and 223 of this part

Assam Schedule XL(A),
(Part II),

Form No. 10

(Counterfoil)

Search Slip No _____

1. Name given by the accused
   _____
2. Father's name
   _____
3. Police Station Case No with name of the Police Station
   _____
4. Unidentified Register No
   _____
5. Date of arrest
   _____
6. Date of receipt of the accused in the Court Office _____
7. Date of taking the prints
   _____

Assam Schedule XL(A), (Part II), Form No. 10

Search Slip No _____

ASSAM POLICE

SEARCH SLIP OF UNIDENTIFIED PERSON

THE OFFICER-IN-CHARGE OF THE FINGER PRINT BUREAU

From District _____Sub-division _____

Name given by the accused_____

Father's name:_____Village _____

Police Station _____ District _____ State _____

Former residence, if any, village_____ Police Station _____

District _____ State _____

Date of receipt of the accused in the court Office _____

Date of taking the prints _____Date of despatch of the slip _____

Date and Police Station of arrest _____

And case No _____

Section and law under which sent up _____

Assam Schedule XL(A), (Part II)

Form No. 10

Bureau Despatch No _____

Dated _____

To

THE COURT OFFICER OF

District _____

(Trace Case No_____)

His No _____ Dated the ____ 19 .

The person named on the reverse has been

traced
been --------- with the following convictions in
untraced
this Bureau,

Name given by the accused _____

Name under which traced _____

Father's name _____

Village _____

Police Station _____

District _____

Date of receipt of slip _____

8. Date of despatch of the slip to the Bureau

   _____

9. Name of the Bureau to which the slip sent

   _____

10. Date of receipt of result of search from the Bureau

    _____

Signature

Date

_____

Name (in full) of the Officer taking the impression _____

Certified that a Verification Roll has been despatched to the Superintendent of Police of the District _____ on the _____and duplicate Finger Print slips to the following State Bureau on the _____ and that the name has found entry in the Register of Unidentified Persons under number _____

The date of hearing of the case is fixed for the _____ 19 . If necessary a remand will be applied for.

Bureau (1)..... (2)..... (3) .....

Signature of Court Office, or the Officer submitting the slip

Name of the issuing Office .....

(Space for remarks by the Officer-in-charge, Finger Print Bureau).

Officer-in-charge,

Finger Print Bureau.

CONVICTIONS TRACED

No.	District	Court	Date	Section	Sentence	Name under which traced	Name of identifying witnesses

Reference should now be made to the district where convicted, to prove identity and previous convictions and the result reported as soon as the case is disposed of. If witnesses to prove identity are not forthcoming the services of an expert should be applied for and the previous convictions proved under Sections 45 and 73. Indian Evidence Act of 1872 as amended by Act V of 1899.

Officer-in-charge

Finger Print Bureau

Assam Schedule XL(A), (Part II),
Form No. 10

(Rolled prints should be fully rolled and should not be blurred on faint).

Finger Print Slip of .....

Father's name .....

Right thumb	Right Index	Right middle	Right ring	Right little

Left thumb	Left Index	Left middle	Left ring	Left little

Left hand	Right hand
(Plain prints of the fingers taken simultaneously)	(Plain prints of the fingers taken simultaneously)

Finger Print Slip prepared by .....

Rank ..... on ..... at .....

Signature .....

Bureau Inspector's remark, if any:-

Officer-in-charge, Finger Print Bureau.

SEARCH SLIP

(TO BE FILLED UP IN THE BUREAU)

-	Digits	Primary classification	Details of primary search
1	R. T.		
2	R. I.		
3	R.M.		
4	R. R.		
5	R.L.		
6	L.T.		
7	L.I.		
8	L.M.		
9	L. R.		
10	L. L.		

Classification numbers:-
Name under which traced .....
Aliases .....
Son of .....
Date of receipt of the slip .....
Date of reply .....
Remarks, if any .....
Classified by ..... dated .....
Tested by..... dated .....
Searched by ..... dated .....
Index consulted by..... dated .....
Remarks:-

[ ] Substituted vide Correction Slip No. 27, dated 18th March, 1938.

Secondary classification when Loops predominate

Digits taken in pairs	R.T	R.I.	R.M.	L.R.	R.L
	L.T	L.I.	L.M.	LR.	L.L
Classifi-cation					
Formula representing sub-division in which search to be made					

Secondary classification when whorls predominate

Digits taken in pairs	R.T	T.I.	R.M.	R.R.	R.L
	L.T	L.I.	L.M.	L.R.	L.L
Classifi-cation					
Formula representing sub-division in which search to be made					

Officer-in-charge of the Record.

(VIII-R/11-38)

P. R. Slip. Form No. 133 of

Schedule XL(A), (Part I)

Referred to in Rules 104 and 132

(1) Name, father's name.

(2) Village, police station, district.

(3) Crime, sentence, date, place of conviction.

(4) Number and date of case and police station from which sent up.

(5) Where to be released (i.e., jail in which prisoner may be incarcerated at, the expiry of sentence or jail of native district).

(6) Date of Issue to jail of P.R. slip.

(7) Date of issue of duplicate P.R. slip to native district.

(8) Date of return of P.R. from jail.

(9) Date of P. R. slip to police station or native district after release.

(10) Date of released convict's return home and number of entry in Village Crime Note Book, Part III, and Surveillance Register.

(11) F. P, taken on and despatch to the F. P. Bureau on _____with Cheque No.

P.R. SLIP *No.*

N. B. - The letters P. R. to be entered in red ink against the name in the Jail Admission Register and Jail History Ticket by the Court Officer. The fact of finger prints having been taken, and tested to be noted on back of P.R. slip and the Certificate to be filled up when received by the Station Officer after the P. R. prisoner's release. Professional prisoners to be photographed, Opposite heading 5, Superintendent of Police will note whether the convict is to be sent back to jail of native district for release or to be released from any jail where incarercerted at expiry of sentence.

---

(1) Name, father's name.

(2) Village, place station, district.

(3) Crime, sentence, date, place of conviction.

(4) Number and date of case and police station from which sent up.

(5) Where to be released (i.e., jail in which prisoner may be incarcerated at the expiry of sentence or jail or native district).

(6) Date of issue to jail or P. R. slip.

Signature of Superintendent of Police District.

To be filled in by the Jail Department before returning this slip as a release notice prior to release of the prisoner

Prisoner's number in Prison Register

Date on which to be released or date of death

Former residence as stated in warrant
Village
Police Station District

Proposed residence -
Village
Police Station District

Remission, if any, and conditions.

Character of prisoner during imprisonment.

Name of identifying officers or warders.

Jail
The 19

Superintendent.

Space for noting F. P. taken

Space for noting tested

Signature and designation of officer Preparing

F.P. slip .....

Place .....

Date .....

Signature and designation of testing officer

.....

Place .....

Dated .....

Certified that the words "F. P. taken" have been noted against the name of the released convict at page ..... under No ..... in Village Crime Note Book Part III, and in his history sheet and that he returned home on ..... His name has also found entry in Surveilance Registter under No .....

Police station .....

Date .....

Station Officer

Station Officer

FORM No. 28

Red Slip. Form No. 214 of Schedule XL(A), (Part I)

Referred to in Rules 106 and 111

Absconder

Name .....

Alias .....

No. and date of first information report .....

Name of police station .....

District .....

Intimation of arrest to be sent to .....

.....

Date of arrest .....

FORM No. 29

Object Memo. Form No.9 of Schedule XL(A), (Part II)

Referred to in Rule 100

No.

FINGER POLICE BUREAU ASSAM POLICE OFFICE,

Shlllong

Dated the 19.

To

THE SUPERINTENDENT OF POLICE.

Returns herewi th the Record Slips of the prisoner named below forwarded with his despatch cheque

No ..... , dated ..... for reasons noted against Point.

Requests that the same be resubmitted without delay after necessary section has been taken.

1. The rolled prints are so faint or blurred that no sub-classification is possible.
2. The rolled prints have not been taken in their proper places.
3. The plain prints have not been taken simultaneously, nor in the place assigned for them.
4. The plain prints of the ..... band do not tally with the order of the rolled prints of that hand.
5. The prints of ..... fingers have not been fully rolled.
6. The Jail Admission Number has not been noted.
7. The name, father's name, age and place of the convict's residence have not been duly noted.
8. The convictions noted on the slip are Incomplete and wanting in the following particulars.
9. The slip has not been signed by a gazetted officer.
10. The officers preparing and testing the slip have not signed their names.
11. The date on which and the place where the slip was prepared and tested have been given.

No.

Dated the 19 .

To

THE OFFICER INCHARGE FINGER PRINT BUREAU, ASSAM.

12. The slip has been submitted before test by another expert or proficient.
13. The slip has been submitted before the time for appeal is over.
14. The slip has been submitted for record without Despatch Cheque.
15. The slip of this man who was traced in this office has been submitted without the statement prescribed to show the result of traced cases.
16. The Finger Print Slips of foreigners have not been submitted in triplicate,
17. The previous convictions have not been entered, though Section 75, I. P. C., has been applied to the present conviction.
18. The names of identifying officers have not been given.
19. It has not been noted whether the prisoner is "identified" or not.
20.
21.
22.
23.

Officer in-charge, Finger Print Bureau, Assam

FORM No. 30

Register of exhibits, etc., received in the Bureau for expert opinion,

Form No. 213 of Schedule XL(A), (Part I),

Referred to in Rule 110

Serial No.	Designation of forwarding officer	Nature of exhibit	Names of experts examining the prints	Opinion of experts (in brief)	Remarks
1	2	3	4	5	6

FORM No. 31

Death Statement of P. R. Convicts

Form. No. 132 of Schedule XL(A), (Part I)

Referred to in Rule 112

Name of convict or ex-convict with No. Of his P.B Slip	Father's name	Residence			Last conviction			Death			Classification No. Of F.P. Slip	Remarks (If the prisoner died in jail. The fact should be noted here)
		Village	Police station	District	Place	Date	Section	Sentence	Place	Date	By whom reported	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Dated
The 19 .

Superintendent of Police,
District.

FORM NO. 32

Assam Schedule XL(A), (Part I) Form No. 127

Referred to in Rule 123

Register of unidentified persons sent up by the Police

[N.B. – All members of wandering gangs come under this category. Court Officers are held personally responsible that the register is carefully kept up; and Sub-divisional Court Officers must send a copy of each entry of this register to the Sadar Court Officer].

Serial No.	District and sub-division and police station, case number and date.	Name, father's name, caste and residence as given by accused.	Name, father's name, caste and residence as ascertained after enquiry.	Section of law under which sent up by police.	Date of receipt of prisoners by Court Officer. Date of forwarding F. P. slip to the F. P. Bureau of Calcutta and other provinces where	Date on which replies received front each F. P. Bureau.	If traced by the F. P. B. state name of Bureau by which traced, giving previous convictions, which should include names under which convicted, districts in which convicted and dates of conviction, which sections of law.	If convicted or if for any reason it is considered desirable to keep his FP. on record, the number and date of the despatch cheque forwarding the F. P. slips for record of the F. P. Bureau and the date of receipt by the Bureau.	Whether convicted in the present ease or not, if convicted, sentence and section of law, and date of forwarding conviction roll to native district.	In the case of a person believed to be. a resident of another district or province the date of despatch of the verification roll to his native district and the result of the enquiry made therein	Remarks (Here should be noted if F.P. slips were not sent to the Bureau and the reason why.) An interview with such persons in jail with the results thereof should also be noted here with the name of the interviewing officer and date
1	2	3	4	5	6	7	8	9	10	11	12

FORM NO. 33

Assam Schedule XL(A), (Part I), Form No. 114

Referred to in Rule 124

APPLLICATION FOR REMAND

To

The Magistrate of .....

Dated the ..... 19 .

Sir,

I have the honour to apply for a remand of ..... days in the case of ..... No ..... of ..... station, to enable me to .....

I have the honour to be,

Sir,

Your most obedient servant,

Court Sub-Inspector

Magistrate's order

FORM Ne. 34

Statement showing the Result of Traced Cases

Form No. 129, Schedule XL(A), (Part I)

Referred to in Rule 126

DISTRICT

1. Name and father's name under which seat up .....
2. Date of receipt of reply from the Finger Print Bureau .....
3. Place, date, section and term of conviction .....
4. Has identity been established? If not, state the reason .....
5. Has previous conviction been proved in Court? If not, state the reason .....
6. Has enhanced punishment been awarded under Section 75, I.P.C.? If not, state the reason .....
7. Has fresh record slip been prepared? (Both in case of discharge or acquittal, it is necessary that a new finger print slip should be prepared and submitted) .....
8. Remarks (here note, if the man is traced by any other Bureau the date of transmission of fresh finger print slip to that Bureau) .....

Court Officer .....

Date.....

FORM No. 35

Record Slip

Form No. 128

[Assam Schedule XL(A), (Part I)]

Referred in Rules 130 and 131

P. R. Slip No ..... 19 .

Name of the Bureau with Despatch Cheque

.....District

No. and date when duplicate sent to other Bureau.

Index No.

Full Name with alias .....

Father's or Husband name with alias .....

Caste ..... Religion .....

Village ..... Police Station .....

District..... Province .....

Apparent age on ..... between ..... and .....

Prisoner's signature or Mark if unable to write .....

Left thumb to be impressed immediately after signature is written.

CONVICTIONS

Nos.	Name under which con-victed	District and court	Date	Section	Sentence	Name of Jail, admission No. and names of identifying witnesses
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

1. Certified that the impressions, personal details and convictions (recorded from the Magistrate's general register of cases and conviction register) are correctly taken and recorded.

Signature in full and rank of officer preparing the slip.

2. Certified that the impressions have been tested, personal details verified and the convictions compared with those in. the Jail admission register warrant of Incarceration and the History ticket of the prisoner and found to be correct.

Signature in full and rank of officer testing the slip.

RECORD SLIP

Classification No.

RIGHT HAND

Right thumb	Right Index	Right middle	Right ring	Right little

(Fold)

LEFT HAND

Left thumb	Left Index	Left middle	Left ring	Left little

(Fold)

LEFT HAND	RIGHT HAND
(Plain prints of the four fingers taken simultaneously)	(plain prints of the four fingers taken simultaneously)

Slip prepared on ..... by ..... Rank ..... District .....

Slip tested on ..... by ..... Rank ..... District .....

At.....Jail

Classified at Bureau by ..... Date .....

Tested at Bureau by ..... Date .....

FORM NO. 36

Despatch Cheque

Form No. 126 of Schedule XL(A), (Part I)

Referred to in Rule 133

DESPATCH CHEQUE

(The cheques should be given a consecutive yearly number)

..... District.

Cheque No .....

Dated 19

To .....

Forwards ------ slips of the prisoners named
F.P. / P.R.

below for ---------
record / action

Superintendent of Police.

P. R. Slip No.	Jail admission No. of the jail where the finger print Slip was tested	Name and parentage

DESPATCH CHEQUE

(To be returned to the Superintendent of Police)

The cheques should be given a consecutive yearly number

..... District.

Cheque No .....

Dated 19

To .....

Forwards ---- slips of the prisoners named
F.P. / P.R.

below for ------
record / action

Superintendent of Police.

P. R. Slip No.	Jail admission No. of the jail where the finger print slip was tested	Name and parentage	Classifi-cation No. of F. P. Slip

Received

Dated at .....

Officer in charge

The ..... 19 .

(To be filed in the F. P. Bureau)

(The cheques should be given a consecutive yearly number)

..... District .

Cheque No .....

Dated..... 19 .

To .....

Forwards ----- slips of the prisoners named
F.P. / P.R.

below for ------
record / action

Superintendent of Police.

P.R. Slip No.	Jail admission No. of the jail where the finger print slip was tested	Name and parentage	Classification No. of F. P. Slip

Received.

Dated at .....

Officer in charge.

The ..... 19 .

FORM No. 37

Jail Parade Report

Form No. 130 of Schedule XL(A) (Part I)

Referred to in Rule 134

Held at the ..... Jail on the 19

Instructions - The Sadar or the Sub-divisional Court Officer (or in his absence such officer as the Superintendent of Police selects) will hold the Sunday Jail Parade. On Saturday afternoon at 2 O'clock an English knowing Head constable will attend at the Jail and be permitted to fill in columns 1 to 5 of the Jail Parade Form arranging the names in the four parts detailed below from the Jail Admission Register. He will particularly see that the names of all prisoners liable to be made P. R. and admitted to the jail on the previous day (Friday) are entered in the jail parade report. The convicts named in Parts I, II, and IV of the Jail Parade Report, will be paraded on Sunday morning at the 8 A.M. in there separate batches for police inspection Police officers must be present at the Jail at 7·30 A.M.

Part I should contain the names of prisoners convicted in the district and admitted to jail, since date of last parade (i. e., from the Saturday of one week to the Friday of the following week, both days inclusive).

Part II should contain the names of all prisoners admitted to jail be transfer from the Saturday of one week to the Friday of the week following.

Part III should contain the names of all prisoners transferred to other Jails within the above period, or who have been released on bail or acquitted on appeal or who have died in jail within the same period.

Part IV should contain the names of prisoners to be released between the 4^{th} and 10^{th} day after the date of the parade (i.e., from the Thursday of one week to the Wednesday of the following week, both days inclusive).

Note - Only those prisoners convicted of offences under Chapters XII and XVII I.P.C., punishable with 3 years rigorous imprisonment or upwards and of offences under Sections 170, 171, 251 to 254, 328, 6 to 373, 417 to 420, 489-A, 489-B, 489-C and 489-D, I.P.C., or who are bond down under Sections 109 and 110, C.P.C., will be paraded. Also prisoner convicted under the Arms, Opium and Excise Acts.

N. B.-Those Parts should be clearly numbered off.

PART I

Jail Admission number, name, *alias*, father's name	Village, Police Station, district	Place, date, section, and term of present and previous convictions	Note whether P. R. If so, note entries, recorded on back of P. R. Slips	Note entries recorded across name in J. A. Register	Note entries recorded on prisoner's History Ticket	Remarks and order of Superintendent of Police	Names and rank of Police Officers attending parade	Action showing how orders have been complied with. In the case of transfers to other districts the number and date of the letter forwarding P. R. or F. P. Slip should be noted, and, in the case of impending releases, the monthly consecutive number of Releases Notice Register. The Despatch cheque number forwarding F. P. Slips to the Bureau
1	2	3	4	5	6	7	8	9

PART II

Jail Admission number, name, *alias*, father's name	Village, Police Station, district	Place, date, section, and term of present and previous convictions	Note whether P. R. If so, note entries, recorded on back of P. R. Slips	Note entries recorded across name in J. A. Register	Note entries recorded on prisoner's History Ticket	Remarks and order of Superintendent of Police	Names and rank of Police Officers attending parade	Action showing how orders have been complied with. In the case of transfers to other districts the number and date of the letter forwarding P. R. or F. P. Slip should be noted, and, in the case of impending releases, the monthly consecutive number of Releases Notice Register. The Despatch cheque number forwarding F. P. Slips to the Bureau
1	2	3	4	5	6	7	8	9

PART III

Jail Admission number, name, *alias*, father's name	Village, Police Station, district	Place, date, section, and term of present and previous convictions	Note whether P. R. If so, note entries, recorded on back of P. R. Slips	Note entries recorded across name in J. A. Register	Note entries recorded on prisoner's History Ticket	Remarks and order of Superintendent of Police	Names and rank of Police Officers attending parade	Action showing how orders have been complied with. In the case of transfers to other districts the number and date of the letter forwarding P. R. or F. P. Slip should be noted, and, in the case of impending releases, the monthly consecutive number of Releases Notice Register. The Despatch cheque number forwarding F. P. Slips to the Bureau should also be noted
1	2	3	4	5	6	7	8	9

PART IV

Jail Admission number, name, *alias*, father's name	Village, Police Station, district	Place, date, section, and term of present and previous convictions	Note whether P. R. If so, note entries, recorded on back of P. R. Slips	Note entries recorded across name in J. A. Register	Note entries recorded on prisoner's History Ticket	Remarks and order of Superintendent of Police	Names and rank of Police Officers attending parade	Action showing how orders have been complied with. In the case of transfers to other districts the number and date of the letter forwarding P. R. or F. P. Slip should be noted, and, in the case of impending releases, the monthly consecutive number of Releases Notice Register. The Despatch cheque number forwarding F. P. Slips to the Bureau should also be noted
1	2	3	4	5	6	7	8	9

FORM No. 38

Register of Release Notice

Form No. 134 of Schedule XL (A) (Part I)

Referred to in the appendix

Name of prisoner	Sentence with section of Code	Date of release	Date of receipt of release notice	District or station to which sent with date	Date of receipt back from station	Remarks
1	2	3	4	5	6	7

FORM No. 39

Register of despatch to, and return from, courts of record slips requisitioned for evidence

Form No. 212 of Schedule XL (A) (Part I)

Referred to in the appendix

Serial No.	Slip relating to			Classification No.	Summons for slip			Date of despatch of slip	Initials of dispatching officer	Date of return of slip	Initials of receiving officer	Remarks
	Name	Father's Name	Residence		Issued by	No.	Date					
1	2			3		4		5	6	7	8	9

FORM No. 40

REGISTER OF TRACED CASES FORM No. 11 OF SCHEDULE XL (A) (PART II) REFERRED TO IN THE APPENDIX

Register of Traced Cases

Form No. 11 of Schedule XL(A), (Part II)

Referred to in the Appendix

Serial number with date of receipt of slip	District and Sub-division from which slip received	Name given by accused (in black ink) Name under which traced (in red ink)	Father's name given by accused (in black ink) Father's name under which traced (in red ink)	Residence given by accused (in black ink). Residence under which traced (in red ink)			Section of law under which sent up	Details of previous convictions traced				Whether identity established in court or not	Result of trial	Classification number	Remarks
				Village	Police Station	District		Place	Date	Section	Term				
1	2	3	4	5			6	7				8	9	10	11

FORM No. 41

Index Register Primary Classification, Secondary Classification

From No. 12 of Schedule XL (A) (Part II)

Referred to in the Appendix

Serial No.	Name	Father's name	Native District	Classification No.	Date when due for elimination	Remarks
1	2	3	4	5	6	7

FORM NO. 42

Register of Search Slips Received

Form No. 13 of Schedule XL(A), (Part II)

Referred to in the Appendix

Serial No.	Name of the accused	Father's name	Date of receipt	Name of the officer to whom made over for search, with date	Date of return of search slip to F.P.B. Inspector by expert	Date of return to district	Whether traced or not	Remarks
1	2	3	4	5	6	7	8	9

FORM NO. 43

Register of Finger Print Slips Received for Record

Form No. 15 of Schedule XL(A), (Part II)

Referred to in the Appendix

Bureau Serial No.	Receipt	Date of Acceptance	Indexing	Recording	District despatch cheque number with date	District	Name of the accused	Father's name	Name of expert to whom made over for classification, with date	Date on which the slip returned to F.P. B. Inspector after classification	Name of officer to whom made over for test, with date.	Date on which this slip returned to F.P B Inspector after test	Classification no.	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

FORM No. 44

Register of cases in which expert were employed

Form No. 16 of Schedule XL(A), (Part II)

Referred to in the Appendix

Serial No.	Name of the expert deputed	Designation of the requisitioning officer	Name of the court and the date of attendance	Particulars of the case	Number of days absent from headquarters	Remarks
1	2	3	4	5	6	7

FORM NO. 45

Register of Proficients and Experts

Form No. 17 of Schedule XL(A), (Part II)

Referred to in the Appendix

Serial No.	Rank and grade	Name	Date of joining Bureau	Date of qualifying	Date of transfer from Bureau	Date of rejoining	Remarks
1	2	3	4	5	6	7	8

SECTION I - COURT OFFICE

Index of corrections and additions to Part IV of the Assam Police Manual

Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected
1	2	3	4	5	6

SECTION I - COURT OFFICE

Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected
1	2	3	4	5	6

SECTION I - COURT OFFICE

Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected
1	2	3	4	5	6

SECTION II – FINGER PRINT RULES

Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected	Number of correction slip with date	Rule added to or corrected
1	2	3	4	5	6

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