

Summary

The BNSS represents a major reform in India's legal framework, focusing on increased use of technology in criminal proceedings, greater victim protection, and streamlined criminal procedures. The code seeks to balance the severity of punishments with the gravity of offenses and includes several provisions to safeguard the rights of the accused, such as the presumption of innocence and the right to legal representation. Despite its aims to improve efficiency and fairness in the justice system, there are concerns regarding its potential misuse.

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THE BHARATIYA NAGARIK SURAKSHA (SECOND) SANHITA, 2023

CHAPTER I: PRELIMINARY

Section 1: Short title, extent and commencement.

(1) This Act may be called the Bharatiya Nagarik Suraksha (Second) Sanhita, 2023

(2) The provisions of this Sanhita, other than those relating to Chapters IX, XI and XII thereof, shall not apply -

(a) to the State of Nagaland;

(b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

Explanation. - In this section, "tribal areas" means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

SIMPLIFIED ACTS

(1) This law is called the .

(2) Most parts of this law, except for Chapters IX, XI, and XII, do not apply to:

(a) the State of Nagaland;

(b) tribal areas,

However, the State Government can decide to apply these parts of the law to all or part of Nagaland or the tribal areas by issuing a notification. They can also make any necessary changes to the law when applying it.

Explanation. - In this section, "tribal areas" refers to the regions that were part of Assam's tribal areas before January 21, 1972, as mentioned in paragraph 20 of the Sixth Schedule of the Constitution, except for the areas within the municipality of Shillong.

(3) This law will start on a date that the Central Government will announce in the Official Gazette.

Explanation using Example

Example 1:

Rajesh, a resident of Delhi, is curious about a new law called the . He reads that this law will come into effect on a date specified by the Central Government through an official notification. Rajesh understands that once the law is in effect, it will apply to most parts of India, but he notices an exception for the State of Nagaland and certain tribal areas. Rajesh has a friend, Amina, who lives in a tribal area in Assam. He learns that the provisions of this law will not automatically apply to Amina's area unless the State Government issues a notification to apply the law there, possibly with some modifications.

Example 2:

Meera, a social worker in Nagaland, hears about the , and wants to know if it affects her work. She finds out that the law does not automatically apply to Nagaland. However, the State Government has the power to issue a notification to apply the law or parts of it to Nagaland, with any necessary changes. Meera realizes that until such a notification is issued, her work and the legal framework she operates under will remain unchanged by this new law. She decides to keep an eye on any notifications from the State Government that might bring the new law into effect in her area.

Section 2: Definitions.

Definitions

(1) In this Sanhita, unless the context otherwise requires, -

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

(b) "bail" means release of a person accused of or suspected of commission of an offence from the custody of law upon certain conditions imposed by an officer or Court on execution by such person of a bond or a bail bond;

(c) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;

(d) "bail bond" means an undertaking for release with surety;

(e) "bond" means a personal bond or an undertaking for release without surety;

(f) "charge" includes any head of charge when the charge contains more heads than one;

(g) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;

(h) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Sanhita, that some person, whether known or unknown, has committed an offence, but does not include a police report.
Explanation. - A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

(i) "electronic communication" means the communication of any written, verbal, pictorial information or video content transmitted or transferred (whether from one person to another or, from one device to another or from a person to a device or from a device to a person) by means of an electronic device including a telephone, mobile phone, or other wireless telecommunication device, or a computer, or audio-video player or camera or any other electronic device or electronic form as may be specified by notification, by the Central Government;

(j) "High Court" means, -

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(k) "inquiry" means every inquiry, other than a trial, conducted under this Sanhita by a Magistrate or Court;

(l) "investigation" includes all the proceedings under this Sanhita for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf.
Explanation. - Where any of the provisions of a special Act are inconsistent with the provisions of this Sanhita, the provisions of the special Act shall prevail;

(m) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;

(n) "local jurisdiction", in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Sanhita and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify;

(o) "non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

(p) "notification" means a notification published in the Official Gazette;

(q) "offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871;

(r) "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present;

(s) "place" includes a house, building, tent, vehicle and vessel;

(t) "police report" means a report forwarded by a police officer to a Magistrate under subsection (3) of section 193;

(u) "police station" means any post or place declared generally or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf;

(v) "Public Prosecutor" means any person appointed under section 18, and includes any person acting under the directions of a Public Prosecutor;

(w) "sub-division" means a sub-division of a district;

(x) "summons-case" means a case relating to an offence, and not being a warrant-case;

(y) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardian or legal heir of such victim;

(z) "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

(2) Words and expressions used herein and not defined but defined in the Information Technology Act, 2000 and the Bharatiya Nyaya Sanhita, 2023 shall have the meanings respectively assigned to them in that Act and Sanhita:

Provided that any reference in this Sanhita to the Bharatiya Nyaya Sanhita, 2023 or to the Bharatiya Sakshya Adhiniyam, 2023, shall be construed as a reference to the Bharatiya Nyaya (Second) Sanhita, 2023 or the Bharatiya Sakshya (Second) Adhiniyam, 2023, respectively.

SIMPLIFIED ACTS

Definitions

(1) In this document, unless the context requires otherwise, -

(a) "audio-video electronic means" includes using any communication device for video conferencing, recording identification processes, searches, seizures, or evidence, sending electronic messages, and other purposes as defined by the State Government.

(b) "bail" means releasing a person accused or suspected of a crime from custody under certain conditions set by an officer or Court, after the person signs a bond or bail bond.

(c) "bailable offence" is a crime listed as bailable in the First Schedule or made bailable by any current law; "non-bailable offence" is any other crime.

(d) "bail bond" is a promise to appear in court, with a guarantee from another person.

(e) "bond" is a personal promise to appear in court, without a guarantee from another person.

(f) "charge" includes any specific accusation when there are multiple accusations.

(g) "cognizable offence" is a crime for which a police officer can arrest without a warrant, as per the First Schedule or any current law; "cognizable case" is a case involving such a crime.

(h) "complaint" is an allegation made orally or in writing to a Magistrate, aiming for action under this document, that someone has committed a crime. It does not include a police report.

Explanation: A police report showing a non-cognizable offence after investigation is considered a complaint, and the police officer who made the report is considered the complainant._

(i) "electronic communication" means sending or receiving written, verbal, pictorial information, or video content using electronic devices like phones, computers, or cameras, as specified by the Central Government.

(j) "High Court" means, -

(i) for any State, the High Court of that State;

(ii) for a Union territory under a State's High Court jurisdiction, that High Court;

(iii) for any other Union territory, the highest criminal appeal court for that territory, other than the Supreme Court of India;

(k) "inquiry" means any investigation, other than a trial, conducted by a Magistrate or Court under this document.

(l) "investigation" includes all procedures for collecting evidence conducted by a police officer or any person authorized by a Magistrate.
Explanation: If any special Act's provisions conflict with this document, the special Act's provisions will prevail.

(m) "judicial proceeding" includes any process where evidence is or can be legally taken under oath.

(n) "local jurisdiction" means the area within which a Court or Magistrate can exercise their powers under this document, which can be the whole State or any part specified by the State Government.

(o) "non-cognizable offence" is a crime for which a police officer cannot arrest without a warrant; "non-cognizable case" is a case involving such a crime.

(p) "notification" means a notice published in the Official Gazette.

(q) "offence" means any act or omission punishable by current law, including acts for which a complaint can be made under section 20 of the Cattle Trespass Act, 1871.

(r) "officer in charge of a police station" includes the next in rank police officer present at the station when the officer in charge is absent or unable to perform duties, or any other police officer as directed by the State Government.

(s) "place" includes a house, building, tent, vehicle, and vessel.

(t) "police report" means a report sent by a police officer to a Magistrate under section 193(3).

(u) "police station" means any post or place declared by the State Government to be a police station, including any specified local area.

(v) "Public Prosecutor" means any person appointed under section 18, including anyone acting under the directions of a Public Prosecutor.

(w) "sub-division" means a sub-division of a district.

(x) "summons-case" means a case related to an offence that is not a warrant-case.

(y) "victim" means a person who has suffered loss or injury due to the act or omission of the accused person, including the guardian or legal heir of such a victim.

(z) "warrant-case" means a case related to an offence punishable with death, life imprisonment, or imprisonment for more than two years.

(2) Words and expressions used here and not defined but defined in the Information Technology Act, 2000, and the Bharatiya Nyaya Sanhita, 2023, will have the meanings assigned to them in those Acts:

Provided that any reference in this document to the Bharatiya Nyaya Sanhita, 2023, or the Bharatiya Sakshya Adhiniyam, 2023, will be understood as a reference to the Bharatiya Nyaya (Second) Sanhita, 2023, or the Bharatiya Sakshya (Second) Adhiniyam, 2023, respectively.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of theft and is arrested by the police.

Application of Definitions:

Bail: Ramesh's lawyer applies for bail, which means Ramesh can be released from police custody upon certain conditions.

Bailable Offence: If theft is listed as a bailable offence in the First Schedule, Ramesh can be granted bail more easily.

Bail Bond: Ramesh may need to provide a bail bond, which is an undertaking with surety, to ensure he will appear in court.

Cognizable Offence: Theft is a cognizable offence, so the police can arrest Ramesh without a warrant.

Complaint: If a neighbor, Suresh, saw Ramesh committing the theft, Suresh can make a complaint to the Magistrate.

Investigation: The police will conduct an investigation to collect evidence against Ramesh.

Judicial Proceeding: During the trial, evidence will be legally taken on oath.

Victim: The person whose property was stolen by Ramesh is the victim and can seek justice.

Example 2:

Scenario: Priya is involved in a car accident and is accused of causing injury to another person.

Application of Definitions:

Non-Cognizable Offence: If causing injury by negligence is a non-cognizable offence, the police cannot arrest Priya without a warrant.

Complaint: The injured person can file a complaint with the Magistrate alleging Priya's negligence.

Electronic Communication: The accident was recorded on a nearby CCTV camera. The footage can be used as electronic communication evidence.

Inquiry: The Magistrate will conduct an inquiry to determine if there is enough evidence to proceed with a trial.

Local Jurisdiction: The case will be handled by the court within the local jurisdiction where the accident occurred.

Public Prosecutor: A Public Prosecutor will represent the state and present the case against Priya.

Victim: The injured person is the victim and can claim compensation for the injuries suffered.

Example 3:

Scenario: A company is suspected of tax evasion and the police conduct a search and seizure operation.

Application of Definitions:

Audio-Video Electronic Means: The police use video conferencing to coordinate the search operation and record the process.

Cognizable Offence: Tax evasion is a cognizable offence, so the police can conduct the search without a warrant.

Investigation: The police collect evidence such as financial records and electronic communications during the search.

Place: The search is conducted at the company's office, which is considered a place under the act.

Police Report: After the investigation, the police forward a report to the Magistrate detailing the findings.

Judicial Proceeding: The court will conduct judicial proceedings to determine the company's guilt based on the evidence collected.

Victim: The government, as the entity defrauded of tax revenue, is considered the victim in this case.

Example 4:

Scenario: A person is accused of cyberbullying through social media.

Application of Definitions:

Electronic Communication: The cyberbullying was done through electronic communication, such as messages and posts on social media.

Complaint: The victim of cyberbullying can file a complaint with the Magistrate.

Investigation: The police will investigate by collecting electronic evidence such as screenshots and chat logs.

Cognizable Offence: If cyberbullying is classified as a cognizable offence, the police can arrest the accused without a warrant.

Victim: The person who suffered emotional distress and harm due to cyberbullying is the victim.

Judicial Proceeding: The court will conduct judicial proceedings to determine the guilt of the accused based on the electronic evidence.

High Court: If the case involves significant legal questions, it may be appealed to the High Court of the respective state.

Example 5:

Scenario: A person is accused of trespassing on private property.

Application of Definitions:

Non-Cognizable Offence: Trespassing may be a non-cognizable offence, so the police cannot arrest the person without a warrant.

Complaint: The property owner can file a complaint with the Magistrate alleging trespassing.

Investigation: The police will investigate the complaint by gathering evidence such as witness statements and photographs.

Place: The private property where the trespassing occurred is considered a place under the act.

Victim: The property owner is the victim and can seek legal action against the trespasser.

Judicial Proceeding: The court will conduct judicial proceedings to determine if the accused is guilty of trespassing.

Local Jurisdiction: The case will be handled by the court within the local jurisdiction where the trespassing occurred.

Section 3: Construction of references.

(1) Unless the context otherwise requires, any reference in any law, to a Magistrate without any qualifying words, Magistrate of the first class or a Magistrate of the second class shall, in relation to any area, be construed as a reference to a Judicial Magistrate of the first class or Judicial Magistrate of the second class, as the case may be, exercising jurisdiction in such area.

(2) Where, under any law, other than this Sanhita, the functions exercisable by a Magistrate relate to matters, -

(a) which involve the appreciation or shifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Sanhita, be exercisable by a Judicial Magistrate ; or

(b) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject to the provisions of clause (a) be exercisable by an Executive Magistrate.

SIMPLIFIED ACTS

(1) Unless it clearly means something else, any mention of a Magistrate in any law, without any extra words, or if it says Magistrate of the first class or Magistrate of the second class, should be understood as referring to a Judicial Magistrate of the first class or Judicial Magistrate of the second class, depending on the situation, who has authority in that area.

(2) If a law, other than this one, gives a Magistrate certain duties:

(a) that involve judging evidence, making decisions that could punish someone, detain them while waiting for investigation, inquiry, or trial, or send them to trial, these duties should be done by a Judicial Magistrate, according to the rules of this law; or

(b) that are more about administration or management, like giving or taking away a license, approving or stopping a prosecution, these duties should be done by an Executive Magistrate, unless they fall under the duties mentioned in (a).

Explanation using Example

Example 1:

Scenario: A person named Raj is accused of theft in a small town in Maharashtra. The police arrest him and present him before a Magistrate.

Application of Section 3:

Since the law mentions "Magistrate" without any qualifying words, it needs to be determined which type of Magistrate has jurisdiction.

According to Section 3(1), the reference to a Magistrate in this context should be construed as a reference to a Judicial Magistrate of the first class or Judicial Magistrate of the second class, depending on the area.

Therefore, Raj will be presented before a Judicial Magistrate of the first class or second class who has jurisdiction in that area.

Example 2:

Scenario: A business owner named Priya applies for a liquor license in Delhi. The application is to be reviewed and approved by a Magistrate.

Application of Section 3:

The function of granting a license is administrative in nature.

According to Section 3(2)(b), administrative or executive functions such as granting a license are to be exercised by an Executive Magistrate.

Therefore, Priya's application for a liquor license will be reviewed and decided upon by an Executive Magistrate.

Example 3:

Scenario: A person named Anil is involved in a road accident and is accused of causing grievous injury. The police need to detain him pending investigation.

Application of Section 3:

The function of detaining a person pending investigation involves the appreciation of evidence and exposes the person to potential punishment.

According to Section 3(2)(a), such functions are to be exercised by a Judicial Magistrate.

Therefore, the decision to detain Anil pending investigation will be made by a Judicial Magistrate.

Example 4:

Scenario: The local government in a district decides to suspend the business license of a shop for violating health regulations.

Application of Section 3:

The function of suspending a license is administrative in nature.

According to Section 3(2)(b), administrative or executive functions such as suspending a license are to be exercised by an Executive Magistrate.

Therefore, the decision to suspend the shop's business license will be made by an Executive Magistrate.

Section 4: Trial of offences under Bharatiya Nyaya Sanhita, 2023 and other laws.

(1) All offences under the Bharatiya Nyaya Sanhita, 2023 shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

SIMPLIFIED ACTS

(1) All crimes under the Bharatiya Nyaya Sanhita, 2023 will be investigated, examined, tried in court, and handled according to the rules mentioned in this document.

(2) All crimes under any other law will also be investigated, examined, tried in court, and handled according to the same rules, but they must follow any current laws that specify how or where these actions should take place.

Explanation using Example

Example 1:

Rajesh is accused of theft under the Bharatiya Nyaya Sanhita, 2023. The police receive a complaint and start an investigation. They follow the procedures outlined in the Bharatiya

Nyaya Sanhita, 2023, such as collecting evidence, interviewing witnesses, and filing a charge sheet. The case is then taken to court, where it is tried according to the rules and procedures specified in the Bharatiya Nyaya Sanhita, 2023. Rajesh is given a fair trial, and based on the evidence presented, the court delivers its judgment.

Example 2:

Priya is accused of violating environmental laws under a separate environmental protection act. The police begin their investigation following the procedures outlined in the Bharatiya Nyaya Sanhita, 2023. However, since the environmental protection act has specific provisions about how such cases should be handled, those provisions take precedence. For instance, the environmental act might require that the case be tried in a special environmental court. Therefore, while the general procedures of the Bharatiya Nyaya Sanhita, 2023 are followed, the specific requirements of the environmental protection act are also adhered to, ensuring that Priya's case is handled appropriately.

Section 5: Saving.

Nothing contained in this Sanhita shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

SIMPLIFIED ACTS

This law does not change or override any special or local laws that are currently in effect, unless it specifically says so.

It also does not change any special powers or procedures given by other laws that are currently in effect.

Explanation using Example

Example 1:

Ravi lives in a small town in Maharashtra where a special local law mandates that all shops must close by 8 PM for safety reasons. One day, a new national law is passed under the Bharatiya Nagarik Suraksha Sanhita 2023, which states that shops can remain open until 10 PM. Ravi is confused about which law to follow. According to Section 5 of the Bharatiya Nagarik Suraksha Sanhita 2023, the local law requiring shops to close by 8 PM will still apply because the Sanhita does not specifically override this local law. Therefore, Ravi must close his shop by 8 PM as per the local law.

Example 2:

Priya is a resident of a tribal area in Jharkhand where a special jurisdiction allows the local tribal council to resolve disputes according to their traditional practices. A new law under the Bharatiya Nagarik Suraksha Sanhita 2023 is introduced, which outlines a different procedure for resolving disputes. Priya is unsure whether the new procedure applies to her community. According to Section 5 of the Bharatiya Nagarik Suraksha Sanhita 2023, the traditional dispute resolution process by the tribal council will still be valid because the Sanhita does not specifically override the special jurisdiction of the tribal council. Therefore, Priya's disputes will continue to be resolved by the tribal council as per their traditional practices.

CHAPTER II: CONSTITUTION OF CRIMINAL COURTS AND OFFICES

Section 6: Classes of Criminal Courts.

Besides the High Courts and the Courts constituted under any law, other than this Sanhita, there shall be, in every State, the following classes of Criminal Courts, namely:

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates.

SIMPLIFIED ACTS

Apart from the High Courts and other courts established by any law other than this code, each state will have the following types of criminal courts:

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates.

Explanation using Example

Example 1:

Ravi is accused of theft in Mumbai, Maharashtra. His case is initially heard by a Judicial Magistrate of the first class. The Magistrate finds enough evidence to proceed with the trial

and commits the case to the Sessions Court. The Sessions Court, which has the authority to handle more serious criminal cases, will now conduct the trial and deliver the final judgment.

Example 2:

Priya is involved in a minor altercation in a small town in Uttar Pradesh. The police file a charge sheet against her for causing a public nuisance. Her case is heard by a Judicial Magistrate of the second class, who has the jurisdiction to handle less serious offenses. The Magistrate reviews the evidence, hears the arguments, and imposes a fine on Priya as a penalty.

Example 3:

In a village in Tamil Nadu, there is a dispute between two families over a piece of land. The situation escalates, and the local police are called to prevent any violence. The Executive Magistrate, who has the authority to maintain law and order, issues a restraining order to both families, preventing them from coming near the disputed land until the matter is resolved in a civil court.

Example 4:

A high-profile corruption case involving a government official in Delhi is brought before the High Court. The High Court, which has the highest authority in the state, takes cognizance of the case due to its serious nature and the involvement of a high-ranking official. The High Court will oversee the proceedings and ensure that justice is served.

Section 7: Territorial divisions.

Sessions Divisions and Districts

- (1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions division shall, for the purposes of this Sanhita, be a district or consist of districts.
- (2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.
- (3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.
- (4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Sanhita, shall be deemed to have been formed under this section.

SIMPLIFIED ACTS

Sessions Divisions and Districts

(1) Every State will either be one big sessions division or be made up of several sessions divisions. Each sessions division will be a district or made up of several districts for the purposes of this law.

(2) The State Government can change the boundaries or the number of these divisions and districts, but they need to talk to the High Court first.

(3) The State Government can also split any district into smaller parts called sub-divisions and can change the boundaries or the number of these sub-divisions, again after talking to the High Court.

(4) The sessions divisions, districts, and sub-divisions that already exist in a State when this law starts will be considered as if they were created under this section.

Explanation using Example

Example 1:

Scenario: The state of Maharashtra is currently divided into several sessions divisions and districts. The government of Maharashtra, after consulting with the Bombay High Court, decides to create a new sessions division due to the increasing population and administrative needs.

Application: According to Section 7 of The Bharatiya Nagarik Suraksha Sanhita 2023, the state government has the authority to alter the limits or the number of sessions divisions and districts. Therefore, the government can legally create a new sessions division by following the due process of consultation with the High Court.

Example 2:

Scenario: The state of Karnataka has a district called Mysuru, which is experiencing rapid urbanization and growth. To manage the administrative workload more effectively, the Karnataka government, after consulting with the Karnataka High Court, decides to divide Mysuru district into two sub-divisions: Mysuru North and Mysuru South.

Application: Under Section 7 of The Bharatiya Nagarik Suraksha Sanhita 2023, the state government is empowered to divide any district into sub-divisions and alter their limits or numbers after consulting with the High Court. Thus, the division of Mysuru district into Mysuru North and Mysuru South is legally permissible.

Example 3:

Scenario: At the commencement of The Bharatiya Nagarik Suraksha Sanhita 2023, the state of Tamil Nadu already has established sessions divisions, districts, and sub-divisions. A citizen is concerned whether these existing divisions will be affected by the new law.

Application: According to Section 7(4) of The Bharatiya Nagarik Suraksha Sanhita 2023, the sessions divisions, districts, and sub-divisions existing at the commencement of the Sanhita are deemed to have been formed under this section. Therefore, the existing divisions in Tamil Nadu will continue to be recognized under the new law without any immediate changes.

Section 8: Court of Session.

Establishment of Courts of Session

- (1) The State Government shall establish a Court of Session for every sessions division.
- (2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.
- (3) The High Court may also appoint Additional Sessions Judges to exercise jurisdiction in a Court of Session.
- (4) The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division, and in such case, he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.
- (5) Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional Sessions Judge or if there be no Additional Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.
- (6) The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.
- (7) The Sessions Judge may, from time to time, make orders consistent with this Sanhita, as to the distribution of business among such Additional Sessions Judges.
- (8) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional Sessions Judge or if there be no Additional Sessions Judge, by the Chief Judicial Magistrate, and such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

Explanation: For the purposes of this Sanhita, "appointment" does not include the first appointment, posting or promotion of a person by the Government to any Service, or post in

connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by the Government.

SIMPLIFIED ACTS

Establishment of Courts of Session

- (1) The State Government will set up a Court of Session for each sessions division.
- (2) Each Court of Session will have a Judge, who will be appointed by the High Court.
- (3) The High Court can also appoint Additional Sessions Judges to work in a Court of Session.
- (4) A Sessions Judge from one division can be appointed by the High Court to also serve as an Additional Sessions Judge in another division. In such cases, the Judge can handle cases at locations in the other division as directed by the High Court.
- (5) If the position of the Sessions Judge is vacant, the High Court can arrange for an Additional Sessions Judge or, if there isn't one, a Chief Judicial Magistrate in the sessions division to handle any urgent applications. These Judges or Magistrates will have the authority to deal with such applications.
- (6) The Court of Session will usually hold its sessions at places specified by the High Court. However, if the Court believes it would be more convenient for everyone involved to hold the session at a different location within the division, it can do so with the agreement of both the prosecution and the accused.
- (7) The Sessions Judge can make orders about how work is distributed among the Additional Sessions Judges, as long as these orders are consistent with this law.
- (8) The Sessions Judge can also arrange for an Additional Sessions Judge or, if there isn't one, the Chief Judicial Magistrate to handle any urgent applications if the Sessions Judge is absent or unable to act. These Judges or Magistrates will have the authority to deal with such applications.

Explanation: For the purposes of this law, "appointment" does not include the initial appointment, posting, or promotion of a person by the Government to any service or position related to the affairs of the Union or a State, where such appointment, posting, or promotion is required by law to be made by the Government.

Explanation using Example

Example 1:

Scenario: Establishment of a Court of Session in a New District

Context: The state government of Maharashtra decides to create a new district called "Newtown" due to administrative reasons. According to Section 8 of The Bharatiya Nagarik Suraksha Sanhita 2023, the state government must establish a Court of Session for this new district.

Application:

The Maharashtra state government establishes a Court of Session for the Newtown sessions division.

The High Court of Bombay appoints a Sessions Judge to preside over the Court of Session in Newtown.

Additionally, the High Court appoints two Additional Sessions Judges to assist with the caseload in Newtown.

Outcome: The Court of Session in Newtown is now operational, with a Sessions Judge and two Additional Sessions Judges handling criminal cases within the district.

Example 2:

Scenario: Temporary Vacancy of a Sessions Judge

Context: The Sessions Judge of the Pune sessions division is on medical leave for two months. There are several urgent applications pending before the Court of Session in Pune.

Application:

The High Court of Bombay makes arrangements for the disposal of urgent applications by appointing an Additional Sessions Judge from the Pune sessions division to handle the cases.

If there were no Additional Sessions Judge available, the High Court could appoint the Chief Judicial Magistrate of Pune to deal with the urgent applications.

Outcome: The urgent applications are handled without delay, ensuring that the judicial process continues smoothly despite the temporary vacancy of the Sessions Judge.

Example 3:

Scenario: Holding Court Sessions at a Different Location for Convenience

Context: A high-profile criminal case in the Nagpur sessions division involves witnesses and parties from a remote village far from the usual court location. Traveling to the court would be inconvenient for them.

Application:

The Sessions Judge of Nagpur, considering the general convenience of the parties and witnesses, decides to hold the court sittings in the remote village.

The Sessions Judge obtains consent from both the prosecution and the accused to hold the sittings at the new location.

Outcome: The court sessions are held in the remote village, making it easier for the parties and witnesses to attend, thereby facilitating a smoother judicial process.

Example 4:

Scenario: Distribution of Business Among Additional Sessions Judges

Context: The sessions division of Bengaluru has a high volume of criminal cases, requiring efficient distribution of workload among the judges.

Application:

The Sessions Judge of Bengaluru issues orders for the distribution of cases among the Additional Sessions Judges.

The distribution is done in a manner consistent with The Bharatiya Nagarik Suraksha Sanhita 2023, ensuring that each judge handles a fair share of the caseload.

Outcome: The workload is evenly distributed among the judges, leading to timely disposal of cases and efficient functioning of the Court of Session in Bengaluru.

Section 9: Courts of Judicial Magistrates.

Establishment of Courts of Judicial Magistrates

(1) In every district there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification, specify:

Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

SIMPLIFIED ACTS

Establishment of Courts of Judicial Magistrates

(1) In every district, there will be as many Courts of Judicial Magistrates of the first class and the second class, and at locations, as the State Government decides after talking with the High Court and announcing it officially:

However, the State Government can also set up one or more Special Courts of Judicial Magistrates of the first class or the second class for any specific area to handle particular cases or types of cases. When such a Special Court is set up, no other Magistrate Court in that area can handle those specific cases or types of cases.

(2) The judges for these Courts will be appointed by the High Court.

(3) The High Court can also give the powers of a Judicial Magistrate of the first class or the second class to any member of the State's Judicial Service who is working as a Judge in a Civil Court, whenever it thinks it is necessary or useful.

Explanation using Example

Example 1:

Scenario: A district in Maharashtra has seen a significant increase in cybercrime cases, leading to a backlog in the existing courts.

Application of the Act:

The State Government of Maharashtra, after consulting with the Bombay High Court, issues a notification to establish additional Courts of Judicial Magistrates of the first class in the district to handle the increased caseload.

Additionally, recognizing the specialized nature of cybercrime, the State Government, again in consultation with the High Court, establishes a Special Court of Judicial Magistrates of the first class specifically for cybercrime cases in the district.

The presiding officers for these new courts are appointed by the High Court.

The High Court also confers the powers of a Judicial Magistrate of the first class on a member of the Judicial Service who is currently functioning as a Judge in a Civil Court, to ensure there are enough qualified magistrates to handle the cases.

Example 2:

Scenario: In a rural district of Uttar Pradesh, there is a sudden rise in cases related to land disputes and agricultural offenses.

Application of the Act:

The State Government of Uttar Pradesh, after consulting with the Allahabad High Court, decides to establish additional Courts of Judicial Magistrates of the second class in the district to address the surge in land dispute cases.

To handle a particularly complex and high-profile land dispute case involving multiple parties, the State Government, with the High Court's consultation, establishes a Special Court of Judicial Magistrates of the second class specifically for this case.

The High Court appoints experienced judicial officers to preside over these new courts.

Seeing the necessity, the High Court also confers the powers of a Judicial Magistrate of the second class on a civil judge in the district to ensure that the new courts are adequately staffed and can function efficiently.

Example 3:

Scenario: A metropolitan city like Bengaluru is experiencing a rise in traffic violation cases, causing delays in the judicial process.

Application of the Act:

The State Government of Karnataka, after consulting with the Karnataka High Court, issues a notification to establish more Courts of Judicial Magistrates of the first class in Bengaluru to expedite the handling of traffic violation cases.

Recognizing the need for specialized handling of repeat offenders and severe traffic violations, the State Government, in consultation with the High Court, establishes a Special Court of Judicial Magistrates of the first class specifically for serious traffic offenses.

The High Court appoints qualified judicial officers to preside over these new courts.

The High Court also confers the powers of a Judicial Magistrate of the first class on a member of the Judicial Service who is currently functioning as a Judge in a Civil Court, ensuring that there are enough magistrates to manage the increased workload.

Example 4:

Scenario: In a district in West Bengal, there is a sudden increase in cases related to domestic violence.

Application of the Act:

The State Government of West Bengal, after consulting with the Calcutta High Court, decides to establish additional Courts of Judicial Magistrates of the first class in the district to handle the surge in domestic violence cases.

To provide focused attention and quicker resolution, the State Government, with the High Court's consultation, establishes a Special Court of Judicial Magistrates of the first class specifically for domestic violence cases.

The High Court appoints experienced judicial officers to preside over these new courts.

The High Court also confers the powers of a Judicial Magistrate of the first class on a civil judge in the district to ensure that the new courts are adequately staffed and can function efficiently.

Section 10: Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.

Judicial Magistrates

(1) In every district, the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate.

(2) The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Sanhita or under any other law for the time being in force as the High Court may direct.

(3) The High Court may designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(4) Subject to the general control of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise, such powers of supervision and control over the work of the Judicial Magistrates (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

SIMPLIFIED ACTS

Judicial Magistrates

(1) In every district, the High Court will appoint a top-level Judicial Magistrate called the Chief Judicial Magistrate.

(2) The High Court can also appoint another top-level Judicial Magistrate as an Additional Chief Judicial Magistrate. This person will have the same powers as the Chief Judicial Magistrate, as decided by the High Court.

(3) The High Court can assign a top-level Judicial Magistrate in any smaller area (sub-division) to be the Sub-divisional Judicial Magistrate and can change their responsibilities as needed.

(4) Under the overall supervision of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate will also have the authority to oversee and manage the work of other Judicial Magistrates (except Additional Chief Judicial Magistrates) in their area, as specified by the High Court through general or special orders.

Explanation using Example

Example 1:

Scenario: Appointment of Chief Judicial Magistrate in a District

Context: In the district of Pune, the High Court of Bombay needs to appoint a Chief Judicial Magistrate.

Application: The High Court of Bombay appoints Mr. A, a Judicial Magistrate of the first class, as the Chief Judicial Magistrate of Pune district. Mr. A now has the authority to oversee the judicial functions and administration of the district's criminal courts.

Outcome: Mr. A, as the Chief Judicial Magistrate, ensures that all criminal cases in Pune district are processed efficiently and fairly. He supervises the work of other Judicial Magistrates in the district and ensures that justice is delivered promptly.

Example 2:

Scenario: Appointment of Additional Chief Judicial Magistrate

Context: In the district of Jaipur, the High Court of Rajasthan decides that the workload is too high for a single Chief Judicial Magistrate to handle.

Application: The High Court appoints Ms. B, another Judicial Magistrate of the first class, as an Additional Chief Judicial Magistrate. Ms. B is given the same powers as the Chief Judicial Magistrate to help manage the caseload.

Outcome: With Ms. B as the Additional Chief Judicial Magistrate, the district of Jaipur can handle more cases efficiently. Both the Chief Judicial Magistrate and the Additional Chief Judicial Magistrate work together to ensure that the judicial process is smooth and timely.

Example 3:

Scenario: Designation of Sub-divisional Judicial Magistrate

Context: In the sub-division of Alwar within the district of Jaipur, the High Court of Rajasthan needs to designate a Sub-divisional Judicial Magistrate.

Application: The High Court designates Mr. C, a Judicial Magistrate of the first class, as the Sub-divisional Judicial Magistrate of Alwar. Mr. C is relieved of some responsibilities to focus on his new role.

Outcome: Mr. C, as the Sub-divisional Judicial Magistrate, supervises and controls the work of other Judicial Magistrates in Alwar sub-division. He ensures that the judicial processes in the sub-division are conducted efficiently and that the workload is evenly distributed.

Example 4:

Scenario: Supervision and Control by Sub-divisional Judicial Magistrate

Context: In the sub-division of Varanasi within the district of Varanasi, the High Court of Allahabad issues a special order regarding the supervision powers of the Sub-divisional Judicial Magistrate.

Application: The High Court specifies that Ms. D, the Sub-divisional Judicial Magistrate of Varanasi, has the power to supervise and control the work of all Judicial Magistrates in the sub-division, except for the Additional Chief Judicial Magistrates.

Outcome: Ms. D exercises her supervisory powers to ensure that all Judicial Magistrates in Varanasi sub-division are performing their duties effectively. She addresses any issues that arise and ensures that the judicial system operates smoothly within her jurisdiction.

Section 11: Special Judicial Magistrates.

(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Sanhita on a Judicial Magistrate of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

SIMPLIFIED ACTS

(1) The High Court can give certain powers to a person who currently works or has worked for the government if the Central or State Government asks them to. These powers are

usually given to a Judicial Magistrate of the first or second class and can be used for specific cases or types of cases in a certain area:

However, the person must have the necessary qualifications or experience in legal matters as specified by the High Court rules.

(2) These appointed individuals will be known as Special Judicial Magistrates. They will be appointed for a term of up to one year at a time, as decided by the High Court through general or special orders.

Explanation using Example

Example 1:

Mr. Sharma, a retired IAS officer with extensive experience in legal affairs, is requested by the State Government to serve as a Special Judicial Magistrate in the city of Jaipur. The High Court, upon reviewing his qualifications and experience, confers upon him the powers of a Judicial Magistrate of the first class. Mr. Sharma is appointed for a term of one year to handle cases related to economic offenses in Jaipur. During his term, he presides over a high-profile case involving financial fraud, ensuring that justice is served efficiently.

Example 2:

Dr. Mehta, a former legal advisor to the Central Government, is approached by the Central Government to assist in clearing a backlog of cybercrime cases in Mumbai. The High Court, recognizing Dr. Mehta's expertise in cyber law, appoints him as a Special Judicial Magistrate with the powers of a Judicial Magistrate of the second class. Dr. Mehta is given a one-year term to focus on these specific cases. Throughout the year, he adjudicates numerous cybercrime cases, providing swift resolutions and reducing the backlog significantly.

Section 12: Local Jurisdiction of Judicial Magistrates.

Jurisdiction and Powers of Magistrates

(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 9 or under section 11 may exercise all or any of the powers with which they may respectively be invested under this Sanhita:

Provided that the Court of Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

(3) Where the local jurisdiction of a Magistrate appointed under section 9 or section 11 extends to an area beyond the district in which he ordinarily holds Court, any reference in this Sanhita to the Court of Session or Chief Judicial Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session or Chief Judicial Magistrate, as the case may be, exercising jurisdiction in relation to the said district.

SIMPLIFIED ACTS

Jurisdiction and Powers of Magistrates

(1) The Chief Judicial Magistrate, under the supervision of the High Court, can decide the areas where Magistrates (appointed under section 9 or section 11) can use their powers. These areas can be changed from time to time:

Provided that the Court of Special Judicial Magistrate can hold its sessions anywhere within the area it is set up for.

(2) Unless stated otherwise, the powers and jurisdiction of each Magistrate will cover the entire district.

(3) If a Magistrate's area of authority (appointed under section 9 or section 11) goes beyond the district where they usually work, any mention of the Court of Session or Chief Judicial Magistrate in this law will be understood to mean the Court of Session or Chief Judicial Magistrate for that district, unless it clearly means something else.

Explanation using Example

Example 1:

Scenario: A theft occurs in a small town within District A. The accused is caught and needs to be tried.

Application of Section 12:

The Chief Judicial Magistrate of District A defines the local limits within which the Judicial Magistrates can exercise their powers.

The Judicial Magistrate appointed under section 9 or section 11 can handle the case within the defined local limits of District A.

If the theft occurred in a town within District A, the local Judicial Magistrate has the jurisdiction to try the case.

Example 2:

Scenario: A cybercrime is committed that affects multiple districts, including District B and District C. The accused is arrested in District B but the crime also impacts District C.

Application of Section 12:

The Chief Judicial Magistrate of District B defines the local limits for the Judicial Magistrates in District B.

Since the crime impacts multiple districts, the local jurisdiction of the Magistrate may extend beyond District B.

The Magistrate in District B can exercise jurisdiction over the case even if it involves District C, as long as the local limits are defined to include the affected areas.

The Court of Special Judicial Magistrate can hold its sitting at any place within the local area for which it is established, allowing flexibility in handling cases that span multiple districts.

Example 3:

Scenario: A Special Judicial Magistrate is appointed to handle a high-profile corruption case that spans across multiple districts within a state.

Application of Section 12:

The Chief Judicial Magistrate defines the local limits for the Special Judicial Magistrate.

The Special Judicial Magistrate can hold sittings at any place within the local area for which it is established, ensuring that the case can be heard in various locations as needed.

The jurisdiction and powers of the Special Judicial Magistrate extend throughout the defined local area, allowing them to effectively manage the case across multiple districts.

Example 4:

Scenario: A Magistrate is appointed under section 9 to handle cases in a newly formed district, District D, which was previously part of District E.

Application of Section 12:

The Chief Judicial Magistrate of District E redefines the local limits to accommodate the new District D.

The newly appointed Magistrate in District D can exercise their powers within the new local limits defined by the Chief Judicial Magistrate.

Any reference to the Court of Session or Chief Judicial Magistrate in relation to the Magistrate in District D will be construed as a reference to the Court of Session or Chief Judicial Magistrate exercising jurisdiction in District D.

Section 13: Subordination of Judicial Magistrates.

(1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2) The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Sanhita, as to the distribution of business among the Judicial Magistrates subordinate to him.

SIMPLIFIED ACTS

(1) Every Chief Judicial Magistrate must follow the authority of the Sessions Judge. All other Judicial Magistrates must follow the Chief Judicial Magistrate, but they are also under the general supervision of the Sessions Judge.

(2) The Chief Judicial Magistrate can make rules or give special instructions, as long as they are consistent with this law, about how work should be divided among the Judicial Magistrates who report to him.

Explanation using Example

Example 1:

Scenario: A theft case is being heard in a district court in India.

Details:

The accused, Ramesh, is charged with theft under Section 379 of the Indian Penal Code.

The case is initially assigned to a Judicial Magistrate First Class (JMFC), Ms. Priya.

Application of Section 13:

Ms. Priya, as a Judicial Magistrate, is subordinate to the Chief Judicial Magistrate (CJM), Mr. Arvind.

Mr. Arvind, the CJM, is in turn subordinate to the Sessions Judge, Mr. Suresh.

During the trial, Ms. Priya needs guidance on a procedural matter. She consults Mr. Arvind, who provides instructions consistent with the Bharatiya Nagarik Suraksha Sanhita 2023.

Mr. Arvind also issues a special order to redistribute some of Ms. Priya's caseload to another Judicial Magistrate to ensure timely disposal of cases.

Example 2:

Scenario: A domestic violence case is being handled in a district court.

Details:

The complainant, Sunita, has filed a case under the Protection of Women from Domestic Violence Act, 2005.

The case is assigned to a Judicial Magistrate Second Class (JMSC), Mr. Rajesh.

Application of Section 13:

Mr. Rajesh, as a Judicial Magistrate, is subordinate to the Chief Judicial Magistrate (CJM), Ms. Kavita.

Ms. Kavita, the CJM, is subordinate to the Sessions Judge, Mr. Anil.

Ms. Kavita notices that Mr. Rajesh has a heavy caseload and some cases are getting delayed.

To address this, Ms. Kavita issues a special order to redistribute some of Mr. Rajesh's cases to another Judicial Magistrate, ensuring that Sunita's case is heard promptly.

Additionally, Ms. Kavita makes a rule that all domestic violence cases should be given priority and resolved within six months, consistent with the Bharatiya Nagarik Suraksha Sanhita 2023.

Section 14: Executive Magistrates.

Executive Magistrates

(1) In every district, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have such of the powers of a District Magistrate under this Sanhita or under any other law for the time being in force as may be directed by the State Government.

(3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of the State Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Sanhita on the District Magistrate.

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

(5) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.

(6) Nothing in this section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police all or any of the powers of an Executive Magistrate.

SIMPLIFIED ACTS

Executive Magistrates

(1) In every district, the State Government can appoint as many people as it wants to be Executive Magistrates and will choose one of them to be the District Magistrate.

(2) The State Government can also appoint any Executive Magistrate to be an Additional District Magistrate. This person will have some of the powers of a District Magistrate as decided by the State Government.

(3) If the position of District Magistrate becomes vacant, the officer who temporarily takes over will have all the powers and duties of the District Magistrate until the State Government gives further orders.

(4) The State Government can put an Executive Magistrate in charge of a sub-division and can also remove them from this position when needed. This person will be called the Sub-divisional Magistrate.

(5) The State Government can allow the District Magistrate to take over its power to appoint and remove Sub-divisional Magistrates, either generally or in specific cases, and under certain conditions.

(6) This section does not stop the State Government from giving a Commissioner of Police any or all of the powers of an Executive Magistrate under any current law.

Explanation using Example

Example 1:

Scenario: Appointment of Executive Magistrates in a District

Context: The State Government of Maharashtra decides to appoint Executive Magistrates in the district of Pune.

Application:

The State Government appoints Mr. A, Mr. B, and Ms. C as Executive Magistrates for Pune district.

Among them, Mr. A is appointed as the District Magistrate of Pune.

The State Government also appoints Mr. B as an Additional District Magistrate, giving him specific powers to oversee law and order in the district.

Outcome: Mr. A, as the District Magistrate, has the primary responsibility for the executive administration of Pune district. Mr. B, as the Additional District Magistrate, assists Mr. A and has certain powers delegated to him by the State Government.

Example 2:

Scenario: Temporary Succession of District Magistrate's Office

Context: The District Magistrate of Jaipur, Mr. D, retires, and the position becomes temporarily vacant.

Application:

Ms. E, an officer in the district administration, temporarily takes over the executive administration of Jaipur district.

Pending the State Government's orders, Ms. E exercises all the powers and performs all the duties of the District Magistrate as per the Sanhita.

Outcome: Ms. E ensures the continuity of administration in Jaipur district until the State Government appoints a new District Magistrate.

Example 3:

Scenario: Appointment of Sub-divisional Magistrate

Context: The State Government of Karnataka decides to place an Executive Magistrate in charge of a sub-division in Bangalore district.

Application:

The State Government appoints Mr. F as the Sub-divisional Magistrate for the Whitefield sub-division in Bangalore.

Mr. F is responsible for the executive administration of the Whitefield sub-division and reports to the District Magistrate of Bangalore.

Outcome: Mr. F manages the day-to-day administration and law and order in the Whitefield sub-division, ensuring effective governance at the sub-divisional level.

Example 4:

Scenario: Delegation of Powers to Commissioner of Police

Context: The State Government of Tamil Nadu decides to confer certain powers of an Executive Magistrate to the Commissioner of Police in Chennai.

Application:

The State Government issues a special order conferring the powers of an Executive Magistrate to the Commissioner of Police, Mr. G, in Chennai.

Mr. G now has the authority to exercise certain executive powers, such as issuing orders for maintaining public peace and safety, which are typically vested in an Executive Magistrate.

Outcome: Mr. G, as the Commissioner of Police, can now perform additional duties to maintain law and order in Chennai, enhancing the efficiency of the police administration.

Section 15: Special Executive Magistrates.

The State Government may appoint, for such term as it may think fit, Executive Magistrates or any police officer not below the rank of Superintendent of Police or equivalent, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Sanhita on Executive Magistrates, as it may deem fit.

SIMPLIFIED ACTS

The State Government can appoint Executive Magistrates or police officers (who are at least at the rank of Superintendent of Police or higher) as Special Executive Magistrates. These appointments can be for any duration the State Government decides. These Special Executive Magistrates can be assigned to specific areas or given specific tasks. The State Government can also give them the same powers that regular Executive Magistrates have under this law, as it sees appropriate.

Explanation using Example

Example 1:

The State Government of Maharashtra decides to appoint a Special Executive Magistrate for the city of Mumbai during the Ganesh Chaturthi festival. The appointed officer is a Superintendent of Police. The government confers upon this officer the powers to manage and control large gatherings, ensure public safety, and handle any law and order situations that may arise during the festival. This appointment is for a term of one month, covering the entire duration of the festival.

Example 2:

In the state of Uttar Pradesh, the government appoints a Special Executive Magistrate for the district of Varanasi during the Kumbh Mela. The appointed officer is an Executive Magistrate with additional powers to oversee the smooth conduct of the event, manage crowd control, and coordinate with various departments for emergency services. This appointment is for a term of three months, ensuring that the officer has sufficient time to prepare for, manage, and wrap up the event.

Section 16: Local Jurisdiction of Executive Magistrates.

(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Sanhita.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

SIMPLIFIED ACTS

(1) The District Magistrate, under the supervision of the State Government, can decide the specific areas where Executive Magistrates can use their powers as given by this law.

(2) Unless stated otherwise, each Executive Magistrate's authority and powers cover the entire district.

Explanation using Example

Example 1:

Rajesh is an Executive Magistrate in the district of Pune. The District Magistrate, under the control of the State Government, defines Rajesh's local jurisdiction to be the eastern part of Pune. This means Rajesh can exercise his powers, such as issuing orders to prevent public nuisance or handling minor criminal cases, only within the eastern part of Pune. If a public disturbance occurs in the western part of Pune, Rajesh would not have the authority to intervene unless the District Magistrate redefines his jurisdiction to include that area.

Example 2:

Anita is another Executive Magistrate in the same district of Pune. The District Magistrate has not specifically defined her local jurisdiction. According to Section 16(2) of the Bharatiya Nagarik Suraksha Sanhita 2023, Anita's jurisdiction and powers automatically extend throughout the entire district of Pune. Therefore, Anita can exercise her powers anywhere within the district, whether it is the eastern, western, northern, or southern part of Pune.

Section 17: Subordination of Executive Magistrates.

(1) All Executive Magistrates shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Sanhita, as to the distribution or allocation of business among the Executive Magistrates subordinate to him.

SIMPLIFIED ACTS

(1) All Executive Magistrates must follow the orders of the District Magistrate. If an Executive Magistrate is working in a smaller area within the district (but is not the Sub-divisional Magistrate), they must also follow the orders of the Sub-divisional Magistrate, who is also under the control of the District Magistrate.

(2) The District Magistrate can make rules or give special instructions about how work should be divided among the Executive Magistrates who report to him, as long as these rules or instructions follow the guidelines of this law.

Explanation using Example

Example 1:

Scenario: In a district in Maharashtra, there are several Executive Magistrates handling various administrative and law enforcement duties. One of the Executive Magistrates, Mr. Sharma, is responsible for overseeing public safety in a particular sub-division.

Application of Section 17:

Mr. Sharma is subordinate to the District Magistrate, Ms. Verma.

Additionally, Mr. Sharma is also subordinate to the Sub-divisional Magistrate, Mr. Rao, who oversees the entire sub-division.

Ms. Verma, the District Magistrate, issues a special order directing all Executive Magistrates, including Mr. Sharma, to prioritize cases related to public health emergencies due to a recent outbreak of dengue fever.

Mr. Sharma must follow this order and allocate his resources accordingly, as he is under the general control of both the District Magistrate and the Sub-divisional Magistrate.

Example 2:

Scenario: In a district in Uttar Pradesh, the District Magistrate, Mr. Singh, notices that there is an uneven distribution of workload among the Executive Magistrates. Some are overwhelmed with cases, while others have relatively fewer responsibilities.

Application of Section 17:

Mr. Singh, the District Magistrate, decides to make new rules to ensure a more balanced distribution of work.

He issues a rule that all Executive Magistrates must submit a weekly report of their pending cases and current workload.

Based on these reports, Mr. Singh reallocates certain cases from overburdened Executive Magistrates to those with lighter workloads.

This reallocation is consistent with the Bharatiya Nagarik Suraksha Sanhita 2023, ensuring that all Executive Magistrates are effectively managed and their work is distributed evenly.

Example 3:

Scenario: In a district in Tamil Nadu, there is a festival season approaching, and the District Magistrate, Ms. Iyer, anticipates a need for increased law enforcement and crowd control measures.

Application of Section 17:

Ms. Iyer, the District Magistrate, issues a special order directing all Executive Magistrates to focus on crowd control and public safety during the festival season.

She also instructs the Sub-divisional Magistrates to ensure that the Executive Magistrates in their respective sub-divisions comply with this order.

One of the Executive Magistrates, Mr. Kumar, who is responsible for a sub-division, receives specific instructions from his Sub-divisional Magistrate, Mr. Reddy, to deploy additional personnel at key festival locations.

Mr. Kumar follows these instructions, understanding that he is subordinate to both the District Magistrate and the Sub-divisional Magistrate, and must comply with their directives.

Example 4:

Scenario: In a district in West Bengal, there is a sudden increase in illegal mining activities. The District Magistrate, Ms. Banerjee, wants to take immediate action to curb this illegal activity.

Application of Section 17:

Ms. Banerjee, the District Magistrate, issues a special order to all Executive Magistrates to conduct regular inspections and take strict action against illegal mining.

She also creates a task force led by the Sub-divisional Magistrate, Mr. Das, to oversee these operations.

The Executive Magistrates, including Mr. Roy, who is responsible for a specific sub-division, must report their findings and actions to Mr. Das.

Mr. Roy, being subordinate to both the District Magistrate and the Sub-divisional Magistrate, follows the special order and coordinates with the task force to ensure effective enforcement against illegal mining.

Section 18: Public Prosecutors.

Public Prosecutors

(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or the State Government, as the case may be:

Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

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

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

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment, that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

Explanation. - For the purposes of this sub-section, -

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor under this Sanhita.

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as an advocate, or has rendered (whether before or after the commencement of this Sanhita) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.

SIMPLIFIED ACTS

Public Prosecutors

(1) For every High Court, the Central Government or the State Government will appoint a Public Prosecutor after talking to the High Court. They can also appoint one or more Additional Public Prosecutors to handle cases, appeals, or other legal matters for the government:

Provided that for the National Capital Territory of Delhi, the Central Government will appoint the Public Prosecutor or Additional Public Prosecutors after consulting with the High Court of Delhi.

(2) The Central Government can appoint one or more Public Prosecutors to handle cases in any district or local area.

(3) For every district, the State Government will appoint a Public Prosecutor and can also appoint one or more Additional Public Prosecutors for the district:

Provided that a Public Prosecutor or Additional Public Prosecutor appointed for one district can also be appointed for another district.

(4) The District Magistrate, after consulting with the Sessions Judge, will create a list of people who they think are suitable to be Public Prosecutors or Additional Public Prosecutors for the district.

(5) The State Government can only appoint someone as a Public Prosecutor or Additional Public Prosecutor for the district if their name is on the list prepared by the District Magistrate.

(6) If there is a regular group of Prosecuting Officers in a State, the State Government must appoint a Public Prosecutor or Additional Public Prosecutor from this group:

Provided that if the State Government thinks there is no suitable person in this group, they can appoint someone from the list prepared by the District Magistrate.

Explanation. - For this section, -

(a) "regular group of Prosecuting Officers" means a group that includes the position of Public Prosecutor and allows for the promotion of Assistant Public Prosecutors to that position;

(b) "Prosecuting Officer" means anyone appointed to perform the duties of a Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor, or Assistant Public Prosecutor.

(7) A person can only be appointed as a Public Prosecutor or Additional Public Prosecutor if they have been practicing as a lawyer for at least seven years.

(8) The Central Government or the State Government can appoint someone who has been practicing as a lawyer for at least ten years as a Special Public Prosecutor for any case or group of cases:

Provided that the Court may allow the victim to hire a lawyer of their choice to help with the prosecution.

(9) For the purposes of sections (7) and (8), the time a person has spent practicing as a lawyer or working as a Public Prosecutor, Additional Public Prosecutor, Assistant Public Prosecutor, or other Prosecuting Officer will count as time spent practicing as a lawyer.

Explanation using Example

Example 1:

Scenario: Appointment of a Public Prosecutor in a High Court

Context: The Central Government needs to appoint a Public Prosecutor for the High Court of Delhi.

Application:

The Central Government consults with the High Court of Delhi.

After consultation, the Central Government appoints Mr. Sharma, an advocate with 12 years of experience, as the Public Prosecutor for the High Court of Delhi.

Additionally, the Central Government appoints Ms. Verma, an advocate with 9 years of experience, as an Additional Public Prosecutor to assist in handling the caseload.

Outcome: Mr. Sharma and Ms. Verma will now represent the Central Government in prosecutions, appeals, and other proceedings in the High Court of Delhi.

Example 2:

Scenario: Appointment of a Public Prosecutor in a District Court

Context: The State Government of Maharashtra needs to appoint a Public Prosecutor for Pune district.

Application:

The District Magistrate of Pune, in consultation with the Sessions Judge, prepares a panel of eligible advocates.

The panel includes Mr. Desai, Ms. Rao, and Mr. Patel, all of whom have over 7 years of experience as advocates.

The State Government reviews the panel and appoints Mr. Desai as the Public Prosecutor for Pune district.

Additionally, the State Government appoints Ms. Rao as an Additional Public Prosecutor for Pune district.

Outcome: Mr. Desai and Ms. Rao will now represent the State Government in prosecutions and other legal proceedings in Pune district.

Example 3:

Scenario: Appointment of a Special Public Prosecutor for a High-Profile Case

Context: The Central Government needs to appoint a Special Public Prosecutor for a high-profile corruption case.

Application:

The Central Government identifies Mr. Singh, an advocate with 15 years of experience, as a suitable candidate.

Mr. Singh is appointed as the Special Public Prosecutor for the corruption case.

The victim in the case requests the court to allow them to engage their own advocate to assist the prosecution.

The court permits the victim to engage their chosen advocate to assist Mr. Singh.

Outcome: Mr. Singh, along with the victim's advocate, will handle the prosecution of the high-profile corruption case on behalf of the Central Government.

Example 4:

Scenario: Appointment from a Regular Cadre of Prosecuting Officers

Context: The State Government of Karnataka needs to appoint a Public Prosecutor for Bangalore district.

Application:

Karnataka has a regular Cadre of Prosecuting Officers.

The State Government reviews the Cadre and identifies Ms. Nair, currently an Assistant Public Prosecutor, as a suitable candidate.

Ms. Nair is promoted and appointed as the Public Prosecutor for Bangalore district.

If no suitable candidate was found in the Cadre, the State Government would have referred to the panel prepared by the District Magistrate.

Outcome: Ms. Nair will now serve as the Public Prosecutor for Bangalore district, representing the State Government in legal proceedings.

Example 5:

Scenario: Eligibility Check for Appointment

Context: The State Government of Tamil Nadu is considering Mr. Kumar for the position of Public Prosecutor in Chennai district.

Application:

The State Government checks Mr. Kumar's qualifications.

Mr. Kumar has been practicing as an advocate for 6 years.

Since the law requires a minimum of 7 years of practice, Mr. Kumar is deemed ineligible.

The State Government then considers Ms. Iyer, who has 8 years of practice, and finds her eligible.

Outcome: Ms. Iyer is appointed as the Public Prosecutor for Chennai district, ensuring compliance with the eligibility criteria.

Section 19: Assistant Public Prosecutors.

Appointment of Assistant Public Prosecutors

(1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

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

(3) Without prejudice to provisions contained in sub-sections (1) and (2), where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case after giving notice of fourteen days to the State Government:

Provided that no police officer shall be eligible to be appointed as an Assistant Public Prosecutor, if he -

(a) has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or

(b) is below the rank of Inspector.

SIMPLIFIED ACTS

Appointment of Assistant Public Prosecutors

(1) The State Government will hire one or more Assistant Public Prosecutors in every district to handle cases in the Magistrates' Courts.

(2) The Central Government can also hire one or more Assistant Public Prosecutors to handle any specific case or group of cases in the Magistrates' Courts.

(3) If there is no Assistant Public Prosecutor available for a particular case, the District Magistrate can appoint someone else to be the Assistant Public Prosecutor for that case. However, they must inform the State Government 14 days in advance:

Provided that no police officer can be appointed as an Assistant Public Prosecutor if they -

- (a) were involved in investigating the crime for which the accused is being prosecuted; or
- (b) are below the rank of Inspector.

Explanation using Example

Example 1:

Scenario: In a district in Maharashtra, there is a sudden increase in theft cases, and the local courts are overwhelmed with the number of cases.

Application of Section 19:

The State Government of Maharashtra appoints two Assistant Public Prosecutors (APPs) to handle the increased workload in the district's Magistrate Courts.

One of the appointed APPs, Mr. Sharma, is assigned to prosecute theft cases in the local Magistrate Court.

The Central Government, noticing a pattern of similar theft cases across multiple districts, appoints an additional APP, Ms. Verma, to handle a specific class of theft cases that involve organized crime.

Example 2:

Scenario: In a district in Uttar Pradesh, a high-profile corruption case arises, but the designated Assistant Public Prosecutor is on medical leave.

Application of Section 19:

The District Magistrate, recognizing the urgency of the case, decides to appoint a temporary Assistant Public Prosecutor.

The District Magistrate identifies Mr. Gupta, a qualified lawyer with experience in corruption cases, as a suitable candidate.

The District Magistrate gives a fourteen-day notice to the State Government about the appointment of Mr. Gupta as the Assistant Public Prosecutor for this particular case.

Mr. Gupta is appointed, ensuring that he has not been involved in the investigation of the case and is not below the rank of Inspector, as per the proviso of Section 19.

Example 3:

Scenario: In a district in Tamil Nadu, a series of cybercrime cases are reported, and the existing Assistant Public Prosecutors lack expertise in cyber laws.

Application of Section 19:

The State Government of Tamil Nadu appoints a specialized Assistant Public Prosecutor, Ms. Radhika, who has expertise in cyber laws, to handle these cases in the Magistrate Courts.

Additionally, the Central Government, recognizing the complexity and inter-district nature of these cybercrime cases, appoints another Assistant Public Prosecutor, Mr. Rajan, to assist in these prosecutions.

In a particular case where both APPs are unavailable, the District Magistrate appoints Mr. Kumar, a cyber law expert, as the Assistant Public Prosecutor after giving a fourteen-day notice to the State Government, ensuring compliance with the proviso that Mr. Kumar has not been involved in the investigation and is not below the rank of Inspector.

Example 4:

Scenario: In a district in West Bengal, a violent protest leads to multiple arrests, and the local courts need additional prosecutors to handle the cases swiftly.

Application of Section 19:

The State Government of West Bengal appoints three additional Assistant Public Prosecutors to manage the influx of cases in the Magistrate Courts.

The Central Government, considering the potential for similar protests in neighboring districts, appoints an Assistant Public Prosecutor, Mr. Banerjee, to oversee cases related to the protests.

In one specific case where no APP is available, the District Magistrate appoints Ms. Sen, a senior lawyer, as the Assistant Public Prosecutor after providing a fourteen-day notice to the State Government, ensuring she meets the eligibility criteria outlined in the proviso.

Section 20: Directorate of Prosecution.

Prosecution Directorate

(1) The State Government may establish, -

(a) a Directorate of Prosecution in the State consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit; and

(b) a District Directorate of Prosecution in every district consisting of as many Deputy Directors and Assistant Directors of Prosecution, as it thinks fit.

(2) A person shall be eligible to be appointed, -

(a) as a Director of Prosecution or a Deputy Director of Prosecution, if he has been in practice as an advocate for not less than fifteen years or is or has been a Sessions Judge;

(b) as an Assistant Director of Prosecution, if he has been in practice as an advocate for not less than seven years or has been a Magistrate of the first class.

(3) The Directorate of Prosecution shall be headed by the Director of Prosecution, who shall function under the administrative control of the Home Department in the State.

(4) Every Deputy Director of Prosecution or Assistant Director of Prosecution shall be subordinate to the Director of Prosecution; and every Assistant Director of Prosecution shall be subordinate to the Deputy Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1) or sub-section (8) of section 18 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (3) or sub-section (8) of section 18 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of section 19 shall be subordinate to the Deputy Director of Prosecution or the Assistant Director of Prosecution.

(7) The powers and functions of the Director of Prosecution shall be to monitor cases in which offences are punishable for ten years or more, or with life imprisonment, or with death; to expedite the proceedings and to give opinion on filing of appeals.

(8) The powers and functions of the Deputy Director of Prosecution shall be to examine and scrutinise police report and monitor the cases in which offences are punishable for seven years or more, but less than ten years, for ensuring their expeditious disposal.

(9) The functions of the Assistant Director of Prosecution shall be to monitor cases in which offences are punishable for less than seven years.

(10) Notwithstanding anything contained in sub-sections (7), (8) and (9), the Director, Deputy Director or Assistant Director of Prosecution shall have the power to deal with and be responsible for all proceedings under this Sanhita.

(11) The other powers and functions of the Director of Prosecution, Deputy Directors of Prosecution and Assistant Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution or Assistant Directors of Prosecution have been appointed shall be such as the State Government may, by notification, specify.

(12) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.

SIMPLIFIED ACTS

Prosecution Directorate

(1) The State Government can set up:

(a) A main Prosecution Office in the State with a Director of Prosecution and as many Deputy Directors as needed.

(b) A Prosecution Office in each district with as many Deputy Directors and Assistant Directors as needed.

(2) To be eligible for appointment:

(a) As a Director or Deputy Director of Prosecution, a person must have been a practicing lawyer for at least 15 years or have been a Sessions Judge.

(b) As an Assistant Director of Prosecution, a person must have been a practicing lawyer for at least 7 years or have been a first-class Magistrate.

(3) The Director of Prosecution will lead the main Prosecution Office and will report to the Home Department of the State.

(4) Every Deputy Director and Assistant Director of Prosecution will report to the Director of Prosecution. Assistant Directors will also report to Deputy Directors.

(5) All Public Prosecutors, Additional Public Prosecutors, and Special Public Prosecutors appointed by the State Government to handle cases in the High Court will report to the Director of Prosecution.

(6) All Public Prosecutors, Additional Public Prosecutors, and Special Public Prosecutors appointed by the State Government to handle cases in District Courts, and all Assistant Public Prosecutors, will report to the Deputy Director or Assistant Director of Prosecution.

(7) The Director of Prosecution will oversee cases where the punishment is 10 years or more, life imprisonment, or death. They will also speed up these cases and give advice on filing appeals.

(8) The Deputy Director of Prosecution will review police reports and oversee cases where the punishment is between 7 and 10 years to ensure they are handled quickly.

(9) The Assistant Director of Prosecution will oversee cases where the punishment is less than 7 years.

(10) Despite the specific roles mentioned above, the Director, Deputy Director, and Assistant Director of Prosecution can handle and be responsible for all legal proceedings under this law.

(11) The State Government will specify other powers and duties of the Director, Deputy Directors, and Assistant Directors of Prosecution, and the areas they are responsible for, through notifications.

(12) These rules do not apply to the Advocate General of the State when they are acting as a Public Prosecutor.

Explanation using Example

Example 1:

Scenario: Establishment of Directorate of Prosecution in a State

Context: The State Government of Maharashtra decides to establish a Directorate of Prosecution to streamline the prosecution process in the state.

Application:

The State Government issues a notification to establish the Directorate of Prosecution.

They appoint Mr. Sharma, who has been practicing as an advocate for 20 years, as the Director of Prosecution.

They also appoint Ms. Rao and Mr. Singh, both with over 15 years of experience as advocates, as Deputy Directors of Prosecution.

In each district, they appoint Deputy Directors and Assistant Directors of Prosecution based on the district's needs.

Outcome: The Directorate of Prosecution in Maharashtra is now operational, with Mr. Sharma overseeing the entire directorate, and Ms. Rao and Mr. Singh managing their respective districts.

Example 2:

Scenario: Monitoring of a High-Profile Case

Context: A high-profile case involving a crime punishable by life imprisonment is being tried in the High Court of Delhi.

Application:

The Director of Prosecution, Mr. Verma, is responsible for monitoring this case.

He ensures that the Public Prosecutor, appointed by the State Government, is well-prepared and has all necessary resources.

Mr. Verma regularly reviews the progress of the case and provides his opinion on whether to file any appeals based on the developments in the trial.

Outcome: The case is closely monitored by the Directorate of Prosecution, ensuring that the prosecution is conducted efficiently and effectively, with Mr. Verma providing oversight and guidance.

Example 3:

Scenario: Scrutiny of Police Reports in a District

Context: In the district of Jaipur, a case involving an offense punishable by eight years of imprisonment is being processed.

Application:

The Deputy Director of Prosecution, Ms. Kapoor, is responsible for examining and scrutinizing the police report related to this case.

She ensures that the report is thorough and that all necessary evidence is included.

Ms. Kapoor monitors the case to ensure its expeditious disposal, coordinating with the police and the prosecution team.

Outcome: The case in Jaipur is handled efficiently, with Ms. Kapoor ensuring that the police report is complete and the case proceeds without unnecessary delays.

Example 4:

Scenario: Handling of Minor Offenses

Context: In the district of Bangalore, several cases involving offenses punishable by less than seven years of imprisonment are being processed.

Application:

The Assistant Director of Prosecution, Mr. Nair, is responsible for monitoring these cases.

He ensures that each case is handled promptly and that the prosecution team is well-prepared.

Mr. Nair coordinates with the Deputy Director of Prosecution to report on the progress of these cases.

Outcome: The minor offense cases in Bangalore are managed efficiently, with Mr. Nair ensuring that they are processed quickly and effectively.

Example 5:

Scenario: Coordination Between Different Levels of Prosecution

Context: In the state of Tamil Nadu, a complex case involves multiple offenses with varying degrees of punishment.

Application:

The Director of Prosecution, Ms. Iyer, oversees the entire case, ensuring coordination between the Deputy Directors and Assistant Directors of Prosecution.

The Deputy Director, Mr. Reddy, handles the offenses punishable by seven to ten years, while the Assistant Director, Ms. Patel, manages the offenses punishable by less than seven years.

Ms. Iyer ensures that all levels of the prosecution team work together seamlessly, providing guidance and support as needed.

Outcome: The complex case in Tamil Nadu is handled efficiently, with clear coordination and oversight from the Directorate of Prosecution, ensuring that all aspects of the case are addressed appropriately.

CHAPTER III: POWER OF COURTS

Section 21: Courts by which offences are triable.

Subject to the other provisions of this Sanhita, -

(a) any offence under the Bharatiya Nyaya Sanhita, 2023 may be tried by -

(i) the High Court ; or

(ii) the Court of Session ; or

(iii) any other Court by which such offence is shown in the First Schedule to be triable :

Provided that any offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 shall be tried as far as practicable by a Court presided over by a woman ;

(b) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by -

(i) the High Court ; or

(ii) any other Court by which such offence is shown in the First Schedule to be triable.

SIMPLIFIED ACTS

Subject to the other rules in this document, -

(a) any crime under the Bharatiya Nyaya Sanhita, 2023 can be judged by -

(i) the High Court; or

(ii) the Court of Session; or

(iii) any other Court listed in the First Schedule as able to judge such crimes:

However, any crime under section 64, section 65, section 66, section 67, section 68, section 69, section 70, or section 71 of the Bharatiya Nyaya Sanhita, 2023 should, as much as possible, be judged by a Court led by a woman;

(b) any crime under any other law should be judged by the Court mentioned in that law, and if no Court is mentioned, it can be judged by -

(i) the High Court; or

(ii) any other Court listed in the First Schedule as able to judge such crimes.

Explanation using Example

Example 1:

Scenario: Rina is a victim of a serious assault that falls under Section 64 of the Bharatiya Nyaya Sanhita, 2023. She files a complaint at the local police station.

Application of the Act:

According to Section 21 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the offence under Section 64 should be tried by a court presided over by a woman, as far as practicable.

The case is then assigned to a female judge in the Court of Session, as it is a serious offence.

Outcome: Rina's case is heard by a female judge in the Court of Session, ensuring that the legal provisions are followed.

Example 2:

Scenario: Raj is accused of theft, an offence under the Bharatiya Nyaya Sanhita, 2023. The police arrest him and file a charge sheet.

Application of the Act:

According to Section 21(a) of the Bharatiya Nagarik Suraksha Sanhita, 2023, the offence of theft can be tried by the High Court, the Court of Session, or any other court specified in the First Schedule.

The First Schedule indicates that theft is triable by a Magistrate's Court.

Therefore, Raj's case is assigned to the Magistrate's Court for trial.

Outcome: Raj's case is heard in the Magistrate's Court, following the guidelines provided in the Act.

Example 3:

Scenario: Priya is accused of violating a specific environmental law that does not specify which court should try the offence.

Application of the Act:

According to Section 21(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023, if no specific court is mentioned in the law, the offence can be tried by the High Court or any other court specified in the First Schedule.

The First Schedule indicates that such environmental offences are triable by the Court of Session.

Outcome: Priya's case is assigned to the Court of Session for trial, ensuring compliance with the Act.

Example 4:

Scenario: Anil is accused of cyber fraud, an offence under a new cyber law that specifies the District Court as the trial court.

Application of the Act:

According to Section 21(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023, since the cyber law specifies the District Court, Anil's case will be tried there.

Outcome: Anil's case is heard in the District Court, as specified by the cyber law, in accordance with the Act.

Section 22: Sentences which High Courts and Sessions Judges may pass.

(1) A High Court may pass any sentence authorised by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

SIMPLIFIED ACTS

(1) A High Court can give any punishment that the law allows.

(2) A Sessions Judge or Additional Sessions Judge can also give any punishment that the law allows. However, if they give a death sentence, it must be approved by the High Court.

Explanation using Example

Example 1:

Rajesh is convicted of a serious crime such as murder. The Sessions Judge, after considering all the evidence, decides that the appropriate punishment is the death penalty. However, even though the Sessions Judge has passed the death sentence, it cannot be carried out immediately. The sentence must first be reviewed and confirmed by the High Court. The High Court will examine the case details, evidence, and the legal basis for the death sentence before deciding whether to uphold or overturn the decision.

Example 2:

Priya is found guilty of a financial fraud involving a large sum of money. The Sessions Judge, after a thorough trial, decides to sentence her to 10 years in prison and a hefty fine. Since this sentence is within the range of punishments authorized by law, the Sessions Judge can pass this sentence without needing confirmation from the High Court. Priya will serve her sentence as decided by the Sessions Judge unless she appeals to a higher court.

Example 3:

A High Court is handling an appeal case where the lower court has sentenced the accused to life imprisonment for a heinous crime. After reviewing the case, the High Court finds that the evidence strongly supports the conviction and decides to uphold the life imprisonment sentence. Additionally, the High Court has the authority to modify the sentence if it finds any legal grounds to do so, such as reducing the sentence to a fixed term of years or imposing additional fines.

Example 4:

Sunil is convicted of a crime that warrants a severe punishment under the law. The Additional Sessions Judge decides to impose a sentence of 20 years in prison. Since this sentence does not involve the death penalty, it does not require confirmation by the High Court. Sunil will begin serving his sentence as per the judgment of the Additional Sessions Judge, though he retains the right to appeal the decision to a higher court.

Section 23: Sentences which Magistrates may pass.

Sentencing Powers of Magistrates

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

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

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

Explanation: "Community service" shall mean the work which the Court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration.

SIMPLIFIED ACTS

Sentencing Powers of Magistrates

(1) The Court of a Chief Judicial Magistrate can give any punishment allowed by law, except for the death penalty, life imprisonment, or imprisonment for more than seven years.

(2) The Court of a Magistrate of the first class can give a prison sentence of up to three years, a fine of up to fifty thousand rupees, or both, or order community service.

(3) The Court of a Magistrate of the second class can give a prison sentence of up to one year, a fine of up to ten thousand rupees, or both, or order community service.

Explanation: "Community service" means work that the Court orders a convict to do as a punishment, which benefits the community. The convict will not be paid for this work.

Explanation using Example

Example 1:

Rajesh, a 35-year-old man, was found guilty of theft under Section 379 of the Indian Penal Code. The value of the stolen goods was Rs. 30,000. The case was heard in the Court of a Magistrate of the first class. Given the sentencing powers of this court, the Magistrate sentenced Rajesh to two years of imprisonment and imposed a fine of Rs. 20,000. Additionally, Rajesh was ordered to perform 100 hours of community service, which involved cleaning public parks in his locality.

Example 2:

Meena, a 28-year-old woman, was convicted of causing grievous hurt under Section 325 of the Indian Penal Code. The case was heard in the Court of a Chief Judicial Magistrate.

Considering the severity of the crime, the Chief Judicial Magistrate sentenced Meena to six years of imprisonment and imposed a fine of Rs. 1,00,000. Since the Chief Judicial Magistrate has the authority to pass any sentence except for death or life imprisonment or imprisonment exceeding seven years, the sentence was within the permissible limits.

Example 3:

Vikram, a 22-year-old student, was found guilty of public nuisance under Section 290 of the Indian Penal Code. The case was heard in the Court of a Magistrate of the second class. The Magistrate sentenced Vikram to three months of imprisonment and imposed a fine of Rs. 5,000. Additionally, Vikram was ordered to perform 50 hours of community service, which involved assisting in a local library.

Example 4:

Anita, a 40-year-old woman, was convicted of cheating under Section 417 of the Indian Penal Code. The case was heard in the Court of a Magistrate of the first class. The Magistrate sentenced Anita to one year of imprisonment and imposed a fine of Rs. 30,000. Additionally, Anita was ordered to perform 80 hours of community service, which involved working at a local animal shelter.

Example 5:

Ramesh, a 50-year-old man, was found guilty of criminal trespass under Section 447 of the Indian Penal Code. The case was heard in the Court of a Magistrate of the second class. The Magistrate sentenced Ramesh to six months of imprisonment and imposed a fine of Rs. 7,000. Additionally, Ramesh was ordered to perform 60 hours of community service, which involved helping in a community kitchen.

Section 24: Sentence of imprisonment in default of fine.

(1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term -

(a) is not in excess of the powers of the Magistrate under section 23;

(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 23.

SIMPLIFIED ACTS

(1) A Magistrate's Court can give a jail sentence if someone doesn't pay a fine, as long as the law allows it:

Provided that -

- (a) the jail time doesn't go beyond what the Magistrate is allowed to give under section 23;
 - (b) if the person is already getting jail time as part of their main punishment, the extra jail time for not paying the fine can't be more than one-fourth of the main jail time the Magistrate can give for the crime.
- (2) The extra jail time for not paying the fine can be added on top of the main jail time that the Magistrate can give under section 23.

Explanation using Example

Example 1:

Rajesh was found guilty of petty theft and was fined ₹5,000 by the Magistrate. However, Rajesh was unable to pay the fine. According to Section 24 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate decided to impose a term of imprisonment in default of payment of the fine. The Magistrate, under the powers granted by Section 23, could impose a maximum imprisonment of 6 months for petty theft. Therefore, the Magistrate sentenced Rajesh to 1.5 months (one-fourth of 6 months) of imprisonment in default of payment of the fine.

Example 2:

Sita was convicted of causing grievous hurt and was sentenced to 2 years of imprisonment along with a fine of ₹20,000. Sita failed to pay the fine. Under Section 24, the Magistrate can impose an additional term of imprisonment in default of payment of the fine. Since the maximum term of imprisonment the Magistrate can impose for grievous hurt under Section 23 is 7 years, the additional imprisonment for default of fine cannot exceed one-fourth of this term, which is 1.75 years (21 months). Therefore, the Magistrate sentenced Sita to an additional 21 months of imprisonment in default of payment of the fine, in addition to her original 2-year sentence.

Section 25: Sentence in cases of conviction of several offences at one trial.

(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 9 of the Bharatiya Nyaya Sanhita, 2023, sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict and the Court shall, considering the gravity of offences, order such punishments to run concurrently or consecutively.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

(a) in no case shall such person be sentenced to imprisonment for a longer period than twenty years;

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

SIMPLIFIED ACTS

(1) If a person is found guilty of two or more crimes in one trial, the Court can, following the rules in section 9 of the Bharatiya Nyaya Sanhita, 2023, give punishments for each crime. The Court can decide whether these punishments will be served at the same time (concurrently) or one after the other (consecutively), based on how serious the crimes are.

(2) When punishments are to be served one after the other (consecutively), the Court does not need to send the person to a higher Court just because the total punishment is more than what it can give for a single crime:

(a) However, the person cannot be sentenced to more than twenty years in prison.

(b) The total punishment should not be more than twice the maximum punishment the Court can give for a single crime.

(3) For the purpose of an appeal, the total of the consecutive sentences given under this section will be considered as one single sentence.

Explanation using Example

Example 1:

Scenario: Rajesh is convicted of theft and assault in a single trial.

Details:

Theft: Punishable by up to 3 years of imprisonment.

Assault: Punishable by up to 2 years of imprisonment.

Court's Decision:

The court decides to sentence Rajesh to 3 years for theft and 2 years for assault.

Considering the gravity of the offences, the court orders the sentences to run consecutively.

Outcome:

Rajesh will serve a total of 5 years in prison (3 years for theft + 2 years for assault).

Since the total punishment does not exceed 20 years and is within twice the amount of punishment for a single offence, the court does not need to send Rajesh for trial before a higher court.

Example 2:

Scenario: Priya is convicted of fraud and forgery in a single trial.

Details:

Fraud: Punishable by up to 5 years of imprisonment.

Forgery: Punishable by up to 3 years of imprisonment.

Court's Decision:

The court decides to sentence Priya to 5 years for fraud and 3 years for forgery.

Considering the gravity of the offences, the court orders the sentences to run concurrently.

Outcome:

Priya will serve a total of 5 years in prison (since the sentences are running concurrently).

For the purpose of appeal, the aggregate of the consecutive sentences (if they were consecutive) would be considered a single sentence.

Section 26: Mode of conferring powers.

(1) In conferring powers under this Sanhita, the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

SIMPLIFIED ACTS

(1) When giving powers under this law, the High Court or the State Government can, by order, give these powers to specific people by name, by their job titles, or to groups of officials by their job titles.

(2) Each such order will be effective from the date it is communicated to the person who is given the power.

Explanation using Example

Example 1:

The High Court of Maharashtra decides to empower certain police officers with the authority to conduct special investigations under the Bharatiya Nagarik Suraksha Sanhita 2023. The High Court issues an order specifically naming Inspector Rajesh Kumar and Sub-Inspector Priya Sharma, granting them these powers. The order is communicated to both officers on October 1, 2023. From that date, Inspector Rajesh Kumar and Sub-Inspector Priya Sharma are legally empowered to carry out the special investigations as per the Sanhita.

Example 2:

The State Government of Karnataka wants to grant additional powers to a class of officials, specifically all District Magistrates, to oversee certain security measures under the Bharatiya Nagarik Suraksha Sanhita 2023. The State Government issues an order stating that all District Magistrates in Karnataka are empowered by their official titles to implement these security measures. The order is communicated to all District Magistrates on November 15, 2023. From that date, every District Magistrate in Karnataka is legally empowered to enforce the specified security measures as per the Sanhita.

Section 27: Powers of officers appointed.

Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Sanhita throughout any local area is appointed to an equal or higher office of the same nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government, as the case may be, otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

SIMPLIFIED ACTS

If a person working for the government is given special powers by the High Court or the State Government in a certain area, and then they are promoted or moved to a similar or higher position in a similar area under the same State Government, they will continue to have the same powers in the new area.

This will happen unless the High Court or the State Government decides or has decided otherwise.

Explanation using Example

Example 1:

Rajesh is a Deputy Superintendent of Police (DSP) in the state of Maharashtra. He has been granted certain powers by the High Court under the Bharatiya Nagarik Suraksha Sanhita 2023 to conduct investigations and make arrests within the Pune district. After serving in Pune for three years, Rajesh is promoted to the position of Superintendent of Police (SP) and is transferred to the Nashik district, which is also within Maharashtra. According to Section 27 of the Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh will continue to have the same powers in Nashik as he had in Pune, unless the High Court or the State Government specifically directs otherwise.

Example 2:

Anita is a District Magistrate in the state of Karnataka, serving in the Bengaluru Urban district. She has been given special powers by the State Government under the Bharatiya Nagarik Suraksha Sanhita 2023 to oversee law and order and to authorize certain legal actions within her district. After a few years, Anita is appointed as the District Magistrate of the Mysuru district, which is also within Karnataka. According to Section 27 of the Bharatiya Nagarik Suraksha Sanhita 2023, Anita will automatically carry over her powers to the Mysuru district unless the State Government or the High Court issues a directive stating otherwise.

Section 28: Withdrawal of powers.

(1) The High Court or the State Government, as the case may be, may withdraw all or any of the powers conferred by it under this Sanhita on any person or by any officer subordinate to it.

(2) Any powers conferred by the Chief Judicial Magistrate or by the District Magistrate may be withdrawn by the respective Magistrate by whom such powers were conferred.

SIMPLIFIED ACTS

(1) The High Court or the State Government can take back any or all of the powers they have given to someone under this law.

(2) The Chief Judicial Magistrate or the District Magistrate can also take back any powers they have given to someone.

Explanation using Example

Example 1:

Scenario: A police officer in Maharashtra has been given special powers under the Bharatiya Nagarik Suraksha Sanhita 2023 to conduct searches without a warrant in certain emergency situations.

Application: The State Government of Maharashtra receives multiple complaints about the misuse of these powers by the officer. After an internal investigation, the State Government decides to withdraw these special powers from the officer to prevent further misuse.

Outcome: The officer can no longer conduct searches without a warrant as the special powers conferred to him have been withdrawn by the State Government.

Example 2:

Scenario: A Chief Judicial Magistrate in Delhi has granted a local magistrate the power to issue arrest warrants for specific types of financial crimes.

Application: The Chief Judicial Magistrate later finds that the local magistrate has been issuing arrest warrants without sufficient evidence, leading to wrongful arrests. To rectify this, the Chief Judicial Magistrate decides to withdraw the power to issue arrest warrants from the local magistrate.

Outcome: The local magistrate can no longer issue arrest warrants for financial crimes as the power has been withdrawn by the Chief Judicial Magistrate who initially conferred it.

Section 29: Powers of Judges and Magistrates exercisable by their successors-in-office.

Successor-in-Office

(1) Subject to the other provisions of this Sanhita, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor-in-office, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Sanhita or of any proceedings or order thereunder, be deemed to be the successor-in-office.

(3) When there is any doubt as to who is the successor-in-office of any Magistrate, the Chief Judicial Magistrate, or the District Magistrate, as the case may be, shall determine by order in writing the Magistrate who shall, for the purpose of this Sanhita or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Magistrate.

SIMPLIFIED ACTS

Successor-in-Office

(1) According to the rules in this document, the powers and duties of a Judge or Magistrate can be carried out by the person who takes over their position.

(2) If there is any confusion about who the new Judge is, the Sessions Judge will decide in writing who will be considered the new Judge for the purposes of this document or any related proceedings or orders.

(3) If there is any confusion about who the new Magistrate is, the Chief Judicial Magistrate or the District Magistrate (depending on the situation) will decide in writing who will be considered the new Magistrate for the purposes of this document or any related proceedings or orders.

Explanation using Example

Example 1:

Judge Sharma was presiding over a high-profile criminal case in the Delhi District Court. Midway through the trial, Judge Sharma was transferred to another district. According to Section 29 of The Bharatiya Nagarik Suraksha Sanhita 2023, Judge Sharma's successor, Judge Verma, can continue the trial from where Judge Sharma left off. This ensures that the trial proceeds without unnecessary delays, and the parties involved do not have to start the process all over again.

Example 2:

Magistrate Rao was handling a series of theft cases in the Mumbai Magistrate Court. Unfortunately, Magistrate Rao fell ill and had to take an extended leave. There was confusion about who would take over these cases. The Chief Judicial Magistrate issued a written order appointing Magistrate Patel as the successor-in-office. Magistrate Patel then took over all the pending cases that Magistrate Rao was handling, ensuring continuity in the judicial process.

Example 3:

In a rural district court, Magistrate Singh was overseeing a land dispute case. Magistrate Singh retired before the case could be concluded. There was uncertainty about who would continue with the case. The District Magistrate issued a written order designating Magistrate Kumar as the successor-in-office. Magistrate Kumar then reviewed the case files and continued the proceedings, providing a seamless transition and avoiding any disruption in the judicial process.

Example 4:

Judge Mehta was presiding over a civil litigation case in the Kolkata High Court. Due to a sudden promotion, Judge Mehta had to leave the case unfinished. The Sessions Judge issued a written order appointing Judge Roy as the successor-in-office. Judge Roy took over

the case, reviewed all the previous proceedings, and continued the trial, ensuring that the litigants did not face any delays or need to restart the case.

Example 5:

Magistrate Desai was handling a domestic violence case in the Chennai Magistrate Court. Magistrate Desai was unexpectedly transferred to another jurisdiction. The Chief Judicial Magistrate issued a written order appointing Magistrate Iyer as the successor-in-office. Magistrate Iyer then took over the case, reviewed the evidence and testimonies presented so far, and continued the proceedings, ensuring that justice was served without any interruption.

CHAPTER IV: POWERS OF SUPERIOR OFFICERS OF POLICE AND AID TO THE MAGISTRATES AND THE POLICE

Section 30: Powers of superior officers of police.

Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

SIMPLIFIED ACTS

Police officers who are higher in rank than the officer in charge of a police station can use the same powers as that officer, but they can use these powers anywhere in the area they are assigned to, not just within the limits of the police station.

Explanation using Example

Example 1:

Scenario: A senior police officer, such as a Deputy Superintendent of Police (DSP), receives information about a large-scale illegal gambling operation in a town within his jurisdiction. The officer in charge of the local police station is currently unavailable.

Application of the Act: The DSP, being superior in rank to the officer in charge of the police station, can exercise the same powers as the local officer. This means the DSP can authorize a raid on the gambling operation, make arrests, and seize any illegal materials, just as the local station officer would.

Example 2:

Scenario: A Superintendent of Police (SP) is informed about a violent protest happening in a district under his command. The officer in charge of the nearest police station is overwhelmed and unable to control the situation.

Application of the Act: The SP, being superior in rank, can take charge of the situation directly. He can deploy additional police forces, issue orders to disperse the crowd, and take necessary actions to restore peace and order, utilizing the same powers that the local station officer possesses within his station limits.

Section 31: Public when to assist Magistrates and police.

Every person is bound to assist a Magistrate or police officer reasonably demanding his aid -

- (a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or
- (b) in the prevention or suppression of a breach of the peace; or
- (c) in the prevention of any injury attempted to be committed to any public property.

SIMPLIFIED ACTS

Everyone must help a Magistrate or police officer if they reasonably ask for help -

- (a) to catch or stop someone from escaping who the Magistrate or police officer is allowed to arrest; or
- (b) to stop or control a situation where people might start fighting or causing trouble; or
- (c) to stop any damage being done to public property.

Explanation using Example

Example 1:

Ravi is walking home from work when he sees a police officer chasing a man who appears to be fleeing. The police officer shouts to Ravi, asking him to help stop the man. Under Section 31 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi is legally required to assist the police officer in capturing the fleeing man, as the officer is authorized to arrest him.

Example 2:

During a local festival, a fight breaks out between two groups, causing a disturbance and threatening public peace. A nearby Magistrate sees the commotion and asks the bystanders, including Priya, to help break up the fight and restore order. According to

Section 31, Priya is obligated to assist the Magistrate in preventing or suppressing the breach of peace.

Example 3:

A group of vandals is attempting to damage a public park by breaking benches and uprooting plants. A police officer arrives at the scene and asks Ramesh, who is passing by, to help stop the vandals from causing further damage. Under Section 31, Ramesh must assist the police officer in preventing the injury to public property.

Section 32: Aid to person, other than police officer, executing warrant.

When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

SIMPLIFIED ACTS

If a warrant is given to someone who is not a police officer, any other person can help carry out the warrant, as long as the person who received the warrant is nearby and actively working on it.

Explanation using Example

Example 1:

Ravi, a local government officer, receives a warrant from the magistrate to arrest a suspect involved in a fraud case. While Ravi is attempting to execute the warrant, he encounters resistance from the suspect. Seeing this, Suresh, a nearby shopkeeper, steps in to help Ravi restrain the suspect and successfully execute the warrant. In this scenario, Suresh is legally allowed to aid Ravi in executing the warrant as per Section 32 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 2:

Meena, a municipal health inspector, is given a warrant to shut down an illegal food processing unit. When she arrives at the location, the workers at the unit try to prevent her from carrying out the warrant. Ajay, a resident of the area who is aware of the illegal activities, sees Meena struggling and decides to help her by calling more neighbors to assist in shutting down the unit. Ajay and the neighbors are legally permitted to aid Meena in executing the warrant under Section 32 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Section 33: Public to give information of certain offences.

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

- (i) sections 103 to 105 (both inclusive);
- (ii) sections 111 to 113 (both inclusive);
- (iii) sections 140 to 144 (both inclusive);
- (iv) sections 147 to 154 (both inclusive) and section 158;
- (v) sections 178 to 182 (both inclusive);
- (vi) sections 189 and 191;
- (vii) sections 274 to 280 (both inclusive);
- (viii) section 307;
- (ix) sections 309 to 312 (both inclusive);
- (x) sub-section (5) of section 316;
- (xi) sections 326 to 328 (both inclusive);
- (xii) sections 331 and 332,

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

(2) For the purposes of this section, the term "offence" includes any act committed at any place out of India which would constitute an offence if committed in India.

SIMPLIFIED ACTS

(1) If you know that someone has committed or plans to commit a crime under any of the following sections of the Bharatiya Nyaya Sanhita, 2023:

- (i) sections 103 to 105;
- (ii) sections 111 to 113;
- (iii) sections 140 to 144;
- (iv) sections 147 to 154 and section 158;
- (v) sections 178 to 182;
- (vi) sections 189 and 191;

- (vii) sections 274 to 280;
- (viii) section 307;
- (ix) sections 309 to 312;
- (x) sub-section (5) of section 316;
- (xi) sections 326 to 328;
- (xii) sections 331 and 332,

you must immediately inform the nearest Magistrate or police officer, unless you have a good reason not to. It is your responsibility to prove that you have a good reason.

(2) For this section, "offence" also includes any act done outside India that would be a crime if it were done in India.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, overhears a conversation between two individuals planning to commit a robbery at a nearby jewelry store. The robbery falls under sections 103 to 105 of the Bharatiya Nyaya Sanhita, 2023, which deal with theft and robbery. Ravi, aware of this intention, is legally obligated to inform the nearest police station or Magistrate about the planned robbery. If Ravi fails to report this information without a reasonable excuse, he could be held accountable under Section 33 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Example 2:

Priya, a resident of Delhi, witnesses her neighbor, Mr. Sharma, engaging in activities that suggest he is planning to commit an act of forgery, which is covered under sections 274 to 280 of the Bharatiya Nyaya Sanhita, 2023. Priya is aware of Mr. Sharma's intention to commit this offence. According to Section 33 of the Bharatiya Nagarik Suraksha Sanhita, 2023, Priya must report this information to the nearest police officer or Magistrate. If Priya does not report this without a valid reason, she could be held liable for not providing the information.

Example 3:

Amit, a software engineer in Bangalore, receives an email from an unknown person threatening to harm a public official, which falls under sections 189 and 191 of the Bharatiya Nyaya Sanhita, 2023. Amit is aware of the intention to commit this offence. Under Section 33 of the Bharatiya Nagarik Suraksha Sanhita, 2023, Amit is required to inform the nearest police station or Magistrate about this threat. If Amit ignores this

obligation without a reasonable excuse, he could face legal consequences for failing to report the information.

Example 4:

Sunita, a college student in Chennai, learns that her classmate is planning to commit an act of grievous hurt, which is covered under sections 326 to 328 of the Bharatiya Nyaya Sanhita, 2023. Sunita is aware of this intention. According to Section 33 of the Bharatiya Nagarik Suraksha Sanhita, 2023, Sunita must report this information to the nearest police officer or Magistrate. If Sunita does not report this without a valid reason, she could be held liable for not providing the information.

Section 34: Duty of officers employed in connection with affairs of a village to make certain report.

(1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting -

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a robber, escaped convict or proclaimed offender;

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 189 and section 191 of the Bharatiya Nyaya Sanhita, 2023;

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;

(e) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, 103, 105, 111, 112, 113, 178 to 181 (both inclusive), 305, 307, 309 to 312 (both inclusive), clauses (f) and (g) of section 326, 331 or 332;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special

order made with the previous sanction of the State Government, has directed him to communicate information.

(2) In this section, -

(i) "village" includes village lands;

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Sanhita does not extend, in respect of any act which if committed in the territories to which this Sanhita extends, would be an offence punishable under any of the offence punishable with imprisonment for ten years or more or with imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023;

(iii) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

SIMPLIFIED ACTS

(1) Every officer working for the village and every person living in the village must immediately inform the nearest Magistrate or the nearest police station about any of the following:

(a) If they know about any well-known buyer or seller of stolen goods living in or near the village, whether temporarily or permanently.

(b) If they see or suspect any person who is a robber, escaped convict, or declared criminal passing through or staying in the village.

(c) If they know about any serious crime that cannot be bailed out or any crime punishable under sections 189 and 191 of the Bharatiya Nyaya Sanhita, 2023, happening or about to happen in or near the village.

(d) If they find out about any sudden or unnatural death, suspicious death, or discovery of a dead body or part of a dead body in or near the village, or if someone goes missing under suspicious circumstances suggesting a serious crime.

(e) If they know about any act committed outside India near the village that would be a crime if it happened in India, punishable under specific sections of the Bharatiya Nyaya Sanhita, 2023.

(f) If they have information about anything that might affect public order, prevent crime, or ensure the safety of people or property, as directed by the District Magistrate with the State Government's approval.

(2) In this section, -

(i) "village" includes the lands belonging to the village.

(ii) "proclaimed offender" means anyone declared a criminal by any Court or authority in any part of India where this law does not apply, for any act that would be a serious crime under the Bharatiya Nyaya Sanhita, 2023, if committed in the areas where this law applies.

(iii) "officer employed in connection with the affairs of the village" means a member of the village panchayat, including the headman and any officer or person appointed to handle village administration tasks.

Explanation using Example

Example 1:

Scenario: Reporting the Presence of a Notorious Receiver of Stolen Property

Ram, the headman of a small village in Maharashtra, learns that a notorious receiver of stolen property, known for buying stolen goods from thieves, has taken up temporary residence in an old house on the outskirts of the village. Ram, fulfilling his duty under Section 34 of The Bharatiya Nagarik Suraksha Sanhita 2023, promptly informs the officer in charge of the nearest police station about the presence of this individual. The police conduct an investigation and eventually arrest the notorious receiver, preventing further illegal activities in the area.

Example 2:

Scenario: Reporting the Passage of a Suspected Robber

Sita, a teacher residing in a village in Uttar Pradesh, notices a suspicious individual passing through her village late at night. She recognizes him as a person recently released from prison, known for his involvement in robberies. Sita suspects he might be planning another crime. As required by Section 34, she immediately reports her observations to the nearest magistrate. The magistrate then alerts the police, who increase patrolling in the area and manage to intercept the suspect, thereby averting a potential robbery.

Example 3:

Scenario: Reporting an Unnatural Death

Hari, a farmer in a village in Karnataka, discovers the body of an unknown person in a field early one morning. The death appears unnatural and suspicious. Under Section 34, Hari is obligated to report this discovery. He goes to the nearest police station and informs the officer in charge about the corpse. The police begin an investigation into the cause of death, ensuring that any foul play is uncovered and justice is served.

Example 4:

Scenario: Reporting an Intention to Commit a Non-bailable Offence

Meera, a member of the village panchayat in a village in Rajasthan, overhears a conversation where two individuals are planning to commit a non-bailable offence under the Bharatiya Nyaya Sanhita, 2023. Understanding her duty under Section 34, she immediately reports this information to the officer in charge of the nearest police station. The police act swiftly on the tip-off and apprehend the individuals before they can execute their plan, maintaining peace and safety in the village.

Example 5:

Scenario: Reporting Activities Affecting Public Order

In a village in Tamil Nadu, the District Magistrate, through a special order, has directed all village officers to report any activities that might affect public order. Rajan, a village officer, notices a group of strangers trying to incite violence among the villagers by spreading false information. Recognizing the potential threat to public order, Rajan reports this activity to the nearest magistrate. The magistrate coordinates with the police to address the situation, preventing any disruption and ensuring the maintenance of peace in the village.

CHAPTER V: ARREST OF PERSONS

Section 35: When police may arrest without warrant.

Section (1)

Any police officer may without an order from a Magistrate and without a warrant, arrest any person -

- (a) who commits, in the presence of a police officer, a cognizable offence; or
- (b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:
 - (i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;
 - (ii) the police officer is satisfied that such arrest is necessary -
 - (a) to prevent such person from committing any further offence; or
 - (b) for proper investigation of the offence; or

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

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

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

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

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

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

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

(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or

(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the

person might lawfully be arrested without a warrant by the officer who issued the requisition.

Section (2)

Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

Section (3)

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

Section (4)

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

Section (5)

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

Section (6)

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

Section (7)

No arrest shall be made without prior permission of an officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for imprisonment of less than three years and such person is infirm or is above sixty years of age.

SIMPLIFIED ACTS

Section (1)

A police officer can arrest someone without a Magistrate's order and without a warrant if:

(a) The person commits a serious crime in front of the police officer; or

(b) There is a reasonable complaint, credible information, or reasonable suspicion that the person has committed a serious crime punishable with up to seven years in prison, with or without a fine, and:

(i) The police officer believes the person committed the crime based on the complaint, information, or suspicion;

(ii) The police officer thinks the arrest is necessary to:

(a) Prevent the person from committing more crimes; or

(b) Properly investigate the crime; or

(c) Stop the person from hiding or tampering with evidence; or

(d) Prevent the person from threatening or bribing witnesses; or

(e) Ensure the person appears in court when required,

The police officer must write down the reasons for the arrest.

If the arrest is not needed, the police officer must write down the reasons for not arresting the person; or

(c) There is credible information that the person committed a serious crime punishable with more than seven years in prison or the death penalty, and the police officer believes the person committed the crime; or

(d) The person has been declared an offender by law or by the State Government; or

(e) The person has something that is reasonably suspected to be stolen property and is suspected of committing a crime related to it; or

(f) The person obstructs a police officer doing their duty, or escapes or tries to escape from lawful custody; or

(g) The person is reasonably suspected of deserting from the Armed Forces; or

(h) The person is involved in a crime committed outside India that would be punishable in India and can be arrested or detained under extradition laws; or

(i) The person is a released convict who breaks any rule made under section 394(5); or

(j) Another police officer has requested the arrest, specifying the person and the reason for the arrest, and it appears the person can be lawfully arrested without a warrant.

Section (2)

Except for the rules in section 39, no one involved in a non-serious crime can be arrested without a warrant or Magistrate's order.

Section (3)

If a person does not need to be arrested under section (1), the police officer must issue a notice for the person to appear before them or at a specified place.

Section (4)

The person must follow the instructions in the notice.

Section (5)

If the person follows the notice, they will not be arrested for the crime mentioned in the notice unless the police officer records reasons for thinking the person should be arrested.

Section (6)

If the person does not follow the notice or refuses to identify themselves, the police officer can arrest them for the crime mentioned in the notice, subject to any court orders.

Section (7)

No one can be arrested without permission from an officer of at least the rank of Deputy Superintendent of Police if the crime is punishable by less than three years in prison and the person is infirm or over sixty years old.

Explanation using Example

Example 1:

Ravi, a 30-year-old man, is caught by a police officer while stealing a mobile phone from a shop. Since the theft is a cognizable offence and it was committed in the presence of the police officer, the officer arrests Ravi without a warrant under Section 35(1)(a) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 2:

Priya, a 25-year-old woman, is suspected of being involved in a fraud case. The police receive credible information that she has committed the offence, which is punishable with imprisonment for up to seven years. The police officer believes that Priya might tamper with evidence if not arrested. Therefore, the officer arrests Priya without a warrant under Section 35(1)(b)(ii)(c) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 3:

A police officer receives a written requisition from another police officer to arrest Suresh, who is suspected of being involved in a hit-and-run case. The requisition specifies the

offence and the person to be arrested. Based on this, the police officer arrests Suresh without a warrant under Section 35(1)(j) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 4:

An elderly man, aged 65, is suspected of committing a minor offence punishable with imprisonment of less than three years. The police officer issues a notice to the man to appear at the police station. The man complies with the notice. Since the offence is minor and the man is above sixty years of age, the police officer does not arrest him without prior permission from a Deputy Superintendent of Police, as required under Section 35(7) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 5:

A police officer receives credible information that a person named Anil, who has been proclaimed as an offender by the State Government, is hiding in a nearby village. The officer immediately proceeds to the location and arrests Anil without a warrant under Section 35(1)(d) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 6:

During a routine patrol, a police officer finds a man named Rajesh in possession of a laptop that is suspected to be stolen. The officer reasonably suspects that Rajesh has committed an offence related to the stolen property and arrests him without a warrant under Section 35(1)(e) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 7:

A police officer is obstructed by a man named Vikram while trying to arrest another suspect. Vikram also attempts to escape from the scene. The officer arrests Vikram without a warrant under Section 35(1)(f) of The Bharatiya Nagarik Suraksha Sanhita 2023 for obstructing a police officer in the execution of his duty and attempting to escape from lawful custody.

Section 36: Procedure of arrest and duties of officer making arrest.

Every police officer while making an arrest shall -

- (a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;
- (b) prepare a memorandum of arrest which shall be -
 - (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;
 - (ii) countersigned by the person arrested;

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend or any other person named by him to be informed of his arrest.

SIMPLIFIED ACTS

Every police officer making an arrest must:

- (a) Wear a name tag that is clear and easy to read so people can identify them;
- (b) Write an arrest memo that must be:
 - (i) Signed by at least one witness, who is either a family member of the person being arrested or a respected person from the area where the arrest happens;
 - (ii) Signed by the person being arrested;
- (c) Tell the person being arrested, unless a family member has already signed the memo, that they have the right to let a relative, friend, or any other person they choose know about their arrest.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, is suspected of involvement in a theft case. The police decide to arrest him.

Application of the Act:

Identification: The police officer, Inspector Sharma, wears a badge with his name clearly visible.

Memorandum of Arrest: Inspector Sharma prepares a memorandum of arrest. He asks Ramesh's neighbor, Mr. Gupta, a respected member of the locality, to witness the arrest.

Witness and Countersign: Mr. Gupta attests the memorandum, and Ramesh countersigns it.

Informing a Relative: Since Mr. Gupta is not a family member, Inspector Sharma informs Ramesh that he has the right to have a relative or friend informed of his arrest. Ramesh requests that his brother, Suresh, be informed. Inspector Sharma then calls Suresh to notify him of Ramesh's arrest.

Example 2:

Scenario: Priya, a college student in Delhi, is arrested during a protest for allegedly causing public disorder.

Application of the Act:

Identification: The arresting officer, Sub-Inspector Verma, ensures his name tag is clearly visible on his uniform.

Memorandum of Arrest: Sub-Inspector Verma prepares a memorandum of arrest. He asks Priya's friend, Anjali, who is present at the scene, to witness the arrest.

Witness and Countersign: Anjali attests the memorandum, and Priya countersigns it.

Informing a Relative: Since Anjali is not a family member, Sub-Inspector Verma informs Priya that she has the right to have a relative or friend informed of her arrest. Priya requests that her father be informed. Sub-Inspector Verma then calls Priya's father to notify him of her arrest.

Section 37: Designated police officer.

The State Government shall -

- (a) establish a police control room in every district and at State level;
- (b) designate a police officer in every district and in every police station, not below the rank of Assistant Sub-Inspector of Police who shall be responsible for maintaining the information about the names and addresses of the persons arrested, nature of the offence with which charged, which shall be prominently displayed in any manner including in digital mode in every police station and at the district headquarters.

SIMPLIFIED ACTS

The State Government must -

- (a) set up a police control room in every district and at the State level;
- (b) appoint a police officer in every district and in every police station, who is at least an Assistant Sub-Inspector of Police. This officer will be responsible for keeping and displaying information about the names and addresses of people who are arrested, and the type of crime they are charged with. This information should be clearly shown in every police station and at the district headquarters, including in digital form.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Jaipur, is arrested for allegedly committing theft.

Application of Section 37:

Police Control Room: The Rajasthan State Government has established a police control room at the Jaipur district level and at the state level.

Designated Officer: An Assistant Sub-Inspector (ASI) at the Jaipur district police station is designated to maintain records.

Information Maintenance: The ASI records Ramesh's name, address, and the nature of the offence (theft) in the police station's database.

Information Display: This information is prominently displayed on a digital board at the Jaipur district police station and is also available at the district headquarters.

Example 2:

Scenario: Priya, a college student in Mumbai, is arrested during a protest for allegedly disturbing public peace.

Application of Section 37:

Police Control Room: The Maharashtra State Government has established a police control room at the Mumbai district level and at the state level.

Designated Officer: An Assistant Sub-Inspector (ASI) at the Mumbai district police station is designated to maintain records.

Information Maintenance: The ASI records Priya's name, address, and the nature of the offence (disturbing public peace) in the police station's database.

Information Display: This information is prominently displayed on a digital board at the Mumbai district police station and is also available at the district headquarters.

Example 3:

Scenario: Arjun, a businessman in Chennai, is arrested for allegedly committing fraud.

Application of Section 37:

Police Control Room: The Tamil Nadu State Government has established a police control room at the Chennai district level and at the state level.

Designated Officer: An Assistant Sub-Inspector (ASI) at the Chennai district police station is designated to maintain records.

Information Maintenance: The ASI records Arjun's name, address, and the nature of the offence (fraud) in the police station's database.

Information Display: This information is prominently displayed on a digital board at the Chennai district police station and is also available at the district headquarters.

Example 4:

Scenario: Sunita, a shop owner in Kolkata, is arrested for allegedly selling counterfeit goods.

Application of Section 37:

Police Control Room: The West Bengal State Government has established a police control room at the Kolkata district level and at the state level.

Designated Officer: An Assistant Sub-Inspector (ASI) at the Kolkata district police station is designated to maintain records.

Information Maintenance: The ASI records Sunita's name, address, and the nature of the offence (selling counterfeit goods) in the police station's database.

Information Display: This information is prominently displayed on a digital board at the Kolkata district police station and is also available at the district headquarters.

Section 38: Right of arrested person to meet an advocate of his choice during interrogation.

When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

SIMPLIFIED ACTS

If someone is arrested and questioned by the police, they have the right to meet with a lawyer of their choice.

However, this right to meet with a lawyer is not available during the entire questioning period.

Explanation using Example

Example 1:

Ravi, a 30-year-old software engineer, is arrested by the police on suspicion of being involved in a cybercrime. During the interrogation, Ravi requests to meet his lawyer, Mr. Sharma. The police allow Mr. Sharma to meet Ravi before the interrogation begins. Mr. Sharma advises Ravi on his rights and the legal implications of the questions he might face.

Although Mr. Sharma is not allowed to be present throughout the entire interrogation, he is permitted to meet Ravi at intervals to ensure that Ravi's rights are protected.

Example 2:

Priya, a college student, is taken into custody by the police for allegedly participating in a protest that turned violent. During the interrogation, Priya asks to speak with her lawyer, Ms. Kapoor. The police arrange for Ms. Kapoor to meet Priya in a separate room before the interrogation starts. Ms. Kapoor explains to Priya what to expect during the questioning and advises her on how to respond to certain questions. While Ms. Kapoor cannot stay with Priya during the entire interrogation, she is allowed to check in with Priya periodically to ensure that the interrogation is being conducted fairly and that Priya's rights are not being violated.

Section 39: Arrest on refusal to give name and residence.

(1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses on demand of such officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on a bond or bail bond, to appear before a Magistrate if so required:

Provided that if such person is not resident in India, the bail bond shall be secured by a surety or sureties resident in India.

(3) If the true name and residence of such person is not ascertained within twenty-four hours from the time of arrest or if he fails to execute the bond or bail bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

SIMPLIFIED ACTS

(1) If someone commits a minor offense (one that is not very serious) in front of a police officer and refuses to give their name and address when asked, or gives a false name or address, the police officer can arrest them to find out their real name and address.

(2) Once the police find out the person's real name and address, they must release the person if they promise to appear in court later. This promise can be made through a bond or bail bond. If the person is not from India, they need someone from India to guarantee their promise.

(3) If the police cannot find out the person's real name and address within 24 hours of the arrest, or if the person does not promise to appear in court or provide a guarantee, the police must take the person to the nearest judge who has the authority to handle the case.

Explanation using Example

Example 1:

Ravi is walking through a park in Mumbai when he is seen littering by a police officer. Littering is a non-cognizable offence. The police officer approaches Ravi and asks for his name and residence. Ravi refuses to provide this information. The officer then asks again, and Ravi gives a name and address that the officer suspects to be false. Under Section 39 of The Bharatiya Nagarik Suraksha Sanhita 2023, the officer arrests Ravi to ascertain his true name and residence. Once Ravi's true identity is confirmed, he is released on a bond to appear before a Magistrate if required.

Example 2:

Priya is caught by a police officer for playing loud music in a residential area in Delhi late at night, which is a non-cognizable offence. When the officer asks for her name and residence, Priya provides false information. The officer, suspecting the information to be false, arrests Priya to verify her true identity. After spending a few hours at the police station, Priya's true name and residence are confirmed. Since Priya is a resident of India, she is released on a bail bond to appear before a Magistrate if needed.

Example 3:

John, a tourist from the USA, is found smoking in a no-smoking zone in Bangalore, which is a non-cognizable offence. When a police officer asks for his name and residence, John refuses to provide the information. The officer arrests John to ascertain his true identity. Once John's true name and residence are confirmed, he is required to provide a bail bond secured by a surety who is a resident of India. If John fails to provide the surety, he is forwarded to the nearest Magistrate having jurisdiction.

Example 4:

Aman is caught by a police officer for public urination in a market area in Kolkata, which is a non-cognizable offence. When asked for his name and residence, Aman provides information that the officer believes to be false. Aman is arrested to verify his true identity. If Aman's true name and residence are not ascertained within twenty-four hours, or if he fails to execute the bond or provide sufficient sureties, he is forwarded to the nearest Magistrate having jurisdiction.

Section 40: Arrest by private person and procedure on such arrest.

Arrest by Private Person

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, but within six hours from such arrest, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of sub-section (1) of section 35, a police officer shall take him in custody.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 39; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

SIMPLIFIED ACTS

Arrest by Private Person

(1) Any regular person can arrest or help arrest someone who commits a serious crime that doesn't allow for bail, or someone who is officially wanted, if it happens in front of them. After arresting the person, they must hand them over to a police officer as soon as possible, but definitely within six hours. If no police officer is around, they should take the arrested person to the nearest police station.

(2) If there's a reason to believe that the arrested person falls under certain legal rules (specifically mentioned in another section), a police officer must take them into custody.

(3) If there's a reason to believe the person has committed a minor crime and they refuse to give their name and address when asked by a police officer, or if they give false information, they will be dealt with according to another legal section. However, if there's no good reason to believe they committed any crime, they should be released immediately.

Explanation using Example

Example 1:

Rahul is a shopkeeper in a busy market in Delhi. One afternoon, he notices a man, Ramesh, trying to pickpocket a customer in his shop. Rahul knows that pickpocketing is a non-bailable and cognizable offence. Without waiting for the police, Rahul and a few other shopkeepers apprehend Ramesh and hold him in the shop. They immediately call the local police station. Within an hour, a police officer arrives, and Rahul hands over Ramesh to the officer, explaining the situation. The police officer takes Ramesh into custody for further investigation.

Example 2:

Priya is walking home from work in Mumbai when she sees a man, Vijay, who she recognizes from a police notice as a proclaimed offender wanted for multiple thefts. Priya quickly calls her friend, who lives nearby, for help. Together, they manage to detain Vijay and take him to the nearest police station, which is just a few blocks away. They hand Vijay over to the police within 30 minutes of detaining him. The police verify Vijay's identity and take him into custody for further legal action.

Example 3:

Amit is at a local park in Bangalore when he sees a man, Suresh, vandalizing public property by spray-painting offensive graffiti. Amit knows that vandalism is a non-cognizable offence. He calls the police, and when the officer arrives, Suresh refuses to give his name and address. The officer suspects that Suresh is lying about his identity. Following the provisions of Section 39, the officer decides to take Suresh into custody for further verification. If it turns out that Suresh has not committed any offence, he will be released immediately.

Example 4:

Sunita is at a railway station in Chennai when she sees a man, Arjun, trying to steal a woman's purse. Sunita and a few other passengers manage to catch Arjun in the act. They hold him and call the railway police. Within 20 minutes, the railway police arrive and take Arjun into custody. Sunita provides her statement to the police, explaining what she witnessed. The police then proceed with the necessary legal actions against Arjun.

Section 41: Arrest by Magistrate.

(1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

SIMPLIFIED ACTS

(1) If a crime happens right in front of a Magistrate (a type of judge), whether they handle administrative or legal matters, and it's within their area of authority, they can either arrest the person committing the crime themselves or tell someone else to do it. After the arrest, they can decide to keep the person in custody, following the rules about bail.

(2) Any Magistrate, whether they handle administrative or legal matters, can arrest or tell someone to arrest a person in their presence within their area of authority, if they have the power to issue an arrest warrant for that person at that time and under those circumstances.

Explanation using Example

Example 1:

Scenario: A local festival is taking place in a small town in Maharashtra. During the festival, a fight breaks out between two groups, and one person is severely injured. The fight happens right in front of the local Executive Magistrate, who is attending the festival.

Application of Section 41: The Executive Magistrate, witnessing the offence, immediately intervenes. He orders a nearby police officer to arrest the individuals involved in the fight. The police officer follows the Magistrate's order and arrests the offenders. The Magistrate then ensures that the arrested individuals are taken into custody and informs them about their right to apply for bail.

Example 2:

Scenario: A Judicial Magistrate is conducting a court session in his chamber in Delhi. During the session, a person in the courtroom starts threatening a witness, attempting to intimidate them into changing their testimony.

Application of Section 41: The Judicial Magistrate, observing the offence happening in his presence, decides to take immediate action. He orders the court security personnel to arrest the person threatening the witness. The security personnel comply and arrest the offender. The Magistrate then arranges for the offender to be taken into custody and informs them about the bail provisions.

Example 3:

Scenario: An Executive Magistrate is on a routine inspection of a market area in Bengaluru. During the inspection, he notices a shopkeeper openly selling counterfeit goods, which is a criminal offence.

Application of Section 41: The Executive Magistrate, witnessing the offence within his local jurisdiction, decides to act on the spot. He orders a police officer accompanying him to arrest the shopkeeper for selling counterfeit goods. The police officer arrests the shopkeeper as directed. The Magistrate then ensures that the shopkeeper is taken into custody and informs him about the possibility of applying for bail.

Example 4:

Scenario: A Judicial Magistrate is traveling through his local jurisdiction in Kolkata when he sees a person vandalizing public property by spray-painting graffiti on a government building.

Application of Section 41: The Judicial Magistrate, witnessing the act of vandalism, decides to intervene. He directs his driver, who is also a police officer, to arrest the person vandalizing the property. The driver arrests the offender as instructed. The Magistrate then makes arrangements for the offender to be taken into custody and informs him about the bail provisions.

Section 42: Protection of members of Armed Forces from arrest.

(1) Notwithstanding anything contained in section 35 and sections 39 to 41 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

SIMPLIFIED ACTS

(1) Despite what is mentioned in section 35 and sections 39 to 41, no member of the Armed Forces of the Union can be arrested for actions taken while performing their official duties unless the Central Government gives permission.

(2) The State Government can issue a notification to apply the rule in sub-section (1) to certain members of the Force responsible for maintaining public order, no matter where they are serving. In such cases, the term "Central Government" in sub-section (1) will be replaced with "State Government."

Explanation using Example

Example 1:

Captain Rajesh, an officer in the Indian Army, is involved in a counter-insurgency operation in a conflict-prone area. During the operation, he orders his unit to take certain actions that result in the injury of a civilian. The local police receive a complaint and want to arrest Captain Rajesh for his actions. However, under Section 42 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police cannot arrest him without first obtaining the consent of

the Central Government, as his actions were carried out in the discharge of his official duties.

Example 2:

Inspector Sharma, a member of the State Reserve Police Force, is deployed to control a violent protest in a city. During the protest, he uses force to disperse the crowd, which leads to several injuries. A complaint is filed against him, and the local authorities consider arresting him. However, the State Government has issued a notification under Section 42(2) of The Bharatiya Nagarik Suraksha Sanhita 2023, extending the same protection to members of the State Reserve Police Force. Therefore, the local authorities must obtain the consent of the State Government before they can arrest Inspector Sharma for actions taken in the line of duty.

Section 43: Arrest how made.

Arrest Procedures

(1) In making an arrest, the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action:

Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) The police officer may, keeping in view the nature and gravity of the offence, use handcuffs while making the arrest of a person or while producing such person before the court who is a habitual or repeat offender, or who escaped from custody, or who has committed offence of organised crime, terrorist act, drug-related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offence against children, or offence against the State.

(4) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

(5) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.

SIMPLIFIED ACTS

Arrest Procedures

(1) When making an arrest, the police officer or person making the arrest must physically touch or restrain the person being arrested, unless the person agrees to go with them willingly:

If a woman is being arrested, she is assumed to agree to go with the police if she is told she is under arrest, unless the situation suggests otherwise. The police officer should not touch the woman unless necessary or unless the officer is a female.

(2) If the person resists arrest or tries to run away, the police officer or person making the arrest can use whatever means necessary to arrest them.

(3) The police officer can use handcuffs during the arrest or when taking the person to court if the person is a repeat offender, has escaped custody, or has committed serious crimes like organized crime, terrorism, drug offenses, illegal possession of weapons, murder, rape, acid attacks, counterfeiting money, human trafficking, sexual offenses against children, or crimes against the state.

(4) This section does not allow the police to kill someone unless the person is accused of a crime that could be punished by death or life imprisonment.

(5) Except in rare cases, a woman should not be arrested at night (after sunset and before sunrise). If there are exceptional circumstances, a female police officer must get written permission from a Magistrate before making the arrest.

Explanation using Example

Example 1:

Scenario: A police officer is arresting a man named Rajesh for theft.

Application of the Act:

The police officer approaches Rajesh and informs him that he is under arrest for theft.

Rajesh does not resist and verbally agrees to go with the officer.

The officer does not need to physically touch Rajesh since he has submitted to custody by word.

Rajesh is taken to the police station without any use of force.

Example 2:

Scenario: A police officer is arresting a woman named Priya for fraud.

Application of the Act:

The police officer, who is male, informs Priya that she is under arrest for fraud.

Priya verbally acknowledges the arrest and agrees to go with the officer.

The officer does not touch Priya, as her submission to custody is presumed by her verbal acknowledgment.

Priya is taken to the police station without any physical contact.

Example 3:

Scenario: A police officer is arresting a man named Vikram who is a habitual offender and has escaped from custody before.

Application of the Act:

The police officer approaches Vikram and informs him that he is under arrest.

Vikram tries to run away.

The officer uses necessary force to restrain Vikram and handcuffs him due to his history as a habitual offender and escapee.

Vikram is taken to the police station in handcuffs.

Example 4:

Scenario: A police officer is arresting a woman named Anjali for a serious crime (e.g., human trafficking) after sunset.

Application of the Act:

The police officer, who is female, informs Anjali that she is under arrest for human trafficking.

Since it is after sunset, the female officer makes a written report and obtains prior permission from the Magistrate of the first class.

After obtaining permission, the female officer arrests Anjali.

Anjali is taken to the police station following the proper legal procedure.

Example 5:

Scenario: A police officer is arresting a man named Ramesh for a minor offense, but Ramesh resists arrest.

Application of the Act:

The police officer informs Ramesh that he is under arrest for a minor offense.

Ramesh forcibly resists the arrest.

The officer uses necessary force to subdue Ramesh and effect the arrest.

Ramesh is taken to the police station, and the officer ensures that no excessive force is used beyond what is necessary to make the arrest.

Section 44: Search of place entered by person sought to be arrested.

Arrest Procedures

(1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that if any such place is an apartment in the actual occupancy of a female (not being the person to be arrested) who, according to custom, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such female that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(3) Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

SIMPLIFIED ACTS

Arrest Procedures

(1) If someone with an arrest warrant or a police officer who has the authority to arrest believes that the person they need to arrest is inside a certain place, anyone living in or in charge of that place must let them in and help them search the place.

(2) If they can't get into the place as described in point (1), the person with the warrant or the police officer can break in. This means they can break open any door or window to get inside, whether it belongs to the person being arrested or someone else. However, if the place is a room occupied by a woman who, according to custom, does not appear in public, the officer must first let her know she can leave and give her a chance to do so before breaking in.

(3) Any police officer or person authorized to make an arrest can break open any door or window to free themselves or someone else who is stuck inside while trying to make an arrest.

Explanation using Example

Example 1:

Scenario: A police officer has a warrant to arrest Mr. Sharma, who is suspected of embezzlement. The officer arrives at Mr. Sharma's residence but is informed by the housekeeper that Mr. Sharma is inside and refuses to come out.

Application of Section 44:

The police officer demands entry into the house to arrest Mr. Sharma.

The housekeeper, being in charge of the place, must allow the officer to enter and provide reasonable facilities for the search.

If the housekeeper refuses to allow entry, the officer, after notifying his authority and purpose, can break open the door to enter and arrest Mr. Sharma.

Example 2:

Scenario: A police officer is pursuing Ms. Gupta, who is wanted for fraud. Ms. Gupta runs into her friend's house to hide. The officer arrives at the friend's house and demands entry.

Application of Section 44:

The officer informs the friend of his authority and purpose and demands entry to search for Ms. Gupta.

The friend must allow the officer to enter and provide reasonable facilities for the search.

If the friend refuses, the officer can break open the door to enter and search for Ms. Gupta, provided he has notified his authority and purpose.

Example 3:

Scenario: A police officer has a warrant to arrest Mr. Khan, who is hiding in a house where a woman who follows purdah (a custom where women do not appear in public) resides.

Application of Section 44:

The officer demands entry into the house and notifies the woman of his authority and purpose.

The officer must give the woman reasonable time and facilities to withdraw to a private area before entering.

After ensuring the woman has withdrawn, the officer can break open the door to enter and arrest Mr. Khan.

Example 4:

Scenario: A police officer lawfully enters a house to arrest Mr. Patel but is locked inside by Mr. Patel's accomplices.

Application of Section 44:

The officer, being lawfully inside the house, can break open any inner or outer door or window to liberate himself.

The officer can also break open doors or windows to free any other person who is lawfully inside for the purpose of making an arrest and is detained therein.

Section 45: Pursuit of offenders into other jurisdictions.

A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.

SIMPLIFIED ACTS

A police officer can chase and arrest a person anywhere in India without needing a warrant if they have the authority to arrest that person.

Explanation using Example

Example 1:

Rajesh, a resident of Delhi, is suspected of committing a serious crime in Delhi. The Delhi Police have enough evidence to arrest him without a warrant. However, Rajesh learns about the impending arrest and flees to Mumbai. Under Section 45 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Delhi Police can pursue Rajesh into Mumbai to arrest him, even though Mumbai falls under a different jurisdiction.

Example 2:

Priya, who lives in Bangalore, is caught on camera committing a theft in a local store. The Bangalore Police identify her and decide to arrest her without a warrant. Priya, aware of the police's intentions, escapes to Chennai. According to Section 45 of The Bharatiya Nagarik

Suraksha Sanhita 2023, the Bangalore Police have the authority to follow Priya to Chennai and arrest her there, despite Chennai being in a different state.

Section 46: No unnecessary restraint.

The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

SIMPLIFIED ACTS

The person who is arrested should only be restrained as much as needed to stop them from escaping.

Explanation using Example

Example 1:

Rajesh is arrested by the police for allegedly committing theft. While being transported to the police station, the officers handcuff him to ensure he does not escape. However, once they reach the police station, Rajesh is placed in a secure holding cell. The officers remove the handcuffs because the cell itself is sufficient to prevent his escape. This action aligns with Section 46 of The Bharatiya Nagarik Suraksha Sanhita 2023, which mandates that no unnecessary restraint should be applied beyond what is needed to prevent escape.

Example 2:

Priya is arrested for a minor traffic violation. The police officer decides to take her to the police station for further questioning. Given that Priya is cooperative and the violation is minor, the officer chooses not to handcuff her during the transport. Instead, the officer ensures that Priya is seated in the back of the police vehicle with the child locks activated to prevent her from opening the door and escaping. This approach is in compliance with Section 46, as it avoids unnecessary restraint while still preventing escape.

Section 47: Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

SIMPLIFIED ACTS

(1) If a police officer or anyone else arrests someone without a warrant, they must immediately tell the person why they are being arrested and explain the details of the offense or reason for the arrest.

(2) If a police officer arrests someone without a warrant for an offense that is not serious enough to deny bail, they must inform the arrested person that they have the right to be released on bail and that they can arrange for someone to guarantee their bail.

Explanation using Example

Example 1:

Ravi is walking down the street when a police officer approaches him and arrests him without a warrant. According to Section 47 of The Bharatiya Nagarik Suraksha Sanhita 2023, the officer must immediately inform Ravi of the specific reason for his arrest. The officer tells Ravi, "You are being arrested for suspected theft of a motorcycle." Since theft is a bailable offence, the officer also informs Ravi, "You have the right to be released on bail. You can arrange for sureties to secure your release."

Example 2:

Priya is at a protest when she is arrested by a police officer without a warrant. The officer must comply with Section 47 of The Bharatiya Nagarik Suraksha Sanhita 2023 by informing Priya of the grounds for her arrest. The officer says, "You are being arrested for unlawful assembly." Since unlawful assembly is a bailable offence, the officer further informs Priya, "You are entitled to be released on bail. You can arrange for sureties to secure your release."

Section 48: Obligation of person making arrest to inform about arrest, etc., to relative or friend.

(1) Every police officer or other person making any arrest under this Sanhita shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.

SIMPLIFIED ACTS

(1) When a police officer or anyone else arrests someone under this law, they must immediately inform the arrested person's relatives, friends, or anyone else the arrested person wants to be notified. They must also inform the designated police officer in the district about the arrest and where the person is being held.

(2) The police officer must tell the arrested person about their right to have someone informed about their arrest as soon as they arrive at the police station.

(3) The police station must keep a record of who has been informed about the arrest. This record should be kept in a book in a format decided by the State Government.

(4) When the arrested person is brought before a Magistrate, the Magistrate must make sure that the police have followed the rules about informing someone about the arrest and keeping a record of it.

Explanation using Example

Example 1:

Scenario: Rajesh is arrested by the police for a suspected involvement in a theft case.

Arrest and Information: As soon as Rajesh is arrested, the police officer informs Rajesh that he has the right to have his arrest and the place of his detention communicated to a relative or friend. Rajesh nominates his brother, Suresh, to be informed.

Notification: The police officer immediately contacts Suresh and informs him about Rajesh's arrest and the police station where Rajesh is being held.

Record Keeping: The police officer makes an entry in the police station's logbook, noting that Suresh has been informed about Rajesh's arrest.

Magistrate's Duty: When Rajesh is produced before the Magistrate, the Magistrate checks the logbook to ensure that Suresh was informed about the arrest and that Rajesh was informed of his rights.

Example 2:

Scenario: Priya is detained by a police officer for questioning in connection with a fraud investigation.

Arrest and Information: Upon arresting Priya, the police officer informs her that she has the right to have her arrest and the place of her detention communicated to a relative or friend. Priya nominates her friend, Anjali, to be informed.

Notification: The police officer immediately contacts Anjali and informs her about Priya's arrest and the police station where Priya is being held.

Record Keeping: The police officer makes an entry in the police station's logbook, noting that Anjali has been informed about Priya's arrest.

Magistrate's Duty: When Priya is produced before the Magistrate, the Magistrate verifies the logbook to ensure that Anjali was informed about the arrest and that Priya was informed of her rights.

Example 3:

Scenario: Vikram is arrested by a police officer for allegedly being involved in a public disturbance.

Arrest and Information: Upon arresting Vikram, the police officer informs him that he has the right to have his arrest and the place of his detention communicated to a relative or friend. Vikram nominates his wife, Meera, to be informed.

Notification: The police officer immediately contacts Meera and informs her about Vikram's arrest and the police station where Vikram is being held.

Record Keeping: The police officer makes an entry in the police station's logbook, noting that Meera has been informed about Vikram's arrest.

Magistrate's Duty: When Vikram is produced before the Magistrate, the Magistrate checks the logbook to ensure that Meera was informed about the arrest and that Vikram was informed of his rights.

Section 49: Search of arrested person.

(1) Whenever, -

(i) a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail; and

(ii) a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in

safe custody all articles, other than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.

(2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

SIMPLIFIED ACTS

(1) Whenever, -

(i) a person is arrested by a police officer with a warrant that does not allow for bail, or with a warrant that allows for bail but the person cannot pay it; and

(ii) a person is arrested without a warrant, or by a private person with a warrant, and cannot legally be given bail, or cannot pay the bail,

the officer who makes the arrest, or the police officer to whom a private person hands over the arrested person, can search the arrested person. They can take and keep safe all items found on the person, except for necessary clothing. If any items are taken from the arrested person, the police officer must give a receipt listing the items taken.

(2) Whenever a female needs to be searched, the search must be done by another female and must be done respectfully.

Explanation using Example

Example 1:

Ravi is arrested by the police under a warrant for theft. The warrant does not allow for bail, so Ravi cannot be released until he appears in court. Upon arrest, the police officer searches Ravi and finds a wallet, a mobile phone, and a knife. The officer takes these items and places them in safe custody, except for Ravi's necessary clothing. The officer then provides Ravi with a receipt listing the items taken.

Example 2:

Priya is arrested without a warrant for suspected involvement in a drug trafficking case. She is unable to furnish bail. The police officer searches Priya and finds a packet of drugs and a large sum of cash. The officer seizes these items and places them in safe custody. Priya is given a receipt detailing the items taken from her.

Example 3:

Sunita is arrested under a warrant for fraud. The warrant allows for bail, but Sunita cannot arrange the bail amount. A female police officer is called to conduct the search. The female officer searches Sunita with strict regard to decency and finds a set of keys and a diary.

These items are taken into safe custody, and Sunita is given a receipt listing the seized items.

Example 4:

Arjun is arrested by a private security guard at a shopping mall for shoplifting. The security guard hands Arjun over to the police. Since Arjun cannot furnish bail, the police officer searches him and finds stolen goods and a small knife. The officer takes these items into safe custody and provides Arjun with a receipt for the seized items.

Section 50: Power to seize offensive weapons.

The police officer or other person making any arrest under this Sanhita may, immediately after the arrest is made, take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Sanhita to produce the person arrested.

SIMPLIFIED ACTS

When a police officer or any other person arrests someone under this law, they can immediately take away any dangerous weapons the arrested person has on them.

The officer or person who made the arrest must then give all the taken weapons to the Court or the officer they are supposed to bring the arrested person to.

Explanation using Example

Example 1:

Ravi is arrested by a police officer for suspected involvement in a street fight in Mumbai. Upon arrest, the officer finds a knife in Ravi's pocket. As per Section 50 of The Bharatiya Nagarik Suraksha Sanhita 2023, the officer immediately seizes the knife from Ravi and later delivers it to the court where Ravi is to be produced for his hearing.

Example 2:

During a routine patrol in Delhi, a police officer observes Manish behaving suspiciously near a crowded marketplace. Upon searching Manish, the officer finds a pair of brass knuckles hidden in his jacket. Manish is then arrested for possession of an offensive weapon. The officer seizes the brass knuckles as per Section 50 of The Bharatiya Nagarik Suraksha Sanhita 2023 and submits them to the appropriate court when presenting Manish for his initial appearance.

Example 3:

A police officer in Bangalore receives a tip-off about illegal activities in a local bar. Upon raiding the bar, the officer arrests multiple individuals, including Anil, who is found with a concealed switchblade. Following the arrest, the officer seizes the switchblade from Anil and ensures it is handed over to the court where Anil will be tried, in accordance with Section 50 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 4:

During a traffic stop in Kolkata, a police officer discovers that the driver, Suresh, has an illegal firearm in his car. Suresh is immediately arrested, and the firearm is confiscated by the officer. As mandated by Section 50 of The Bharatiya Nagarik Suraksha Sanhita 2023, the officer delivers the confiscated firearm to the court where Suresh will be presented.

Example 5:

In a drug raid in Chennai, the police arrest several suspects, including Ramesh, who is carrying a machete. After the arrest, the officer in charge seizes the machete from Ramesh and subsequently delivers it to the judicial officer at the court where Ramesh is scheduled to appear, complying with the requirements of Section 50 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Section 51: Examination of accused by medical practitioner at request of police officer.

Examination of Arrested Person

(1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner.

(3) The registered medical practitioner shall, without any delay, forward the examination report to the investigating officer.

Explanation

In this section and sections 52 and 53, -

(a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case;

(b) "registered medical practitioner" means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

SIMPLIFIED ACTS

Examination of Arrested Person

(1) If someone is arrested for a crime and there are good reasons to believe that examining their body will provide evidence about the crime, a registered doctor can examine the arrested person. This can be done if a police officer asks for it. The doctor and anyone helping them can use reasonable force if needed to carry out the examination.

(2) If the person being examined is a woman, the examination must be done by or supervised by a female doctor.

(3) The doctor must quickly send the examination report to the investigating officer.

Explanation

In this section and sections 52 and 53, -

(a) "examination" includes checking blood, blood stains, semen, swabs (in sexual offence cases), spit, sweat, hair samples, and fingernail clippings using modern scientific methods like DNA profiling and other tests the doctor thinks are necessary.

(b) "registered medical practitioner" means a doctor who has a recognized medical qualification under the National Medical Commission Act, 2019, and is listed in the National Medical Register or a State Medical Register.

Explanation using Example

Example 1:

Scenario: A man named Rajesh is arrested on suspicion of committing a burglary. The police believe that Rajesh may have left blood stains at the crime scene.

Application of the Act:

Request for Examination: The police officer requests a registered medical practitioner to examine Rajesh to check for any cuts or wounds that might have caused the blood stains.

Examination Process: The medical practitioner examines Rajesh's body for any recent cuts or wounds and collects blood samples.

Use of Force: If Rajesh resists the examination, the medical practitioner, with the help of the police, uses reasonable force to conduct the examination.

Report Submission: The medical practitioner completes the examination and promptly sends the report to the investigating officer.

Example 2:

Scenario: A woman named Priya is arrested on suspicion of being involved in a sexual assault case. The police believe that DNA evidence from Priya could be crucial for the investigation.

Application of the Act:

Request for Examination: The police officer requests a female registered medical practitioner to conduct the examination of Priya.

Examination Process: The female medical practitioner collects swabs, hair samples, and other necessary evidence from Priya's body.

Supervision Requirement: The examination is conducted by or under the supervision of the female medical practitioner to ensure compliance with the law.

Report Submission: The female medical practitioner forwards the examination report to the investigating officer without any delay.

Example 3:

Scenario: A man named Arjun is arrested on suspicion of drug trafficking. The police believe that Arjun might have ingested drugs to avoid detection.

Application of the Act:

Request for Examination: The police officer requests a registered medical practitioner to examine Arjun to check for any signs of drug ingestion.

Examination Process: The medical practitioner conducts a thorough examination, including taking blood and urine samples to test for the presence of drugs.

Use of Force: If Arjun refuses to cooperate, the medical practitioner, with the assistance of the police, uses reasonable force to carry out the examination.

Report Submission: The medical practitioner completes the examination and sends the report to the investigating officer promptly.

Example 4:

Scenario: A woman named Meera is arrested on suspicion of involvement in a hit-and-run accident. The police believe that Meera's hair samples might match those found at the accident scene.

Application of the Act:

Request for Examination: The police officer requests a female registered medical practitioner to examine Meera and collect hair samples.

Examination Process: The female medical practitioner collects hair samples from Meera's head and other necessary evidence.

Supervision Requirement: The examination is conducted by or under the supervision of the female medical practitioner to ensure compliance with the law.

Report Submission: The female medical practitioner forwards the examination report to the investigating officer without any delay.

Section 52: Examination of person accused of rape by medical practitioner.

(1) When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilometres from the place where the offence has been committed, by any other registered medical practitioner, acting at the request of any police officer, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.

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

- (i) the name and address of the accused and of the person by whom he was brought;
- (ii) the age of the accused;
- (iii) marks of injury, if any, on the person of the accused;
- (iv) the description of material taken from the person of the accused for DNA profiling; and
- (v) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination shall also be noted in the report.

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

SIMPLIFIED ACTS

(1) If someone is arrested for rape or trying to commit rape, and there are good reasons to believe that examining their body will provide evidence, a doctor working in a government or local hospital can examine them. If no such doctor is available within 16 kilometers, any other registered doctor can do it if a police officer asks. The doctor and anyone helping them can use reasonable force if needed.

(2) The doctor must examine the person right away and write a report that includes:

(i) the name and address of the accused and the person who brought them in;

(ii) the age of the accused;

(iii) any injuries on the accused;

(iv) a description of any material taken from the accused for DNA testing; and

(v) other important details.

(3) The report must clearly explain the reasons for each conclusion.

(4) The report must also note the exact start and end times of the examination.

(5) The doctor must quickly send the report to the investigating officer, who will then send it to the Magistrate as part of the required documents.

Explanation using Example

Example 1:

Scenario: Ravi is arrested on charges of rape in a small town in Maharashtra. The local police believe that a medical examination of Ravi might provide evidence related to the crime.

Application:

Arrest and Request for Medical Examination:

Ravi is taken into custody by the police.

The investigating officer requests a medical examination from a registered medical practitioner employed in the local government hospital.

Medical Examination:

Dr. Sharma, the registered medical practitioner at the government hospital, receives the request and conducts the examination.

Dr. Sharma uses reasonable force to collect samples, if necessary, under police supervision.

Preparation of Report:

Dr. Sharma prepares a detailed report including:

Ravi's name and address.

The name and address of the police officer who brought Ravi.

Ravi's age.

Marks of injury on Ravi's body.

Description of material (such as hair or bodily fluids) taken for DNA profiling.

Other relevant details observed during the examination.

Dr. Sharma notes the exact start and end time of the examination.

Submission of Report:

Dr. Sharma forwards the report without delay to the investigating officer.

The investigating officer submits the report to the Magistrate as part of the necessary documentation for the case.

Example 2:

Scenario: Suman is arrested on suspicion of attempting to commit rape in a rural area of Uttar Pradesh. There is no government hospital within 16 kilometers of the crime scene.

Application:

Arrest and Request for Medical Examination:

Suman is taken into custody by the local police.

The investigating officer requests a medical examination from Dr. Verma, a registered medical practitioner operating a private clinic within 10 kilometers of the crime scene, as no government hospital is nearby.

Medical Examination:

Dr. Verma, acting in good faith and under the direction of the police officer, conducts the examination.

Dr. Verma uses reasonable force if necessary to collect samples.

Preparation of Report:

Dr. Verma prepares a detailed report including:

Suman's name and address.

The name and address of the police officer who brought Suman.

Suman's age.

Marks of injury on Suman's body.

Description of material (such as hair or bodily fluids) taken for DNA profiling.

Other relevant details observed during the examination.

Dr. Verma notes the exact start and end time of the examination.

Submission of Report:

Dr. Verma forwards the report without delay to the investigating officer.

The investigating officer submits the report to the Magistrate as part of the necessary documentation for the case.

Section 53: Examination of arrested person by medical officer.

Examination of Arrested Person

(1) When any person is arrested, he shall be examined by a medical officer in the service of the Central Government or a State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:

Provided that if the medical officer or the registered medical practitioner is of the opinion that one more examination of such person is necessary, he may do so:

Provided further that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of

violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.

SIMPLIFIED ACTS

Examination of Arrested Person

(1) When someone is arrested, they must be checked by a doctor working for the Central or State Government. If no government doctor is available, a registered private doctor should check them soon after the arrest:

If the doctor thinks another check-up is needed, they can do it.

If the arrested person is a woman, only a female doctor or a female registered private doctor should do the check-up, or it should be done under the supervision of a female doctor.

(2) The doctor who checks the arrested person must write a report. This report should include any injuries or marks on the person and an estimate of when these injuries or marks happened.

(3) After the check-up, the doctor must give a copy of the report to the arrested person or to someone the arrested person chooses.

Explanation using Example

Example 1:

Scenario: Rajesh is arrested by the police on suspicion of theft.

Application of the Act:

Examination by Medical Officer: After Rajesh is taken into custody, he is brought to a government hospital where a medical officer examines him.

Unavailability of Medical Officer: If the medical officer is not available, Rajesh is examined by a registered medical practitioner at a nearby clinic.

Female Arrested Person: If Rajesh were a woman, the examination would be conducted by a female medical officer or a female registered medical practitioner.

Recording Injuries: During the examination, the medical officer notices a bruise on Rajesh's arm. The officer records this injury, noting the approximate time it may have occurred.

Report Copy: A copy of the medical report is given to Rajesh or a person he nominates, such as his lawyer or a family member.

Example 2:

Scenario: Priya is arrested during a protest for allegedly causing public disturbance.

Application of the Act:

Examination by Medical Officer: Priya is taken to a state-run hospital where a female medical officer examines her.

Unavailability of Female Medical Officer: If a female medical officer is not available, a female registered medical practitioner conducts the examination.

Multiple Examinations: The medical officer feels that Priya needs another examination the next day to monitor her condition. This second examination is conducted as per the officer's recommendation.

Recording Injuries: The medical officer finds no visible injuries on Priya but records her general health condition.

Report Copy: Priya receives a copy of the medical report, and another copy is given to her lawyer.

Example 3:

Scenario: Arjun is arrested late at night for a brawl in a bar.

Application of the Act:

Examination by Medical Officer: Arjun is taken to a nearby government hospital, but the medical officer is not available due to the late hour.

Examination by Registered Medical Practitioner: Arjun is then taken to a private clinic where a registered medical practitioner examines him.

Recording Injuries: The practitioner notes a cut on Arjun's forehead and records it, estimating that it occurred within the last hour.

Report Copy: A copy of the medical report is provided to Arjun and another copy is given to his friend, whom he nominates to receive it.

Example 4:

Scenario: Sunita is arrested for alleged involvement in a financial scam.

Application of the Act:

Examination by Medical Officer: Sunita is taken to a central government hospital where a female medical officer examines her.

Recording Injuries: The medical officer finds no physical injuries but records Sunita's general health status.

Report Copy: Sunita receives a copy of the medical report, and another copy is given to her husband, whom she nominates.

Multiple Examinations: The medical officer suggests a follow-up examination in a week to ensure Sunita's health remains stable during custody. This follow-up examination is conducted accordingly.

Section 54: Identification of person arrested.

Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit:

Provided that if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with and the identification process shall be recorded by any audio-video electronic means.

SIMPLIFIED ACTS

If someone is arrested for a crime and needs to be identified by others to help with the investigation, the Court can order this identification process if the police request it.

If the person who needs to identify the arrested person has a mental or physical disability, the identification must be supervised by a Magistrate. The Magistrate will make sure the identification is done in a way that the disabled person is comfortable with, and the whole process will be recorded using audio or video.

Explanation using Example

Example 1:

Ravi is arrested on suspicion of burglary in a residential area in Mumbai. The police believe that an eyewitness, Mrs. Sharma, who saw the burglar, can identify Ravi. The officer in charge of the police station requests the Court to direct Ravi to participate in an identification parade. The Court agrees and orders Ravi to be part of a lineup where Mrs. Sharma will identify the suspect. During the lineup, Mrs. Sharma successfully identifies Ravi as the burglar. This identification helps the police in their investigation and strengthens the case against Ravi.

Example 2:

Sunita, who is visually impaired, witnessed a robbery in a market in Delhi. The police arrest a suspect, Rajesh, and need Sunita to identify him. Given her disability, the Court orders that the identification process be conducted under the supervision of a Magistrate. The Magistrate ensures that Sunita is comfortable and uses tactile methods to identify Rajesh. The entire process is recorded using audio-video electronic means to ensure transparency and accuracy. Sunita successfully identifies Rajesh by recognizing his voice and certain physical features she felt during the identification process. This identification is crucial for the investigation and subsequent trial.

Section 55: Procedure when police officer deposes subordinate to arrest without warrant.

(1) When any officer in charge of a police station or any police officer making an investigation under Chapter XIII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

(2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under section 35.

SIMPLIFIED ACTS

(1) If a police officer in charge of a police station or any police officer investigating a case needs another officer to arrest someone without a warrant (and not in their presence), they must give a written order to the officer who will make the arrest. This order should include the name of the person to be arrested and the reason for the arrest. The officer making the arrest must inform the person being arrested about the order and, if the person asks, show them the written order.

(2) This rule does not change the power of a police officer to arrest someone under section 35.

Explanation using Example

Example 1:

Scenario: A police inspector at a police station in Mumbai receives credible information that Rajesh, a suspect in a recent burglary case, is hiding in a nearby locality. The inspector is busy with another urgent matter and cannot personally make the arrest.

Application of Section 55:

The inspector writes an order specifying Rajesh as the person to be arrested and mentions the burglary as the offence.

The inspector hands this written order to Sub-Inspector Mehta, a subordinate officer.

Sub-Inspector Mehta goes to the locality where Rajesh is hiding.

Upon finding Rajesh, Sub-Inspector Mehta informs him about the written order and the reason for his arrest.

If Rajesh asks to see the order, Sub-Inspector Mehta shows him the written document.

Sub-Inspector Mehta then proceeds to arrest Rajesh without a warrant, as per the written order.

Example 2:

Scenario: In Delhi, a police officer named Constable Sharma is investigating a case of illegal drug trafficking. He receives a tip-off that Sunita, a known drug dealer, is currently at a specific address. Constable Sharma is not in a position to make the arrest himself.

Application of Section 55:

Constable Sharma writes an order specifying Sunita as the person to be arrested and mentions illegal drug trafficking as the offence.

He gives this written order to Head Constable Verma, who is his subordinate.

Head Constable Verma goes to the specified address.

Upon locating Sunita, Head Constable Verma informs her about the written order and the reason for her arrest.

If Sunita requests to see the order, Head Constable Verma shows her the written document.

Head Constable Verma then arrests Sunita without a warrant, following the procedure outlined in the written order.

Example 3:

Scenario: In Bangalore, Inspector Rao is leading an investigation into a series of cybercrimes. He identifies a suspect named Anil who is believed to be involved in hacking activities. Inspector Rao is occupied with another critical aspect of the investigation and cannot make the arrest himself.

Application of Section 55:

Inspector Rao writes an order specifying Anil as the person to be arrested and mentions cybercrime as the offence.

He hands this written order to Assistant Sub-Inspector Kumar, a subordinate officer.

Assistant Sub-Inspector Kumar goes to Anil's residence.

Upon finding Anil, Assistant Sub-Inspector Kumar informs him about the written order and the reason for his arrest.

If Anil asks to see the order, Assistant Sub-Inspector Kumar shows him the written document.

Assistant Sub-Inspector Kumar then proceeds to arrest Anil without a warrant, as per the written order.

Section 56: Health and safety of arrested person.

It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.

SIMPLIFIED ACTS

The person responsible for looking after someone who has been accused of a crime must take good care of their health and safety.

Explanation using Example

Example 1:

Rajesh, a 35-year-old man, is arrested by the Mumbai Police for alleged involvement in a financial fraud case. During his arrest, Rajesh informs the police officers that he is diabetic and needs to take his insulin shots regularly. According to Section 56 of The Bharatiya Nagarik Suraksha Sanhita 2023, it is the duty of the police officers to ensure Rajesh's health and safety. Therefore, the officers must allow Rajesh to take his insulin shots on time and provide him with any necessary medical assistance while he is in custody.

Example 2:

Priya, a 28-year-old woman, is taken into custody by the Delhi Police on suspicion of theft. While in custody, Priya complains of severe stomach pain. Under Section 56 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police officers are required to take reasonable care of her health and safety. Consequently, the officers must promptly arrange for Priya to be examined by a medical professional and ensure she receives appropriate treatment for her condition while she remains in custody.

Section 57: Person arrested to be taken before Magistrate or officer in charge of police station.

A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.

SIMPLIFIED ACTS

If a police officer arrests someone without a warrant, they must: a. Take or send the arrested person to a Magistrate who has the authority to handle the case, or b. Take or send the arrested person to the officer in charge of the police station.

This must be done without unnecessary delay.

The rules about bail must be followed.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, is suspected of theft and is arrested by the police without a warrant. According to Section 57 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police officer must take Ravi to the nearest Magistrate or the officer in charge of the police station without unnecessary delay. This ensures that Ravi's arrest is reviewed promptly and that he is informed of his rights, including the possibility of bail.

Example 2:

Priya is arrested by the police in Delhi for allegedly being involved in a street fight. The arrest is made without a warrant. As per Section 57, the police officer must either take Priya directly to a Magistrate who has jurisdiction over the case or to the officer in charge of the nearest police station. This procedure must be followed without unnecessary delay to ensure that Priya's legal rights are protected and that she can seek bail if applicable.

Section 58: Person arrested not to be detained more than twenty-four hours.

No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.

SIMPLIFIED ACTS

A police officer cannot keep someone they arrested without a warrant in custody for longer than what is reasonable based on the situation.

This period cannot be more than 24 hours unless a Magistrate gives a special order under section 187.

The 24 hours does not include the time it takes to travel from the place of arrest to the Magistrate's Court.

Explanation using Example

Example 1:

Ravi was arrested by the police on suspicion of theft at 10:00 AM on Monday. The police did not have a warrant for his arrest. According to Section 58 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police must present Ravi before a Magistrate within 24 hours of his arrest. This means that Ravi must be brought before a Magistrate by 10:00 AM on Tuesday. If the police fail to do so, they would be violating the law, and Ravi could be released on these grounds.

Example 2:

Priya was arrested at her home in Mumbai at 8:00 PM on Friday for allegedly being involved in a cybercrime. The police did not have a warrant for her arrest. The police station is 2 hours away from the Magistrate's Court. According to Section 58, the police must present Priya before a Magistrate within 24 hours, excluding the travel time. Therefore, the police have until 10:00 PM on Saturday to present Priya before a Magistrate. If they do not, Priya's detention would be illegal, and she could be released.

Section 59: Police to report apprehensions.

Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

SIMPLIFIED ACTS

Police station officers must inform the District Magistrate, or the Sub-divisional Magistrate if directed, about all people arrested without a warrant in their area.

This report must be made regardless of whether the arrested person has been granted bail or not.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, was arrested by the local police without a warrant on suspicion of theft. The officer in charge of the police station, Inspector Sharma, promptly reported Ravi's arrest to the District Magistrate. Inspector Sharma provided details about the arrest, including the reason for the arrest and whether Ravi was granted bail or not. This ensured that the higher authorities were aware of the arrest and could oversee the legal process.

Example 2:

In a small town in Uttar Pradesh, Priya was taken into custody by the police without a warrant for allegedly participating in an unlawful assembly. The officer in charge, Sub-Inspector Verma, followed the protocol by reporting Priya's arrest to the Sub-divisional Magistrate, as directed by the District Magistrate. Sub-Inspector Verma included information on whether Priya was released on bail or remained in custody. This report helped maintain transparency and accountability in the arrest process.

Section 60: Discharge of person apprehended.

No person who has been arrested by a police officer shall be discharged except on his bond, or bail bond, or under the special order of a Magistrate.

SIMPLIFIED ACTS

If a police officer arrests someone, that person cannot be released unless: a. They provide a bond (a promise to pay money if they don't show up in court), or b. They provide a bail bond (money paid to get out of jail until their court date), or c. A Magistrate (a type of judge) gives a special order to release them.

Explanation using Example

Example 1:

Ravi was arrested by the police on suspicion of theft. After being taken to the police station, Ravi's lawyer argued that he should be released because there was no substantial evidence against him. The police officer informed the lawyer that Ravi could not be discharged immediately. Instead, Ravi could be released on bail if he provided a bail bond, or if a Magistrate issued a special order for his release. Ravi's lawyer then arranged for a bail bond, and Ravi was released from custody.

Example 2:

Priya was apprehended by the police for allegedly participating in a protest that turned violent. At the police station, Priya's family requested her immediate release. The police officer explained that Priya could not be discharged just based on their request. She could only be released if she posted a bond or bail bond, or if a Magistrate issued a special order

for her release. Priya's family decided to approach the Magistrate, who, after reviewing the case, issued a special order for Priya's release, citing lack of evidence of her involvement in the violence.

Section 61: Power, on escape, to pursue and retake.

(1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.

(2) The provisions of section 44 shall apply to arrests under sub-section (1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

SIMPLIFIED ACTS

(1) If someone who is legally detained escapes or is helped to escape, the person responsible for keeping them detained can immediately chase and arrest them anywhere in India.

(2) The rules in section 44 apply to these arrests, even if the person making the arrest does not have a warrant and is not a police officer with the power to arrest.

Explanation using Example

Example 1:

Ravi, a suspect in a theft case, is lawfully arrested by the Mumbai Police and is being transported to the police station. On the way, Ravi manages to escape from the police van. The police officers immediately start chasing Ravi through the streets of Mumbai. According to Section 61 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police officers have the authority to pursue and re-arrest Ravi anywhere in India without needing a new warrant.

Example 2:

Priya is under lawful custody in a Delhi jail for a fraud case. Her friends manage to rescue her during a prison transfer. The prison guards, upon realizing the escape, immediately start pursuing Priya and her friends. They track her down to a hideout in Jaipur. Under Section 61 of The Bharatiya Nagarik Suraksha Sanhita 2023, the prison guards have the legal right to arrest Priya in Jaipur without requiring a new warrant, even though they are not police officers.

Section 62: Arrest to be made strictly according to Sanhita.

No arrest shall be made except in accordance with the provisions of this Sanhita or any other law for the time being in force providing for arrest.

SIMPLIFIED ACTS

No one can be arrested unless it follows the rules in this law or any other current law that allows for arrest.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Delhi, is suspected of theft by the local police. The police receive a tip-off and decide to arrest Ravi. However, before making the arrest, the police ensure they have a valid arrest warrant issued by a magistrate, as required by the Bharatiya Nagarik Suraksha Sanhita 2023. They follow the proper procedure by informing Ravi of the charges against him and his rights, including the right to remain silent and the right to legal counsel. This ensures that Ravi's arrest is made strictly according to the Sanhita.

Example 2:

Priya, a resident of Mumbai, is accused of cyber fraud. The police, acting on a complaint, decide to arrest her. They first verify that the complaint is valid and obtain the necessary arrest warrant. When they arrive at Priya's home, they identify themselves as police officers, show her the arrest warrant, and explain the reason for her arrest. They also inform her of her rights, including the right to contact a lawyer. By following these steps, the police ensure that Priya's arrest is conducted in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita 2023.

CHAPTER VI: PROCESSES TO COMPEL APPEARANCE

A - SUMMONS

Section 63: Form of summons.

Every summons issued by a Court under this Sanhita shall be, -

- (i) in writing, in duplicate, signed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule direct, and shall bear the seal of the Court; or
- (ii) in an encrypted or any other form of electronic communication and shall bear the image of the seal of the Court or digital signature.

SIMPLIFIED ACTS

Every court summons under this law must be:

- (i) Written in two copies, signed by the judge or another officer authorized by the High Court, and must have the court's seal; or
- (ii) Sent as an encrypted or other type of electronic message, and must include an image of the court's seal or a digital signature.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, is involved in a civil dispute with his neighbor over a property boundary. The case is taken to the local civil court. The court decides to summon Rajesh to appear for a hearing. According to Section 63 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court issues a summons in writing, in duplicate. The summons is signed by the presiding officer of the court and bears the official seal of the court. Rajesh receives the summons at his home address, which clearly states the date and time he needs to appear in court.

Example 2:

Priya, a software engineer in Bangalore, is a witness in a criminal case involving a cybercrime. The court needs her to testify and decides to issue a summons. Given the technological advancements and to ensure quick communication, the court opts to send the summons electronically. The summons is sent to Priya's official email address in an encrypted format. The electronic summons bears the image of the court's seal and a digital signature of the presiding officer. Priya receives the email and acknowledges the receipt, preparing to appear in court on the specified date.

Section 64: Summons how served.

Summons Service

(1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant:

Provided that the police station or the registrar in the Court shall maintain a register to enter the address, email address, phone number and such other details as the State Government may, by rules, provide.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons:

Provided that summons bearing the image of Court's seal may also be served by electronic communication in such form and in such manner, as the State Government may, by rules, provide.

(3) Every person on whom a summons is so served personally shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

SIMPLIFIED ACTS

Summons Service

(1) A summons (official notice to appear in court) must be delivered by a police officer, or by a court officer or other public servant as per the rules set by the State Government:

Provided that the police station or the court registrar must keep a record of the address, email address, phone number, and other details as specified by the State Government.

(2) If possible, the summons should be given directly to the person it is meant for, by handing them one of the copies of the summons:

Provided that a summons with the court's seal can also be sent electronically, in the way specified by the State Government.

(3) If a person receives a summons in person, they must sign a receipt for it on the back of the other copy if the officer delivering it asks them to.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, is required to appear in court for a civil case. The court issues a summons for Ravi's appearance. According to Section 64 of The Bharatiya Nagarik Suraksha Sanhita 2023, the summons can be served by a police officer or an officer of the court.

In this case, a police officer from the local police station visits Ravi's residence and personally hands him one of the duplicates of the summons. Ravi is asked to sign a receipt on the back of the other duplicate to acknowledge that he has received the summons. The police station maintains a register with Ravi's address, email address, and phone number as per the rules provided by the State Government.

Example 2:

Priya, who lives in Bangalore, is summoned to appear in court for a traffic violation case. The court decides to serve the summons electronically due to the practicality and efficiency of this method. The summons, bearing the image of the court's seal, is sent to Priya's registered email address.

Priya receives the email and acknowledges the receipt by replying to the email. The court's registrar updates the register with Priya's email address and phone number, ensuring that all details are maintained as per the rules provided by the State Government. This electronic communication method ensures that Priya is informed promptly and can prepare for her court appearance.

Section 65: Service of summons on corporate bodies, firms, and societies.

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

Explanation. - In this section, "company" means a body corporate and "corporation" means an incorporated company or other body corporate registered under the Companies Act, 2013 or a society registered under the Societies Registration Act, 1860.

(2) Service of a summons on a firm or other association of individuals may be effected by serving it on any partner of such firm or association, or by letter sent by registered post addressed to such partner, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

SIMPLIFIED ACTS

(1) To deliver a court summons to a company or corporation, you can give it to the Director, Manager, Secretary, or another officer of the company. Alternatively, you can send it by registered mail to one of these officers in India. The summons will be considered delivered when the letter would normally arrive by mail.

Explanation. - In this section, "company" refers to a corporate body, and "corporation" refers to an incorporated company or other corporate body registered under the Companies Act, 2013, or a society registered under the Societies Registration Act, 1860.

(2) To deliver a court summons to a firm or group of individuals, you can give it to any partner of the firm or group. Alternatively, you can send it by registered mail to one of the partners. The summons will be considered delivered when the letter would normally arrive by mail.

Explanation using Example

Example 1:

Scenario: A court in Mumbai issues a summons to XYZ Pvt. Ltd., a company registered under the Companies Act, 2013, for a legal proceeding.

Application:

The court sends the summons to the Director of XYZ Pvt. Ltd. by registered post.

The letter is addressed to the Director at the company's registered office in Mumbai.

The letter is sent on 1st October and, according to the ordinary course of post, it would arrive by 3rd October.

As per Section 65, the service of summons is deemed to have been effected on 3rd October, even if the Director does not physically receive the letter on that date.

Example 2:

Scenario: A legal notice needs to be served to ABC & Co., a partnership firm based in Delhi, for a civil dispute.

Application:

The court decides to serve the summons to one of the partners of ABC & Co.

The summons is sent by registered post to Mr. A, a partner of the firm, at his residential address in Delhi.

The letter is dispatched on 5th November and is expected to arrive by 7th November.

According to Section 65, the service of summons is considered complete on 7th November, regardless of whether Mr. A personally receives the letter on that date.

Example 3:

Scenario: A society registered under the Societies Registration Act, 1860, named "Green Earth Society" in Bengaluru, needs to be served a summons for a legal matter.

Application:

The court sends the summons to the Secretary of Green Earth Society by registered post.

The letter is addressed to the Secretary at the society's registered office in Bengaluru.

The letter is sent on 10th December and is expected to arrive by 12th December.

As per Section 65, the service of summons is deemed to have been effected on 12th December, even if the Secretary does not physically receive the letter on that date.

Example 4:

Scenario: A court in Chennai issues a summons to a corporation named "Tech Innovators Ltd." for a legal proceeding.

Application:

The court sends the summons to the Manager of Tech Innovators Ltd. by registered post.

The letter is addressed to the Manager at the corporation's registered office in Chennai.

The letter is sent on 15th January and, according to the ordinary course of post, it would arrive by 17th January.

As per Section 65, the service of summons is deemed to have been effected on 17th January, even if the Manager does not physically receive the letter on that date.

Section 66: Service when persons summoned can not be found.

Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Explanation: A servant is not a member of the family within the meaning of this section.

SIMPLIFIED ACTS

If the person who is supposed to receive the summons cannot be found even after trying hard, the summons can be given to an adult family member who lives with that person. The family member who receives the summons must sign a receipt for it if the officer delivering the summons asks them to.

Explanation: A servant is not considered a family member for the purposes of this rule.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, is summoned to appear in court for a civil case. The court's serving officer visits Rajesh's home multiple times but is unable to find him despite exercising due diligence. Rajesh's wife, Priya, who is an adult member of his family and resides with him, is present at home during one of the visits. The serving officer leaves one copy of the summons with Priya and asks her to sign a receipt on the back of the other duplicate. Priya signs the receipt, and the summons is considered duly served.

Example 2:

Anil, who lives in Delhi, is summoned to appear in court for a traffic violation case. The serving officer tries to serve the summons at Anil's residence but finds that Anil is out of town for an extended period. Anil's adult son, Rohan, who lives with him, is at home. The

serving officer leaves one copy of the summons with Rohan and requests him to sign a receipt on the back of the other duplicate. Rohan complies, and the summons is deemed to have been properly served.

Example 3:

Sunita, residing in Bangalore, is summoned to appear in court for a property dispute case. The serving officer visits her home several times but cannot locate her. Sunita's adult daughter, Meera, who lives with her, is at home during one of the visits. The serving officer leaves one copy of the summons with Meera and asks her to sign a receipt on the back of the other duplicate. Meera signs the receipt, and the summons is considered served.

Example 4:

Vikram, who lives in Chennai, is summoned to appear in court for a criminal case. The serving officer attempts to serve the summons at Vikram's residence but finds that Vikram is not at home. Vikram's adult brother, Suresh, who resides with him, is present. The serving officer leaves one copy of the summons with Suresh and requests him to sign a receipt on the back of the other duplicate. Suresh signs the receipt, and the summons is deemed to have been properly served.

Example 5:

Pooja, a resident of Kolkata, is summoned to appear in court for a family dispute case. The serving officer visits her home multiple times but cannot find her. Pooja's adult mother, who lives with her, is at home during one of the visits. The serving officer leaves one copy of the summons with Pooja's mother and asks her to sign a receipt on the back of the other duplicate. Pooja's mother signs the receipt, and the summons is considered duly served.

Section 67: Procedure when service can not be effected as before provided.

If service cannot by the exercise of due diligence be effected as provided in section 64, section 65, or section 66, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

SIMPLIFIED ACTS

If the serving officer cannot deliver the summons to the person as described in section 64, section 65, or section 66 despite trying hard, the officer should attach one copy of the summons to a noticeable part of the person's house or home where they usually live.

After this, the Court will investigate as it sees necessary and can either: a. Declare that the summons has been properly delivered, or b. Order a new way to deliver the summons as it thinks is appropriate.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, is summoned to appear in court for a civil case. The court issues a summons to be served to Ramesh at his residential address.

Process:

Initial Attempt (Section 64): The serving officer visits Ramesh's house to deliver the summons personally. However, Ramesh is not at home, and no one else is available to receive the summons.

Second Attempt (Section 65): The serving officer tries to deliver the summons to an adult male member of Ramesh's family. Unfortunately, Ramesh's family is out of town.

Third Attempt (Section 66): The serving officer attempts to deliver the summons to Ramesh's workplace, but Ramesh is on leave and not expected to return for several weeks.

Action under Section 67:

The serving officer, after exercising due diligence, is unable to serve the summons as per Sections 64, 65, or 66.

The officer then affixes one of the duplicates of the summons to a conspicuous part of Ramesh's house, such as the main door.

The court, upon reviewing the serving officer's report and making necessary inquiries, declares that the summons has been duly served.

Example 2:

Scenario: Priya, a resident of Delhi, is summoned to appear in court for a criminal case. The court issues a summons to be served to Priya at her residential address.

Process:

Initial Attempt (Section 64): The serving officer visits Priya's house to deliver the summons personally. Priya is not at home, and the officer leaves a message with a neighbor.

Second Attempt (Section 65): The serving officer tries to deliver the summons to Priya's husband. However, Priya's husband refuses to accept the summons, stating that Priya is out of town.

Third Attempt (Section 66): The serving officer attempts to deliver the summons to Priya's office, but the office is closed due to a public holiday.

Action under Section 67:

The serving officer, after exercising due diligence, is unable to serve the summons as per Sections 64, 65, or 66.

The officer then affixes one of the duplicates of the summons to a conspicuous part of Priya's house, such as the front gate.

The court, upon reviewing the serving officer's report and making necessary inquiries, orders fresh service of the summons by registered post to Priya's residential address.

Section 68: Service on Government servant.

(1) Where the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 64, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

SIMPLIFIED ACTS

(1) If the person who is being summoned is working for the Government, the Court will usually send two copies of the summons to the head of the office where that person works. The head of the office will then make sure the summons is delivered according to the rules in section 64, and will send it back to the Court with their signature and a note as required by that section.

(2) The signature of the head of the office will serve as proof that the summons was properly delivered.

Explanation using Example

Example 1:

Rajesh is a government employee working in the Public Works Department (PWD) in Delhi. He is required to appear in court as a witness in a criminal case. The court issues a summons for Rajesh's appearance. According to Section 68 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court sends the summons in duplicate to the head of the PWD office where Rajesh is employed. The head of the PWD office receives the summons and ensures it is served to Rajesh as per the procedure outlined in Section 64. After serving the

summons to Rajesh, the head of the office signs the duplicate copy and returns it to the court with the necessary endorsement, confirming that Rajesh has been duly notified.

Example 2:

Anita is a teacher employed by a government school in Mumbai. She is summoned to appear in court for a civil case involving a property dispute. The court issues the summons and sends it in duplicate to the principal of the school where Anita works. The principal receives the summons and follows the procedure specified in Section 64 to serve it to Anita. After serving the summons, the principal signs the duplicate copy and sends it back to the court with the required endorsement, indicating that Anita has been properly served. The principal's signature on the returned summons serves as evidence that the service was duly completed.

Section 69: Service of summons outside local limits.

When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served.

SIMPLIFIED ACTS

If a court wants to send a summons to someone who lives outside its area, it usually sends two copies of the summons to a Magistrate in the area where that person lives.

The Magistrate in that area will then make sure the summons is delivered to the person.

Explanation using Example

Example 1:

Rajesh lives in Mumbai, but he is involved in a legal case in a court in Delhi. The Delhi court needs Rajesh to appear for a hearing. Since Rajesh resides outside the local jurisdiction of the Delhi court, the court in Delhi sends a summons in duplicate to a Magistrate in Mumbai. The Mumbai Magistrate then ensures that the summons is served to Rajesh at his residence in Mumbai.

Example 2:

Priya, a businesswoman based in Chennai, is required to testify in a fraud case being heard in a court in Kolkata. The Kolkata court issues a summons for Priya to appear. Because Priya is outside the local jurisdiction of the Kolkata court, the court sends the summons in duplicate to a Magistrate in Chennai. The Chennai Magistrate then serves the summons to Priya at her office in Chennai, ensuring she is informed about the requirement to appear in the Kolkata court.

Section 70: Proof of service in such cases and when serving officer not present.

(1) When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by section 64 or section 66) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

(3) All summons served through electronic communication under sections 64 to 71 (both inclusive) shall be considered as duly served and a copy of such summons shall be attested and kept as a proof of service of summons.

SIMPLIFIED ACTS

(1) If a court sends a summons (a legal notice to appear in court) to someone outside its usual area, and the officer who delivered the summons isn't at the court hearing, an affidavit (a written statement confirmed by oath) saying the summons was delivered, and a copy of the summons signed by the person who received it, can be used as evidence. This evidence will be considered true unless someone proves otherwise.

(2) The affidavit can be attached to the copy of the summons and sent back to the court.

(3) Any summons sent through electronic communication (like email) under sections 64 to 71 will be considered properly delivered. A copy of this electronic summons should be signed and kept as proof that it was sent.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, is summoned by a court in Delhi to appear as a witness in a case.

Application of Section 70:

The Delhi court issues a summons to Ramesh, which is served to him in Mumbai.

The serving officer in Mumbai delivers the summons to Ramesh but is not required to be present at the Delhi court hearing.

The serving officer makes an affidavit before a Magistrate in Mumbai, stating that the summons has been served to Ramesh.

This affidavit, along with a duplicate of the summons endorsed by Ramesh, is sent back to the Delhi court.

The Delhi court accepts the affidavit and the duplicate summons as evidence that Ramesh has been duly served, unless Ramesh can prove otherwise.

Example 2:

Scenario: Priya, who lives in Chennai, receives a summons via email from a court in Bangalore to appear for a civil case.

Application of Section 70:

The Bangalore court issues a summons to Priya, which is served through electronic communication (email) as per sections 64 to 71.

The email containing the summons is sent to Priya's registered email address.

A copy of the email and the summons is attested and kept as proof of service by the court.

Priya receives the email and acknowledges the receipt.

The Bangalore court considers the electronic communication as duly served, and the attested copy of the email serves as evidence of the service of summons.

Example 3:

Scenario: A court in Kolkata issues a summons to Anil, who resides in Hyderabad, to appear in a criminal case.

Application of Section 70:

The Kolkata court issues a summons to Anil, which is served to him in Hyderabad.

The serving officer in Hyderabad delivers the summons to Anil but cannot attend the hearing in Kolkata.

The serving officer makes an affidavit before a Magistrate in Hyderabad, confirming that the summons has been served to Anil.

This affidavit, along with a duplicate of the summons endorsed by Anil, is sent back to the Kolkata court.

The Kolkata court accepts the affidavit and the duplicate summons as evidence that Anil has been duly served, unless Anil can prove otherwise.

Section 71: Service of summons on witness.

(1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by electronic communication or by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

(2) When an acknowledgement purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received or on the proof of delivery of summons under sub-section (3) of section 70 by electronic communication to the satisfaction of the Court, the Court issuing summons may deem that the summons has been duly served.

SIMPLIFIED ACTS

(1) Despite what the earlier sections of this Chapter say, a Court that sends a summons (a legal notice to appear in court) to a witness can also send a copy of that summons by email or registered mail to the witness's home or business address, or where they usually work.

(2) If the Court gets a receipt that looks like it was signed by the witness, or a note from a postal worker saying the witness refused to accept the summons, or proof that the summons was delivered by email, the Court can consider the summons as properly delivered.

Explanation using Example

Example 1:

Rajesh is a key witness in a fraud case being heard in a Mumbai court. The court needs Rajesh to appear and testify. According to Section 71 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court issues a summons to Rajesh. In addition to the traditional method of sending the summons through a court officer, the court also sends a copy of the summons to Rajesh via registered post to his home address in Pune and via email to his registered email address.

A few days later, the court receives an acknowledgement receipt signed by Rajesh confirming that he has received the summons via registered post. Additionally, the court receives a delivery confirmation from the email service indicating that the email was successfully delivered to Rajesh's email address. Based on these confirmations, the court deems that the summons has been duly served, and Rajesh is expected to appear in court on the specified date.

Example 2:

Priya is a witness in a civil dispute case in a Delhi court. The court issues a summons for Priya to appear and testify. The court sends the summons through a court officer and simultaneously sends a copy via registered post to her office address in Gurgaon and via WhatsApp to her registered mobile number.

When the court officer attempts to deliver the summons, Priya refuses to accept it. However, the court receives an endorsement from the postal employee stating that Priya refused to take delivery of the registered post. Additionally, the court receives a read receipt from WhatsApp indicating that Priya has read the message containing the summons.

Based on the postal employee's endorsement and the WhatsApp read receipt, the court deems that the summons has been duly served. Priya is now legally obligated to appear in court on the specified date, despite her initial refusal to accept the summons.

B - WARRANT OF ARREST

Section 72: Form of warrant of arrest and duration.

(1) Every warrant of arrest issued by a Court under this Sanhita shall be in writing, signed by the presiding officer of such Court and shall bear the seal of the Court.

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

SIMPLIFIED ACTS

(1) Any arrest warrant given out by a Court must be written down, signed by the judge in charge, and have the Court's official stamp.

(2) This arrest warrant will stay valid until the Court cancels it or until it is carried out.

Explanation using Example

Example 1:

Rajesh is accused of theft and fails to appear in court despite multiple summons. The court decides to issue a warrant for his arrest. The warrant is written down, signed by the judge, and stamped with the court's seal. The police receive the warrant and attempt to arrest Rajesh. The warrant remains valid until Rajesh is either arrested or the court decides to cancel it.

Example 2:

Priya is suspected of fraud and the court issues a warrant for her arrest. The warrant is properly documented, signed by the presiding judge, and sealed by the court. Priya's lawyer files a petition to cancel the warrant, arguing that Priya is willing to cooperate with the

investigation. The court reviews the petition and decides to cancel the warrant. Until this cancellation, the warrant was in force and the police could have arrested Priya at any time.

Section 73: Power to direct security to be taken.

(1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bail bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state -

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;

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

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

SIMPLIFIED ACTS

(1) If a court issues a warrant to arrest someone, it can choose to add a note on the warrant. This note can say that if the person being arrested provides a bail bond with enough guarantors (people who promise to pay if the person doesn't show up), they can be released from custody. The person must promise to come to court at a specific time and keep coming until the court says otherwise.

(2) The note on the warrant must include:

(a) the number of guarantors needed;

(b) the amount of money each guarantor and the arrested person must promise to pay;

(c) the time the arrested person must come to court.

(3) When the bail bond is provided, the officer who has the warrant must send the bond to the court.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of a minor theft and the court issues a warrant for his arrest.

Application:

The court issues a warrant for Rajesh's arrest but endorses on the warrant that Rajesh can be released if he provides a bail bond with sufficient sureties.

The endorsement specifies that Rajesh needs to provide two sureties, each bound for ₹10,000.

Rajesh is required to appear before the court at 10:00 AM on the 15th of the next month.

The police officer executing the warrant takes the bail bond from Rajesh and his sureties and releases Rajesh from custody.

The officer then forwards the bond to the court for record-keeping.

Example 2:

Scenario: Priya is accused of a non-violent protest and the court issues a warrant for her arrest.

Application:

The court issues a warrant for Priya's arrest but allows for her release on bail by endorsing the warrant.

The endorsement specifies that Priya needs to provide one surety, bound for ₹20,000.

Priya is required to appear before the court at 11:00 AM on the 20th of the next month.

The police officer executing the warrant takes the bail bond from Priya and her surety and releases Priya from custody.

The officer then forwards the bond to the court for record-keeping.

Section 74: 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 any one or more of them.

SIMPLIFIED ACTS

(1) Normally, an arrest warrant is given to one or more police officers. However, if the warrant needs to be carried out right away and no police officers are available, the court can give it to any other person or people, and they must carry it out.

(2) If the warrant is given to multiple officers or people, any one of them or all of them together can carry it out.

Explanation using Example

Example 1:

Ravi, a businessman in Mumbai, is accused of fraud and the court issues a warrant for his arrest. The warrant is directed to Inspector Sharma of the Mumbai Police. Inspector Sharma, along with his team, goes to Ravi's office to arrest him. However, Ravi is not present at the office, and the team learns that he is at a remote location for a business meeting. Since the warrant is directed to multiple officers, Inspector Sharma contacts Sub-Inspector Mehta, who is closer to the remote location. Sub-Inspector Mehta, upon receiving the information, proceeds to the location and successfully arrests Ravi, executing the warrant.

Example 2:

In a small village in Rajasthan, a local court issues a warrant for the arrest of Suresh, who is accused of theft. The warrant is directed to the local police officer, Constable Singh. However, Constable Singh is on leave, and there are no other police officers available in the village at that moment. Given the urgency of the situation, the court directs the warrant to the village headman, Mr. Patel, who is a respected figure in the community. Mr. Patel, along with a few trusted villagers, locates Suresh and executes the warrant by bringing him to the local police station, ensuring that the court's order is fulfilled promptly.

Section 75: Warrant may be directed to any person.

(1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 73.

SIMPLIFIED ACTS

(1) The Chief Judicial Magistrate or a Magistrate of the first class can order a warrant for the arrest of any escaped convict, proclaimed offender, or anyone accused of a serious crime who is avoiding arrest, within their local area.

(2) The person who receives the warrant must sign to confirm they got it and must carry out the arrest if the person named in the warrant is on any land or property they control.

(3) Once the person named in the warrant is arrested, they must be handed over with the warrant to the nearest police officer. The police officer will then take the arrested person to a Magistrate who has the authority to handle the case, unless bail is granted under section 73.

Explanation using Example

Example 1:

Scenario: Ramesh, a local farmer, is known to harbor criminals on his property.

Situation: The Chief Judicial Magistrate issues a warrant for the arrest of Suresh, an escaped convict, who is believed to be hiding on Ramesh's farm.

Application of Section 75:

The Chief Judicial Magistrate directs the warrant to Ramesh, instructing him to arrest Suresh if he is found on his property.

Ramesh receives the warrant and acknowledges it in writing.

Ramesh finds Suresh hiding in his barn and executes the warrant by arresting him.

Ramesh then hands over Suresh, along with the warrant, to the nearest police officer.

The police officer takes Suresh before a Magistrate having jurisdiction in the case.

Example 2:

Scenario: Priya, a security guard at a large shopping mall, is known for her vigilance and integrity.

Situation: A Magistrate of the first class issues a warrant for the arrest of Raj, a proclaimed offender, who is suspected to be hiding in the shopping mall.

Application of Section 75:

The Magistrate directs the warrant to Priya, instructing her to arrest Raj if he is found within the mall premises.

Priya receives the warrant and acknowledges it in writing.

Priya spots Raj in the food court and executes the warrant by arresting him.

Priya then hands over Raj, along with the warrant, to the nearest police officer stationed at the mall.

The police officer takes Raj before a Magistrate having jurisdiction in the case.

Example 3:

Scenario: Anil, a village head, is known for his commitment to maintaining law and order in his village.

Situation: A Magistrate of the first class issues a warrant for the arrest of Vinod, who is accused of a non-bailable offence and is evading arrest.

Application of Section 75:

The Magistrate directs the warrant to Anil, instructing him to arrest Vinod if he is found within the village.

Anil receives the warrant and acknowledges it in writing.

Anil finds Vinod hiding in a relative's house in the village and executes the warrant by arresting him.

Anil then hands over Vinod, along with the warrant, to the nearest police officer.

The police officer takes Vinod before a Magistrate having jurisdiction in the case.

Section 76: Warrant directed to police officer.

A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

SIMPLIFIED ACTS

A warrant given to a police officer can also be carried out by another police officer if the first officer writes the second officer's name on the warrant.

Explanation using Example

Example 1:

Scenario: A magistrate issues a warrant for the arrest of Rajesh, who is suspected of theft. The warrant is directed to Inspector Sharma of the Delhi Police.

Application: Inspector Sharma is on leave, so he endorses the warrant to Sub-Inspector Verma, another police officer in his team. Sub-Inspector Verma then executes the warrant by arresting Rajesh.

Explanation: The act allows any police officer, whose name is endorsed on the warrant by the officer to whom it was originally directed, to execute the warrant. In this case, Sub-Inspector Verma is legally permitted to arrest Rajesh because Inspector Sharma endorsed the warrant to him.

Example 2:

Scenario: A warrant is issued for the arrest of Priya, who is accused of fraud, and it is directed to Officer Singh of the Mumbai Police.

Application: Officer Singh is busy with another case, so he endorses the warrant to Officer Patel, a police officer in the same precinct. Officer Patel then travels to Pune, where Priya is currently residing, and executes the warrant by arresting her.

Explanation: The act allows Officer Patel to execute the warrant even though it was originally directed to Officer Singh, as long as Officer Singh has endorsed Officer Patel's name on the warrant. This ensures that the warrant can be executed without unnecessary delays, maintaining the efficiency of law enforcement.

Section 77: Notification of substance of warrant.

The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

SIMPLIFIED ACTS

When a police officer or another person is arresting someone with a warrant, they must tell the person being arrested what the warrant is about.

If the person being arrested asks to see the warrant, the officer or person must show it to them.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, is suspected of being involved in a financial fraud case. The local court issues a warrant for his arrest. Inspector Sharma is assigned to execute the warrant. When Inspector Sharma arrives at Rajesh's residence, he informs Rajesh that there is a warrant for his arrest related to the financial fraud case. Rajesh, confused and anxious, asks to see the warrant. Inspector Sharma then shows Rajesh the physical

warrant, which details the charges and the court's order for his arrest. This ensures that Rajesh is fully aware of the reason for his arrest and the legal authority behind it.

Example 2:

In a small town in Kerala, Priya is accused of theft by her employer. The court issues a warrant for her arrest. Constable Ravi is tasked with executing the warrant. When Constable Ravi finds Priya at her workplace, he tells her that she is being arrested for theft as per the court's warrant. Priya demands to see the warrant. Constable Ravi then presents the warrant to Priya, allowing her to read the details. This process ensures that Priya understands the charges against her and the legitimacy of the arrest, thereby protecting her legal rights.

Section 78: Person arrested to be brought before Court without delay.

The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 73 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person:

Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

SIMPLIFIED ACTS

When a police officer or another person arrests someone with a warrant, they must bring the arrested person to the court as soon as possible, without any unnecessary delay.

This must be done within twenty-four hours, not counting the time it takes to travel from the place of arrest to the court.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, is accused of theft and a warrant for his arrest is issued by the Magistrate's Court. The police officer, Inspector Sharma, receives the warrant and arrests Ravi at his home at 10:00 AM on a Monday. Inspector Sharma ensures that Ravi is brought before the Magistrate's Court by 9:00 AM the next day, Tuesday, without any unnecessary delay. This ensures compliance with Section 78 of The Bharatiya Nagarik Suraksha Sanhita 2023, as Ravi is presented before the court within 24 hours, excluding travel time.

Example 2:

Priya, living in Delhi, is suspected of fraud and a warrant for her arrest is issued. The police officer, Sub-Inspector Mehta, arrests Priya at her office at 3:00 PM on a Friday. Since the

court is closed over the weekend, Sub-Inspector Mehta ensures that Priya is brought before the Magistrate's Court by 10:00 AM on Monday. Although there is a delay due to the weekend, it is not considered unnecessary as the court was not in session. This scenario adheres to Section 78 of The Bharatiya Nagarik Suraksha Sanhita 2023, as Priya is presented before the court at the earliest possible time, excluding the weekend.

Section 79: Where warrant may be executed.

A warrant of arrest may be executed at any place in India.

Section 80: Warrant forwarded for execution outside jurisdiction.

(1) When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such Court may, instead of directing the warrant to a police officer within its jurisdiction, forward it by post or otherwise to any Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction it is to be executed; and the Executive Magistrate or District Superintendent or Commissioner shall endorse his name thereon, and if practicable, cause it to be executed in the manner hereinbefore provided.

(2) The Court issuing a warrant under sub-section (1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 83 to decide whether bail should or should not be granted to the person.

SIMPLIFIED ACTS

(1) If a court needs to execute a warrant outside its local area, it can send the warrant by mail or other means to an Executive Magistrate, District Superintendent of Police, or Commissioner of Police in the area where the warrant needs to be executed. The official who receives the warrant will sign it and, if possible, make sure it gets executed as described in the law.

(2) When the court sends a warrant as described in point (1), it must also send the main details of the case against the person to be arrested, along with any documents that might help another court decide if the person should be granted bail or not.

Explanation using Example

Example 1:

Scenario: A person named Rajesh is accused of fraud in Mumbai, and a warrant for his arrest is issued by the Mumbai Court. However, Rajesh is currently residing in Delhi.

Application of Section 80:

The Mumbai Court issues a warrant for Rajesh's arrest.

Instead of sending the warrant to a police officer in Mumbai, the Mumbai Court forwards the warrant to the Commissioner of Police in Delhi.

The Commissioner of Police in Delhi receives the warrant, endorses his name on it, and directs his officers to execute the warrant.

The Delhi police locate Rajesh and arrest him as per the instructions in the warrant.

Along with the warrant, the Mumbai Court sends the substance of the information against Rajesh and relevant documents to help the Delhi authorities decide on bail matters under Section 83.

Example 2:

Scenario: A person named Priya is wanted for a serious crime in Chennai, but she has fled to Bangalore.

Application of Section 80:

The Chennai Court issues a warrant for Priya's arrest.

The Chennai Court forwards the warrant to the District Superintendent of Police in Bangalore.

The District Superintendent of Police in Bangalore receives the warrant, endorses his name on it, and instructs his officers to execute the warrant.

The Bangalore police find Priya and arrest her according to the warrant's instructions.

The Chennai Court also sends the substance of the information against Priya and necessary documents to assist the Bangalore authorities in making decisions regarding bail under Section 83.

Section 81: Warrant directed to police officer for execution outside jurisdiction.

Execution of Warrants

(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police officer within whose local jurisdiction the warrant is to be executed will prevent such execution, the police officer to whom it is directed may execute the same without such endorsement in any place beyond the local jurisdiction of the Court which issued it.

SIMPLIFIED ACTS

Execution of Warrants

(1) If a police officer needs to carry out a warrant outside the area where the court issued it, he usually has to take it to either an Executive Magistrate or a senior police officer in the area where the warrant needs to be carried out.

(2) This Magistrate or senior police officer will sign the warrant, and this signature gives the police officer the authority to carry out the warrant. The local police in that area must help if needed.

(3) If there is a reason to believe that getting the signature from the Magistrate or senior police officer will cause a delay that stops the warrant from being carried out, the police officer can carry out the warrant without the signature, even if it's outside the area where the court issued it.

Explanation using Example

Example 1:

Scenario: A court in Mumbai issues a warrant for the arrest of Rajesh, who is currently residing in Pune.

Application:

The warrant is directed to Inspector Sharma, a police officer in Mumbai.

Inspector Sharma needs to execute this warrant in Pune, which is outside the jurisdiction of the Mumbai court.

Inspector Sharma takes the warrant to an Executive Magistrate or a senior police officer in Pune, such as the Inspector in charge of the Pune police station.

The Executive Magistrate or the senior police officer in Pune endorses the warrant by signing it.

This endorsement gives Inspector Sharma the authority to arrest Rajesh in Pune.

If needed, the local Pune police will assist Inspector Sharma in executing the warrant.

Example 2:

Scenario: A court in Delhi issues a warrant for the arrest of Sunita, who is currently in a remote village in Rajasthan.

Application:

The warrant is directed to Sub-Inspector Verma, a police officer in Delhi.

Sub-Inspector Verma needs to execute this warrant in the remote village in Rajasthan, which is outside the jurisdiction of the Delhi court.

Sub-Inspector Verma travels to the nearest town in Rajasthan and takes the warrant to an Executive Magistrate or a senior police officer in that town.

The Executive Magistrate or the senior police officer in the town endorses the warrant by signing it.

This endorsement gives Sub-Inspector Verma the authority to arrest Sunita in the remote village.

If needed, the local police in the town or village will assist Sub-Inspector Verma in executing the warrant.

Example 3:

Scenario: A court in Chennai issues a warrant for the arrest of Anil, who is currently in a different state, Kerala.

Application:

The warrant is directed to Inspector Rao, a police officer in Chennai.

Inspector Rao needs to execute this warrant in Kerala, which is outside the jurisdiction of the Chennai court.

Inspector Rao takes the warrant to an Executive Magistrate or a senior police officer in Kerala, such as the Inspector in charge of the local police station in Kerala.

The Executive Magistrate or the senior police officer in Kerala endorses the warrant by signing it.

This endorsement gives Inspector Rao the authority to arrest Anil in Kerala.

If needed, the local Kerala police will assist Inspector Rao in executing the warrant.

Example 4:

Scenario: A court in Kolkata issues a warrant for the arrest of Priya, who is currently in a different city, Hyderabad.

Application:

The warrant is directed to Sub-Inspector Das, a police officer in Kolkata.

Sub-Inspector Das needs to execute this warrant in Hyderabad, which is outside the jurisdiction of the Kolkata court.

Sub-Inspector Das takes the warrant to an Executive Magistrate or a senior police officer in Hyderabad, such as the Inspector in charge of the local police station in Hyderabad.

The Executive Magistrate or the senior police officer in Hyderabad endorses the warrant by signing it.

This endorsement gives Sub-Inspector Das the authority to arrest Priya in Hyderabad.

If needed, the local Hyderabad police will assist Sub-Inspector Das in executing the warrant.

Example 5:

Scenario: A court in Bangalore issues a warrant for the arrest of Vikram, who is currently in a different state, Gujarat.

Application:

The warrant is directed to Inspector Nair, a police officer in Bangalore.

Inspector Nair needs to execute this warrant in Gujarat, which is outside the jurisdiction of the Bangalore court.

Inspector Nair takes the warrant to an Executive Magistrate or a senior police officer in Gujarat, such as the Inspector in charge of the local police station in Gujarat.

The Executive Magistrate or the senior police officer in Gujarat endorses the warrant by signing it.

This endorsement gives Inspector Nair the authority to arrest Vikram in Gujarat.

If needed, the local Gujarat police will assist Inspector Nair in executing the warrant.

Section 82: Procedure on arrest of person against whom warrant issued.

Arrest Warrant Execution

(1) When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometres of the place of arrest or is nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest

was made, or unless security is taken under section 73, be taken before such Magistrate or District Superintendent or Commissioner.

(2) On the arrest of any person referred to in sub-section (1), the police officer shall forthwith give the information regarding such arrest and the place where the arrested person is being held to the designated police officer in the district and to such officer of another district where the arrested person normally resides.

SIMPLIFIED ACTS

Arrest Warrant Execution

(1) If someone is arrested with a warrant outside the district where the warrant was issued, they should be taken to a nearby Magistrate, District Superintendent of Police, or Commissioner of Police. This is unless the court that issued the warrant is within 30 kilometers of the arrest location or is closer than the local police authorities, or if the person provides security as per section 73.

(2) When someone is arrested as described in point (1), the police officer must immediately inform the designated police officer in the district where the arrest happened and also inform the police officer in the district where the arrested person usually lives about the arrest and where the person is being held.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, is accused of fraud and a warrant for his arrest is issued by a court in Delhi.

Execution:

Rajesh is arrested by the Mumbai police.

Since the Delhi court is more than thirty kilometers away from the place of arrest, and there is no immediate security taken under section 73, Rajesh is taken before the Executive Magistrate in Mumbai.

The Mumbai police officer who executed the arrest immediately informs the designated police officer in Mumbai about Rajesh's arrest and the location where he is being held.

Additionally, the Mumbai police officer informs the designated police officer in Delhi, where the warrant was issued, about Rajesh's arrest and his current location.

Example 2:

Scenario: Priya, a resident of Chennai, is wanted for a theft case and a warrant for her arrest is issued by a court in Bangalore.

Execution:

Priya is arrested by the Chennai police.

Since the Bangalore court is more than thirty kilometers away from the place of arrest, and there is no immediate security taken under section 73, Priya is taken before the District Superintendent of Police in Chennai.

The Chennai police officer who executed the arrest immediately informs the designated police officer in Chennai about Priya's arrest and the location where she is being held.

Additionally, the Chennai police officer informs the designated police officer in Bangalore, where the warrant was issued, about Priya's arrest and her current location.

Section 83: Procedure by Magistrate before whom such person arrested is brought.

(1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail bond to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 73 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail bond or security, as the case may be, and forward the bond, to the Court which issued the warrant:

Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 480), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 80, to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 73.

SIMPLIFIED ACTS

(1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police

If someone is arrested and they are the person the Court wanted to arrest, the officer in charge (Executive Magistrate, District Superintendent of Police, or Commissioner of Police) must make sure the person is taken to the Court that issued the arrest warrant:

However, if the crime is one where the person can be released on bail, and the person is willing to provide a bail bond that satisfies the officer in charge, or if the warrant has instructions under section 73 and the person is willing to provide the required security, the officer in charge must accept the bail bond or security and send it to the Court that issued the warrant.

Additionally, if the crime is one where bail is not usually allowed, the Chief Judicial Magistrate or the Sessions Judge of the district where the arrest happened can decide to release the person on bail after considering the information and documents mentioned in section 80(2).

(2) Nothing in this section stops a police officer from taking security under section 73.

Explanation using Example

Example 1:

Ravi is arrested by the police in Mumbai based on a warrant issued by a court in Delhi for a bailable offense. The police bring Ravi before the Executive Magistrate in Mumbai. The Magistrate verifies that Ravi is indeed the person named in the warrant. Since the offense is bailable, Ravi expresses his willingness to provide a bail bond. The Magistrate accepts the bail bond and forwards it to the Delhi court that issued the warrant. Ravi is then released on bail and instructed to appear before the Delhi court on the specified date.

Example 2:

Priya is arrested in Chennai on a warrant issued by a court in Kolkata for a non-bailable offense. She is brought before the District Superintendent of Police in Chennai. The Superintendent confirms Priya's identity and the nature of the offense. Since the offense is non-bailable, Priya cannot be released on bail by the Superintendent. However, Priya's lawyer presents documents and information as per section 80 to the Chief Judicial Magistrate in Chennai. After reviewing the documents, the Chief Judicial Magistrate decides to grant Priya bail. Priya is released on bail and must appear before the Kolkata court as required.

Example 3:

Arjun is arrested in Bengaluru based on a warrant issued by a court in Hyderabad for a bailable offense. The police bring Arjun before the Commissioner of Police in Bengaluru. The Commissioner verifies Arjun's identity and confirms that the offense is bailable. Arjun is ready to provide the required security as directed under section 73 of the warrant. The Commissioner accepts the security and forwards it to the Hyderabad court. Arjun is released on bail and instructed to appear before the Hyderabad court on the specified date.

Example 4:

Meera is arrested in Pune on a warrant issued by a court in Jaipur for a non-bailable offense. She is brought before the Executive Magistrate in Pune. The Magistrate confirms Meera's identity and the nature of the offense. Since the offense is non-bailable, Meera cannot be released on bail by the Magistrate. However, Meera's lawyer submits the necessary information and documents as per section 80 to the Sessions Judge in Pune. After considering the information, the Sessions Judge decides to grant Meera bail. Meera is released on bail and must appear before the Jaipur court as required.

C - PROCLAMATION AND ATTACHMENT

Section 84: Proclamation for person absconding.

Proclamation for Absconding Persons

(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;

(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 of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(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.

(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, and such person fails to appear at the specified place

and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).

SIMPLIFIED ACTS

Proclamation for Absconding Persons

(1) If a Court believes that a person, who has a warrant issued against them, is hiding or has run away so that the warrant cannot be served, the Court can issue a public notice. This notice will require the person to show up at a specific place and time, which must be at least thirty days after the notice is published.

(2) The notice must be made public in the following ways:

(i)

(a) It should be read out loud in a noticeable place in the town or village where the person usually lives.

(b) It should be posted on a noticeable part of the person's house or in a noticeable place in the town or village.

(c) A copy should be posted in a noticeable part of the Court building.

(ii) The Court can also decide to publish the notice in a daily newspaper that is read in the area where the person usually lives.

(3) A written statement by the Court that the notice was published on a certain day in the ways described above will be considered proof that the notice was properly published on that day.

(4) If the notice is about a person accused of a serious crime that can lead to ten years or more in prison, life imprisonment, or the death penalty, and the person does not show up at the specified place and time, the Court can declare them a "proclaimed offender" after conducting an inquiry.

(5) The rules for making the notice public (as described in sections (2) and (3)) also apply to the declaration of someone as a "proclaimed offender" as described in section (4).

Explanation using Example

Example 1:

Ravi, a resident of a small village in Maharashtra, is accused of embezzlement and a warrant is issued for his arrest. However, when the police go to execute the warrant, they

find that Ravi has absconded and is hiding to avoid arrest. The court, having reason to believe that Ravi is deliberately avoiding the warrant, decides to issue a proclamation.

The court publishes a written proclamation requiring Ravi to appear at the local court in Pune on a specified date, which is 45 days from the date of the proclamation. The proclamation is publicly read at the village square, affixed to the door of Ravi's house, and posted on the notice board of the local court. Additionally, the court directs that the proclamation be published in a daily newspaper circulating in the village.

Despite these efforts, Ravi fails to appear at the specified time and place. Since the offense he is accused of is punishable with imprisonment of ten years, the court conducts an inquiry and declares Ravi a proclaimed offender. This declaration is also published in the same manner as the original proclamation.

Example 2:

Sunita, a businesswoman in Delhi, is accused of fraud involving a significant amount of money. A warrant is issued for her arrest, but she goes into hiding to evade the authorities. The court, suspecting that Sunita is absconding, issues a proclamation for her to appear in court.

The proclamation is read aloud at a busy market near Sunita's residence, posted on the gate of her apartment building, and displayed on the notice board of the local court. The court also orders the proclamation to be published in a widely-read daily newspaper in Delhi.

Sunita does not appear in court on the specified date, which is 30 days after the proclamation was published. Given that the fraud charge carries a potential sentence of more than ten years, the court holds an inquiry and subsequently declares Sunita a proclaimed offender. This declaration is also published in the same manner as the original proclamation, ensuring that the public is aware of her status.

Section 85: Attachment of property of person absconding.

Section 84 - Proclamation and Attachment of Property

(1) The Court issuing a proclamation under section 84 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,

-

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court,

it may order the attachment of property simultaneously with the issue of the proclamation.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made -

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

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

(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.

SIMPLIFIED ACTS

Section 84 - Announcement and Seizure of Property

(1) The Court that makes an announcement under section 84 can, for reasons written down, at any time after the announcement, order the seizure of any property (movable or immovable) that belongs to the person mentioned in the announcement:

However, if at the time of the announcement, the Court believes (based on an affidavit or other evidence) that the person:

(a) is about to sell all or part of their property; or

(b) is about to move all or part of their property out of the Court's area,

the Court can order the seizure of the property at the same time as the announcement.

(2) This order allows the seizure of any property belonging to the person within the district where the order is made. It also allows the seizure of property outside the district if the District Magistrate of that area approves it.

(3) If the property to be seized is a debt or other movable property, the seizure can be done by:

(a) taking the property; or

(b) appointing a receiver to manage it; or

(c) writing an order that stops the property from being given to the person or anyone on their behalf; or

(d) using any two or all of these methods, as the Court decides.

(4) If the property to be seized is immovable (like land), the seizure will be done:

If the land pays revenue to the State Government, through the district's Collector.

In other cases:

(a) by taking possession of the property; or

(b) by appointing a receiver to manage it; or

(c) by writing an order that stops rent payments or delivery of the property to the person or anyone on their behalf; or

(d) using any two or all of these methods, as the Court decides.

(5) If the property to be seized includes livestock or is perishable, the Court can order an immediate sale if it thinks it's necessary. The money from the sale will be held according to the Court's decision.

(6) The responsibilities and powers of a receiver appointed under this section are the same as those of a receiver appointed under the Code of Civil Procedure, 1908.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman, is accused of embezzling funds from his company. After the court issues a summons, Rajesh absconds and cannot be located.

Application of Section 85:

Proclamation Issued: The court issues a proclamation under Section 84, declaring Rajesh as a proclaimed offender.

Attachment of Property: The court, suspecting that Rajesh might dispose of his assets, orders the attachment of his properties, including his house and car.

Execution of Attachment:

Movable Property: The court orders the seizure of Rajesh's car and appoints a receiver to manage his bank accounts.

Immovable Property: The court takes possession of Rajesh's house and issues an order prohibiting the payment of rent to Rajesh or anyone on his behalf.

Perishable Property: Rajesh also owns a dairy farm. The court orders the immediate sale of the livestock to prevent loss due to perishability, and the proceeds are held by the court.

Example 2:

Scenario: Priya, a real estate developer, is involved in a land fraud case. She is summoned to court but flees the jurisdiction to avoid arrest.

Application of Section 85:

Proclamation Issued: The court issues a proclamation under Section 84, declaring Priya as a proclaimed offender.

Attachment of Property: The court, based on affidavits, believes Priya is trying to sell her properties and orders the attachment of her assets.

Execution of Attachment:

Movable Property: The court orders the seizure of Priya's luxury car and appoints a receiver to manage her shares in various companies.

Immovable Property: The court takes possession of Priya's commercial buildings and issues an order prohibiting the payment of rent to Priya or anyone on her behalf.

Property Outside District: Priya owns a farmhouse in another district. The court's attachment order is endorsed by the District Magistrate of that district, enabling the attachment of the farmhouse.

Perishable Property: Priya has a stock of perishable goods in her warehouse. The court orders their immediate sale, and the proceeds are held by the court.

Example 3:

Scenario: Anil, a software engineer, is accused of cyber fraud. He is summoned to court but absconds and is believed to be hiding in another state.

Application of Section 85:

Proclamation Issued: The court issues a proclamation under Section 84, declaring Anil as a proclaimed offender.

Attachment of Property: The court, based on credible information, believes Anil is planning to transfer his assets and orders the attachment of his properties.

Execution of Attachment:

Movable Property: The court orders the seizure of Anil's laptop and other electronic devices, and appoints a receiver to manage his cryptocurrency accounts.

Immovable Property: The court takes possession of Anil's apartment and issues an order prohibiting the payment of rent to Anil or anyone on his behalf.

Property Outside District: Anil owns a plot of land in another state. The court's attachment order is endorsed by the District Magistrate of that state, enabling the attachment of the plot.

Perishable Property: Anil has a collection of rare plants that are perishable. The court orders their immediate sale, and the proceeds are held by the court.

Section 86: Identification and attachment of property of proclaimed person.

The Court may, on the written request from a police officer not below the rank of the Superintendent of Police or Commissioner of Police, initiate the process of requesting assistance from a Court or an authority in the contracting State for identification, attachment and forfeiture of property belonging to a proclaimed person in accordance with the procedure provided in Chapter VIII.

SIMPLIFIED ACTS

If a police officer who is at least a Superintendent of Police or a Commissioner of Police makes a written request, the Court can start the process of asking for help from a Court or authority in another country.

This help is for identifying, seizing, and taking away property that belongs to a person who has been officially declared as wanted.

The process will follow the rules given in Chapter VIII.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman, is accused of embezzling funds from his company and has been evading arrest for several months. The police have been unable to locate him, and he has been declared a proclaimed offender by the court.

Application of the Act:

The Superintendent of Police submits a written request to the court to initiate the process of identifying and attaching Rajesh's properties.

The court, upon receiving the request, issues an order to identify and attach Rajesh's properties, including his house, bank accounts, and any other assets.

The police, with the court's order, begin the process of identifying all properties owned by Rajesh.

Once identified, the properties are attached, meaning Rajesh cannot sell or transfer them.

If Rajesh continues to evade arrest, the court may also order the forfeiture of his properties, meaning the government can take ownership of them.

Example 2:

Scenario: Priya, a resident of Mumbai, is involved in a large-scale fraud case and has fled to a foreign country. She has been declared a proclaimed offender by the Indian court.

Application of the Act:

The Commissioner of Police in Mumbai submits a written request to the court to initiate the process of identifying and attaching Priya's properties.

The court, upon receiving the request, issues an order to identify and attach Priya's properties in India.

The police identify Priya's properties in Mumbai, including her apartment and investments.

The court also requests assistance from the relevant authority in the foreign country where Priya is hiding, to identify and attach any properties she may own there.

The foreign authority, in cooperation with the Indian court, identifies and attaches Priya's properties in the foreign country.

If Priya does not return to face the charges, the court may order the forfeiture of her properties both in India and abroad.

Section 87: Claims and objections to attachment.

Section 85 - Claims and Objections

(1) If any claim is preferred to, or objection made to the attachment of, any property attached under section 85, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 85, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

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 (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 85, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made.

(3) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.

(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.

SIMPLIFIED ACTS

Section 85 - Claims and Objections

(1) If someone other than the person who is being targeted by the law claims or objects to the attachment of property under section 85 within six months from the date of attachment, saying they have an interest in the property and that it shouldn't be attached, their claim or objection will be looked into and may be accepted or rejected, either fully or partially:

Provided that if the person who made the claim or objection dies, their legal representative can continue the claim or objection within the allowed time period.

(2) Claims or objections under the first part can be made in the Court that issued the attachment order, or if the property was attached under an order endorsed by another Court, in the Court of the Chief Judicial Magistrate of the district where the attachment happened.

(3) The Court where the claim or objection is made will look into it:

Provided that if the claim or objection is made in the Court of a Chief Judicial Magistrate, he can assign it to any Magistrate under him to handle it.

(4) If a person's claim or objection is rejected, either fully or partially, they can file a lawsuit within one year from the date of the rejection to prove their right to the property in question. Until the result of such a lawsuit, the rejection order will be final.

Explanation using Example

Example 1:

Scenario: Ramesh's Property Attachment

Ramesh is a businessman who has been proclaimed as an offender under Section 85 of the Bharatiya Nagarik Suraksha Sanhita 2023. As a result, his property, including a piece of land, is attached by the court. However, Suresh, Ramesh's brother, claims that the piece of land actually belongs to him and not to Ramesh.

Application of Section 87:

Claim Submission: Suresh files a claim within six months from the date of attachment, stating that he has an interest in the land and that it should not be attached.

Inquiry: The court inquires into Suresh's claim to determine its validity.

Decision: The court finds that Suresh indeed has a legitimate interest in the land and allows the claim, thereby releasing the land from attachment.

Example 2:

Scenario: Objection by Legal Representative

Anita's house is attached under Section 85 because her husband, Rajesh, is a proclaimed offender. Anita objects to the attachment, claiming that the house is her property and not Rajesh's. Unfortunately, Anita passes away during the legal proceedings.

Application of Section 87:

Objection Submission: Anita had filed an objection within six months from the date of attachment, asserting her interest in the house.

Legal Representative Continuation: After Anita's death, her son, Vijay, continues the objection as her legal representative.

Inquiry: The court inquires into the objection to determine its validity.

Decision: The court finds that the house indeed belongs to Anita and not Rajesh, and allows the objection, thereby releasing the house from attachment.

Example 3:

Scenario: Disallowed Claim and Subsequent Suit

Meena's car is attached under Section 85 because her business partner, Arjun, is a proclaimed offender. Meena files a claim within six months, stating that the car is her personal property and not related to Arjun's offenses. The court, however, disallows her claim.

Application of Section 87:

Claim Submission: Meena files a claim within six months from the date of attachment, asserting her interest in the car.

Inquiry and Disallowance: The court inquires into the claim but disallows it, stating that the car is liable for attachment.

Filing a Suit: Meena, within one year from the date of the court's order, files a suit to establish her right to the car.

Outcome: The suit is decided in Meena's favor, establishing her ownership of the car. The court's initial order of attachment is overturned based on the suit's outcome.

Example 4:

Scenario: Attachment of Jointly Owned Property

A jointly owned property by siblings, Priya and Karan, is attached under Section 85 because Karan is a proclaimed offender. Priya objects to the attachment, claiming her share in the property.

Application of Section 87:

Objection Submission: Priya files an objection within six months from the date of attachment, asserting her interest in the property.

Inquiry: The court inquires into Priya's objection to determine the validity of her claim.

Decision: The court finds that Priya has a legitimate interest in the property and allows her objection in part, releasing her share of the property from attachment while maintaining the attachment on Karan's share.

Section 88: Release, sale and restoration of attached property.

(1) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(2) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of the State Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 87 has been disposed of under that section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

(3) If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

SIMPLIFIED ACTS

(1) If the person who has been publicly called to appear in court shows up within the time given, the Court will release their property that was taken.

(2) If the person does not show up within the given time, their property will be controlled by the State Government. However, the property cannot be sold for six months from the date it was taken, and not until any claims or objections are resolved, unless the property is perishable or the Court thinks selling it would benefit the owner. In such cases, the Court can order the sale at any time.

(3) If, within two years from the date the property was taken, the person whose property was controlled by the State Government either comes forward voluntarily or is caught and brought to the Court that ordered the property to be taken, and proves that they did not hide to avoid the warrant and did not know about the public call in time to appear, the property or the money from its sale (after deducting costs) will be returned to them.

Explanation using Example

Example 1:

Rajesh, a businessman in Mumbai, is accused of financial fraud and a warrant is issued for his arrest. The court issues a proclamation giving Rajesh 30 days to appear before the court. Rajesh, fearing arrest, goes into hiding. The court then orders the attachment of his property, including his house and bank accounts.

Scenario 1: Rajesh appears before the court within the 30-day period specified in the proclamation. The court, upon his appearance, orders the release of his attached property. Rajesh gets back his house and access to his bank accounts.

Scenario 2: Rajesh does not appear within the 30-day period. After six months, the State Government decides to sell his property. However, before the sale, a third party, Suresh, files a claim under Section 87, stating that he has a legal right to a portion of Rajesh's property. The court reviews Suresh's claim and resolves it before proceeding with the sale.

Scenario 3: Rajesh is apprehended by the police 18 months after the attachment of his property. He is brought before the court and proves that he was unaware of the proclamation and did not abscond to avoid the warrant. The court is satisfied with his explanation and orders the return of his property. If any of his property was sold, the net proceeds from the sale, after deducting the costs incurred due to the attachment, are given to Rajesh.

Example 2:

Priya, a resident of Delhi, is accused of embezzlement and a warrant is issued for her arrest. The court issues a proclamation giving Priya 45 days to appear before the court. Priya, to avoid arrest, leaves the city and goes into hiding. The court orders the attachment of her property, including her car and jewelry.

Scenario 1: Priya appears before the court within the 45-day period specified in the proclamation. The court orders the release of her attached property. Priya gets back her car and jewelry.

Scenario 2: Priya does not appear within the 45-day period. After six months, the State Government decides to sell her property. However, the court finds that the jewelry is subject to speedy and natural decay. The court orders the immediate sale of the jewelry for the benefit of Priya. The proceeds from the sale are held by the State Government.

Scenario 3: Priya is apprehended by the police 20 months after the attachment of her property. She is brought before the court and proves that she did not abscond to avoid the warrant and was unaware of the proclamation. The court is satisfied with her explanation and orders the return of her property. If any of her property was sold, the net proceeds from the sale, after deducting the costs incurred due to the attachment, are given to Priya.

Section 89: Appeal from order rejecting application for restoration of attached property.

Any person referred to in sub-section (3) of section 88, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

SIMPLIFIED ACTS

If you are mentioned in sub-section (3) of section 88 and you are upset because someone refused to give you property or money from selling that property, you can complain to a higher court.

This higher court is the one that usually handles appeals from the decisions of the first court that refused you.

Explanation using Example

Example 1:

Rajesh, a businessman, had his property attached by the court due to his failure to appear in a legal proceeding. He later applied for the restoration of his attached property, but the court rejected his application. Rajesh, feeling aggrieved by this decision, decides to appeal to the higher court. According to Section 89 of The Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh can appeal to the court that typically handles appeals from the decisions of the court that initially rejected his application. This higher court will then review the case and decide whether the property should be restored to Rajesh.

Example 2:

Priya's property was attached by the court as part of a legal process against her. She applied for the restoration of her property, but her application was denied. Priya believes this decision was unjust and wants to challenge it. Under Section 89 of The Bharatiya Nagarik Suraksha Sanhita 2023, Priya has the right to appeal this decision. She can take her case to the appellate court that usually hears appeals from the court that made the initial decision. The appellate court will then consider her appeal and determine if the property should be returned to her.

D - OTHER RULES REGARDING PROCESSES

Section 90: Issue of warrant in lieu of, or in addition to, summons.

A Court may, in any case in which it is empowered by this Sanhita to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest -

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

SIMPLIFIED ACTS

A Court can issue a warrant to arrest someone instead of just summoning them to appear in court if:

(a) The Court believes, either before or after sending the summons but before the person is supposed to appear, that the person has run away or will not follow the summons; or

(b) The person does not show up at the scheduled time, even though the summons was properly delivered in time for them to appear, and they do not provide a good reason for not showing up.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of theft and the court issues a summons for his appearance.

Application of Section 90:

The court issues a summons for Ramesh to appear on a specific date.

Before the date of appearance, the court receives information that Ramesh is planning to flee the city to avoid the court proceedings.

The court, after recording its reasons in writing, issues a warrant for Ramesh's arrest instead of waiting for the summons date, as it believes he will not obey the summons.

Example 2:

Scenario: Sita is a witness in a fraud case and is summoned to appear in court.

Application of Section 90:

Sita is served a summons to appear in court on a particular date.

On the date of the hearing, Sita fails to appear in court.

The court verifies that the summons was duly served in time for Sita to make arrangements to appear.

Sita does not provide any reasonable excuse for her absence.

The court, after recording its reasons in writing, issues a warrant for Sita's arrest to ensure her appearance in future proceedings.

Section 91: Power to take bond or bail bond for appearance.

When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond or bail bond for his appearance in such Court, or any other Court to which the case may be transferred for trial.

SIMPLIFIED ACTS

If a person who is supposed to appear in court or be arrested is already present in the court, the officer in charge can ask that person to sign a bond or bail bond.

This bond or bail bond is a promise that the person will show up in court when required, or in any other court if the case is moved to a different location for trial.

Explanation using Example

Example 1:

Rajesh is accused of a minor theft and is summoned to appear in the local Magistrate's Court. On the day of the hearing, Rajesh appears in court as required. The Magistrate, seeing that Rajesh has complied with the summons, decides not to issue a warrant for his arrest. Instead, the Magistrate asks Rajesh to sign a bond, promising that he will appear in court for all future hearings related to his case. Rajesh signs the bond and is allowed to leave the court without being taken into custody.

Example 2:

Priya is involved in a civil dispute and is required to appear in the District Court. She attends the court session as scheduled. The presiding judge, noting her presence, decides that there is no need to issue a warrant for her arrest. However, to ensure that Priya will attend all future court dates, the judge asks her to execute a bail bond. Priya agrees and provides a surety, who guarantees her future appearances in court. The judge accepts the bail bond, and Priya is free to go, with the understanding that she must return for all subsequent hearings.

Section 92: Arrest on breach of bond or bail bond for appearance.

When any person who is bound by any bond or bail bond taken under this Sanhita to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

SIMPLIFIED ACTS

If someone has signed a bond or bail bond promising to show up in court and they don't show up, the judge in that court can issue a warrant.

This warrant will order the police to arrest that person and bring them to court.

Explanation using Example

Example 1:

Ravi was arrested for a minor theft and was granted bail by the court. As part of his bail conditions, Ravi signed a bail bond agreeing to appear before the court on a specified date. However, on the day of the hearing, Ravi did not show up in court. The judge, noticing Ravi's absence, issued a warrant for Ravi's arrest. The police then arrested Ravi and brought him before the court as directed by the warrant.

Example 2:

Priya was involved in a civil dispute and was required to appear in court as a witness. She signed a bond agreeing to appear on the scheduled date. On the day of the hearing, Priya failed to appear in court. The judge, upon realizing that Priya had breached her bond, issued a warrant for her arrest. The police executed the warrant, arrested Priya, and presented her before the judge as required.

Section 93: Provisions of this Chapter generally applicable to summons and warrants of arrest.

The provisions contained in this Chapter relating to summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Sanhita.

SIMPLIFIED ACTS

The rules in this Chapter about summons and warrants, including how they are issued, delivered, and carried out, will apply to every summons and every arrest warrant issued under this Code.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, is accused of a minor theft. The police need him to appear in court.

Application of the Act:

The court issues a summons to Rajesh, requiring him to appear on a specified date.

The provisions of Chapter VI of the Bharatiya Nagarik Suraksha Sanhita 2023 ensure that the summons is properly issued, served, and executed.

Rajesh receives the summons at his home address, which is served by a police officer.

Rajesh is legally obligated to appear in court on the specified date as per the summons.

Example 2:

Scenario: Priya, a resident of Delhi, is suspected of fraud and the police need to arrest her for questioning.

Application of the Act:

The court issues a warrant for Priya's arrest.

The provisions of Chapter VI of the Bharatiya Nagarik Suraksha Sanhita 2023 ensure that the warrant is properly issued, served, and executed.

A police officer visits Priya's residence with the arrest warrant.

The officer explains the warrant to Priya and takes her into custody.

Priya is then brought before the court as per the procedures outlined in the Sanhita.

Example 3:

Scenario: Suresh, a businessman in Bangalore, fails to appear in court despite being summoned for a civil case.

Application of the Act:

The court issues a warrant for Suresh's arrest due to his failure to comply with the summons.

The provisions of Chapter VI of the Bharatiya Nagarik Suraksha Sanhita 2023 ensure that the warrant is properly issued, served, and executed.

A police officer visits Suresh's office with the arrest warrant.

Suresh is informed about the warrant and is taken into custody.

Suresh is then brought before the court to explain his absence and to proceed with the case.

Example 4:

Scenario: An NGO in Chennai files a public interest litigation (PIL) against a factory for pollution, and the court needs the factory owner to appear.

Application of the Act:

The court issues a summons to the factory owner to appear in court.

The provisions of Chapter VI of the Bharatiya Nagarik Suraksha Sanhita 2023 ensure that the summons is properly issued, served, and executed.

The factory owner receives the summons at his registered office address.

The factory owner is legally obligated to appear in court on the specified date as per the summons.

CHAPTER VII: PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A - SUMMONS TO PRODUCE

Section 94: Summons to produce document or other thing.

Section (1)

Whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices, which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita by or before such Court or officer, such Court may issue a summons or such officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Section (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.

Section (3)

Nothing in this section shall be deemed -

(a) to affect sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891; or

(b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority.

SIMPLIFIED ACTS

Section (1)

If a court or a police officer in charge of a police station thinks that a document, electronic communication, or device that might have digital evidence is needed for an investigation, trial, or any legal process, they can ask for it. The court can send a summons, or the police officer can give a written order (either on paper or electronically) to the person who has the document or device, telling them to bring it or send it to a specific place and time.

Section (2)

If someone is asked to provide a document or item, they don't have to show up in person. They can just send the document or item as requested.

Section (3)

This section does not:

(a) Change sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891; or

(b) Apply to letters, postcards, or any items held by the postal service.

Explanation using Example

Example 1:

Scenario: A police officer is investigating a case of online fraud where a significant amount of money was transferred from the victim's bank account to an unknown account. The officer believes that the suspect's mobile phone contains crucial digital evidence, such as messages and transaction details.

Application of Section 94: The police officer in charge of the investigation can issue a written order to the suspect, requiring them to produce their mobile phone. The order can be in physical or electronic form and will specify the time and place where the phone should be produced. The suspect can comply by either attending personally with the phone or by ensuring the phone is delivered to the specified location.

Example 2:

Scenario: During a trial for a corruption case, the court needs to review certain financial documents from a corporation that are believed to contain evidence of illegal transactions.

Application of Section 94: The court can issue a summons to the corporation, requiring them to produce the specified financial documents. The summons will state the time and place where the documents should be produced. The corporation can comply by sending the documents to the court without needing to send a representative personally.

Example 3:

Scenario: A police officer is investigating a cybercrime involving hacking into a company's email server. The officer believes that the server logs and emails contain evidence of the crime.

Application of Section 94: The officer can issue a written order to the IT department of the company, requiring them to produce the server logs and relevant emails. The order will specify the time and place for production. The IT department can comply by providing the requested digital evidence without needing to attend personally.

Example 4:

Scenario: In a case of tax evasion, the court needs to examine the bank statements of the accused to verify the transactions.

Application of Section 94: The court can issue a summons to the bank, requiring them to produce the bank statements of the accused. The bank can comply by sending the statements to the court, ensuring they are delivered by the specified time and place.

Example 5:

Scenario: A police officer is investigating a case of illegal drug trafficking and believes that a suspect's laptop contains important information about the drug network.

Application of Section 94: The officer can issue a written order to the suspect, requiring them to produce the laptop. The order will specify the time and place for production. The suspect can comply by either attending personally with the laptop or by ensuring the laptop is delivered to the specified location.

Example 6:

Scenario: During an inquiry into a case of intellectual property theft, the court needs to review certain design documents from a tech company.

Application of Section 94: The court can issue a summons to the tech company, requiring them to produce the design documents. The company can comply by sending the documents to the court without needing to send a representative personally.

Section 95: Procedure as to letters.

(1) If any document, parcel or thing in the custody of a postal authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Sanhita, such Magistrate or Court may require the postal authority to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal authority to cause search to be made for and to detain such document, parcel or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

SIMPLIFIED ACTS

(1) If a District Magistrate, Chief Judicial Magistrate, Court of Session, or High Court thinks that a document, parcel, or item held by the postal service is needed for an investigation, inquiry, trial, or other legal process, they can order the postal service to give that document, parcel, or item to a person they choose.

(2) If any other Magistrate (Executive or Judicial), or a Commissioner of Police, or District Superintendent of Police thinks that a document, parcel, or item held by the postal service is needed for a similar purpose, they can order the postal service to search for and hold onto that document, parcel, or item until a District Magistrate, Chief Judicial Magistrate, or Court gives further instructions as mentioned in sub-section (1).

Explanation using Example

Example 1:

Scenario: A District Magistrate is investigating a case of financial fraud involving a local business.

Situation: During the investigation, the District Magistrate learns that crucial documents related to the fraudulent transactions were sent via post to a business partner in another city.

Application of Section 95:

The District Magistrate believes that these documents are essential for the investigation.

The District Magistrate issues an order to the postal authority to deliver the specific documents to the investigating officer.

The postal authority complies and hands over the documents to the designated officer, aiding the investigation.

Example 2:

Scenario: A Chief Judicial Magistrate is overseeing a trial involving illegal drug trafficking.

Situation: It comes to light that a parcel containing illegal substances was sent through the postal service to one of the accused.

Application of Section 95:

The Chief Judicial Magistrate deems the parcel crucial for the trial.

The Magistrate issues a directive to the postal authority to deliver the parcel to the court.

The postal authority delivers the parcel to the court, where it is used as evidence in the trial.

Example 3:

Scenario: A Commissioner of Police is conducting an inquiry into a case of cybercrime.

Situation: The Commissioner suspects that a parcel containing a hard drive with incriminating evidence was sent via post to an accomplice.

Application of Section 95:

The Commissioner of Police believes the hard drive is vital for the inquiry.

The Commissioner instructs the postal authority to search for and detain the parcel.

The postal authority locates and detains the parcel, pending further orders from the District Magistrate or Chief Judicial Magistrate.

Upon receiving the order from the appropriate authority, the postal authority delivers the parcel to the investigating team.

Example 4:

Scenario: A District Superintendent of Police is investigating a case of counterfeit currency distribution.

Situation: The Superintendent learns that a package containing counterfeit currency was sent through the postal service.

Application of Section 95:

The District Superintendent of Police considers the package crucial for the investigation.

The Superintendent orders the postal authority to search for and detain the package.

The postal authority detains the package and awaits further instructions from the District Magistrate or Chief Judicial Magistrate.

The package is then delivered to the police as per the order, providing key evidence for the case.

B - SEARCH-WARRANTS

Section 96: When search-warrant may be issued.

Search Warrants

(1) Where -

(a) any Court has reason to believe that a person to whom a summons order under section 94 or a requisition under sub-section (1) of section 95 has been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition; or

(b) such document or thing is not known to the Court to be in the possession of any person; or

(c) the Court considers that the purposes of any inquiry, trial or other proceeding under this Sanhita will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

(3) Nothing contained in this section shall authorise any Magistrate other than a District Magistrate or Chief Judicial Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal authority.

SIMPLIFIED ACTS

Search Warrants

(1) A Court can issue a search warrant if:

(a) The Court believes that a person who has been or might be asked to produce a document or item (under section 94 or section 95(1)) will not do so; or

(b) The Court does not know who has the document or item; or

(c) The Court thinks that a general search or inspection will help in an inquiry, trial, or other legal proceeding,

The person who gets the search warrant can then search or inspect as per the warrant and the rules mentioned later.

(2) The Court can specify in the warrant the exact place or part of a place to be searched or inspected. The person executing the warrant must then only search or inspect the specified area.

(3) Only a District Magistrate or Chief Judicial Magistrate can issue a warrant to search for a document, parcel, or other item in the custody of the postal authority.

Explanation using Example

Example 1:

Scenario: A police investigation into a financial fraud case.

Details: The police are investigating a large-scale financial fraud involving multiple individuals. They have reason to believe that crucial documents related to the fraud are stored in the office of one of the suspects, Mr. Sharma. Despite issuing a summons under Section 94 for Mr. Sharma to produce these documents, he has failed to comply.

Application of Section 96:

The Court, suspecting that Mr. Sharma will not produce the required documents, decides to issue a search warrant under Section 96(1)(a).

The search warrant is directed to the investigating officer, allowing them to search Mr. Sharma's office for the documents.

The Court specifies in the warrant that the search should be limited to Mr. Sharma's office premises only, as per Section 96(2).

Outcome: The police execute the search warrant, find the necessary documents in Mr. Sharma's office, and use them as evidence in the ongoing fraud investigation.

Example 2:

Scenario: A missing person case where the location of the person is unknown.

Details: A young woman, Priya, has been reported missing. The police have no leads on her whereabouts and suspect that she might be held against her will. They believe that searching certain locations might yield clues about her location.

Application of Section 96:

The Court, recognizing that the document or thing (in this case, clues about Priya's whereabouts) is not known to be in the possession of any specific person, issues a search warrant under Section 96(1)(b).

The search warrant allows the police to conduct a general search in various locations where they suspect Priya might be held.

The Court does not specify particular places in the warrant, giving the police the flexibility to search multiple locations as needed.

Outcome: The police conduct searches in several locations and eventually find Priya in an abandoned warehouse. The search warrant under Section 96 facilitated the discovery and rescue of the missing person.

Example 3:

Scenario: Inspection of a factory suspected of violating environmental laws.

Details: A factory owned by Mr. Verma is suspected of illegally dumping hazardous waste, causing environmental damage. The Court is conducting an inquiry into these allegations.

Application of Section 96:

The Court considers that the purposes of the inquiry will be served by a general inspection of the factory premises, as per Section 96(1)(c).

The Court issues a search warrant allowing environmental inspectors to conduct a thorough inspection of the factory.

The warrant specifies that the inspection should cover the entire factory premises, including storage areas and waste disposal sites, as per Section 96(2).

Outcome: The inspectors execute the search warrant, find evidence of illegal dumping, and the factory is subsequently fined and ordered to clean up the environmental damage.

Example 4:

Scenario: Retrieval of a parcel suspected to contain contraband.

Details: The police receive a tip-off that a parcel containing illegal drugs is being held at a local post office. The parcel is addressed to an unknown recipient.

Application of Section 96:

The Court issues a search warrant to retrieve the parcel from the custody of the postal authority, as per Section 96(3).

The warrant is granted by the Chief Judicial Magistrate, as only a District Magistrate or Chief Judicial Magistrate is authorized to issue such a warrant.

Outcome: The police execute the search warrant, retrieve the parcel from the post office, and confirm that it contains illegal drugs. The evidence is used to track down and arrest the individuals involved in the drug trafficking operation.

Section 97: Search of place suspected to contain stolen property, forged documents, etc.

Section (1)

If a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable -

- (a) to enter, with such assistance as may be required, such place;
- (b) to search the same in the manner specified in the warrant;
- (c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies;
- (d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety;
- (e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies.

Section (2)

The objectionable articles to which this section applies are -

- (a) counterfeit coin;
- (b) pieces of metal made in contravention of the Coinage Act, 2011, or brought into India in contravention of any notification for the time being in force issued under section 11 of the Customs Act, 1962;
- (c) counterfeit currency note; counterfeit stamps;
- (d) forged documents;

- (e) false seals;
- (f) obscene objects referred to in section 294 of the Bharatiya Nyaya Sanhita, 2023;
- (g) instruments or materials used for the production of any of the articles mentioned in clauses (a) to (f).

SIMPLIFIED ACTS

Section (1)

If a District Magistrate, Sub-divisional Magistrate, or a Magistrate of the first class gets information and, after checking it out, believes that a place is being used to store or sell stolen goods, or to store, sell, or make any illegal items mentioned in this section, they can issue a warrant allowing a police officer above the rank of a constable to:

- (a) enter the place with any help needed;
- (b) search the place as described in the warrant;
- (c) take any property or items found there that they reasonably think are stolen or illegal;
- (d) bring such property or items before a Magistrate, guard them at the spot until the offender is brought before a Magistrate, or keep them in a safe place;
- (e) arrest and bring before a Magistrate anyone found in the place who seems to be involved in storing, selling, or making such property or items, knowing or having reason to suspect they are stolen or illegal.

Section (2)

The illegal items mentioned in this section are:

- (a) fake coins;
- (b) metal pieces made against the Coinage Act, 2011, or brought into India against any current notification under section 11 of the Customs Act, 1962;
- (c) fake currency notes; fake stamps;
- (d) forged documents;
- (e) fake seals;
- (f) obscene objects mentioned in section 294 of the Bharatiya Nyaya Sanhita, 2023;
- (g) tools or materials used to make any of the items listed in points (a) to (f).

Explanation using Example

Example 1:

Scenario: A tip-off about a warehouse storing stolen electronics.

Details: The District Magistrate receives credible information that a warehouse in the outskirts of Mumbai is being used to store stolen electronics, including laptops and mobile phones. After conducting a preliminary inquiry, the Magistrate believes the information to be true.

Action: The Magistrate issues a search warrant authorizing a police inspector to enter the warehouse with necessary assistance, search the premises, and seize any stolen electronics found. The police inspector, along with a team, conducts the search, finds the stolen electronics, and takes them into custody. The inspector also detains the warehouse manager, who is suspected of being involved in the storage and sale of the stolen goods, and brings him before the Magistrate for further legal proceedings.

Example 2:

Scenario: Discovery of a counterfeit currency operation.

Details: A Sub-divisional Magistrate in Delhi receives information about a house suspected of being used to produce counterfeit currency notes. After a thorough inquiry, the Magistrate finds the information credible.

Action: The Magistrate issues a search warrant authorizing a police officer above the rank of a constable to enter the house, search it, and seize any counterfeit currency and related materials. The police officer, along with a team, conducts the search and finds printing machines, counterfeit currency notes, and other materials used for producing fake currency. The officer seizes the items and takes them to a safe location. The individuals found in the house, who are suspected of being involved in the counterfeit operation, are taken into custody and brought before the Magistrate for further investigation and legal action.

Section 98: Power to declare certain publications forfeited and to issue search-warrants for same.

Section (1)

Where -

(a) any newspaper, or book; or

(b) any document,

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 152 or section 196 or section 197 or section 294 or

section 295 or section 299 of the Bharatiya Nyaya Sanhita, 2023, the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue, or any such book or other document may be or may be reasonably suspected to be.

Section (2)

In this section and in section 99, -

(a) "newspaper" and "book" have the same meanings as in the Press and Registration of Books Act, 1867;

(b) "document" includes any painting, drawing or photograph, or other visible representation.

Section (3)

No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 99.

SIMPLIFIED ACTS

Section (1)

If -

(a) any newspaper, or book; or

(b) any document,

printed anywhere, seems to the State Government to contain any content that is punishable under sections 152, 196, 197, 294, 295, or 299 of the Bharatiya Nyaya Sanhita, 2023, the State Government can issue a notification explaining why they think so. They can then declare that every copy of that newspaper issue, book, or document is to be taken by the Government. After this declaration, any police officer can seize these items wherever they are found in India. Additionally, any Magistrate can issue a warrant allowing a police officer (at least of sub-inspector rank) to search any place where these items might be or are suspected to be.

Section (2)

In this section and in section 99, -

(a) "newspaper" and "book" have the same meanings as in the Press and Registration of Books Act, 1867;

(b) "document" includes any painting, drawing, photograph, or other visible representation.

Section (3)

No order made or action taken under this section can be challenged in any Court except as provided in section 99.

Explanation using Example

Example 1:

Scenario: A newspaper in Maharashtra publishes an article that contains inflammatory content inciting violence against a particular community. The content is deemed punishable under Section 152 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act:

The State Government of Maharashtra reviews the article and determines that it contains punishable content.

The State Government issues a notification stating the grounds for its opinion and declares every copy of the newspaper issue containing the article to be forfeited.

Police officers across Maharashtra are authorized to seize copies of the newspaper wherever found.

A Magistrate issues a warrant authorizing a police officer (not below the rank of sub-inspector) to search the newspaper's office and other premises where copies of the issue may be stored.

The police conduct searches and seize all copies of the newspaper issue containing the inflammatory article.

Example 2:

Scenario: A book published in Delhi contains defamatory statements against a prominent political leader, which is punishable under Section 196 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act:

The State Government of Delhi examines the book and concludes that it contains defamatory content.

The State Government issues a notification detailing the reasons for its decision and declares every copy of the book to be forfeited.

Police officers in Delhi are instructed to seize copies of the book wherever they are found.

A Magistrate issues a warrant authorizing a police officer (not below the rank of sub-inspector) to search bookstores, warehouses, and other locations where the book might be stored.

The police carry out searches and confiscate all copies of the book containing the defamatory statements.

Example 3:

Scenario: A document circulated in Karnataka contains obscene images, which is punishable under Section 294 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act:

The State Government of Karnataka reviews the document and determines that it contains obscene images.

The State Government issues a notification stating the grounds for its opinion and declares every copy of the document to be forfeited.

Police officers across Karnataka are authorized to seize copies of the document wherever found.

A Magistrate issues a warrant authorizing a police officer (not below the rank of sub-inspector) to search homes, offices, and other premises where the document may be stored or reasonably suspected to be.

The police conduct searches and seize all copies of the document containing the obscene images.

Example 4:

Scenario: A painting displayed in an art gallery in West Bengal depicts a religious figure in a derogatory manner, which is punishable under Section 295 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act:

The State Government of West Bengal examines the painting and concludes that it is derogatory towards a religious figure.

The State Government issues a notification detailing the reasons for its decision and declares every copy of the painting to be forfeited.

Police officers in West Bengal are instructed to seize copies of the painting wherever they are found.

A Magistrate issues a warrant authorizing a police officer (not below the rank of sub-inspector) to search the art gallery and other locations where the painting might be displayed or stored.

The police carry out searches and confiscate all copies of the painting depicting the religious figure in a derogatory manner.

Section 99: Application to High Court to set aside declaration of forfeiture.

Section 98 - Forfeiture of Newspaper, Book or Other Document

(1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under section 98, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set aside such declaration on the ground that the issue of the newspaper, or the book or other document, in respect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of section 98.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of section 98, set aside the declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

SIMPLIFIED ACTS

Section 98 - Forfeiture of Newspaper, Book or Other Document

(1) If you have an interest in a newspaper, book, or document that has been declared forfeited under Section 98, you can ask the High Court to cancel this declaration. You must do this within two months from the date the forfeiture was published in the Official Gazette. You need to prove that the newspaper, book, or document did not contain the problematic content mentioned in Section 98(1).

(2) Your application will be reviewed by a Special Bench of the High Court. If the High Court has three or more judges, the Special Bench will include three judges. If the High Court has fewer than three judges, all the judges will be part of the Special Bench.

(3) During the hearing, any copy of the newspaper can be used as evidence to show the nature or tendency of the content that led to the forfeiture.

(4) If the High Court is convinced that the newspaper, book, or document did not contain the problematic content mentioned in Section 98(1), it will cancel the forfeiture declaration.

(5) If the judges on the Special Bench disagree, the decision will be based on the majority opinion of the judges.

Explanation using Example

Example 1:

Scenario: A local newspaper in Mumbai publishes an article criticizing a government policy. The government declares the newspaper issue forfeited under Section 98, claiming it contains seditious material.

Application to High Court:

The editor of the newspaper, believing the article contains no seditious content, applies to the Bombay High Court within two months of the forfeiture declaration.

The application is heard by a Special Bench of three judges, as the Bombay High Court consists of more than three judges.

During the hearing, the editor presents copies of the newspaper issue as evidence, arguing that the article merely offers constructive criticism and does not incite violence or hatred.

The High Court examines the content and finds no seditious material as defined under Section 98.

The High Court sets aside the declaration of forfeiture, allowing the newspaper to circulate the issue again.

Example 2:

Scenario: A publishing house in Delhi releases a book discussing historical events. The government declares the book forfeited under Section 98, alleging it contains inflammatory content that could disturb public order.

Application to High Court:

The author of the book, convinced that the content is purely academic, applies to the Delhi High Court within two months of the forfeiture declaration.

The Delhi High Court, having less than three judges, forms a Special Bench composed of all its judges to hear the application.

The author submits copies of the book as evidence, demonstrating that the book is a scholarly work with no intent to incite public disorder.

The High Court reviews the book's content and finds it to be a legitimate academic discussion without any inflammatory material.

The High Court sets aside the declaration of forfeiture, allowing the book to be sold and distributed.

Example 3:

Scenario: A social activist in Bengaluru publishes a pamphlet advocating for environmental reforms. The government declares the pamphlet forfeited under Section 98, claiming it contains content that could incite public unrest.

Application to High Court:

The activist, believing the pamphlet promotes peaceful advocacy, applies to the Karnataka High Court within two months of the forfeiture declaration.

The Karnataka High Court, consisting of more than three judges, assigns a Special Bench of three judges to hear the case.

The activist presents copies of the pamphlet as evidence, arguing that it encourages lawful and peaceful environmental activism.

The High Court examines the pamphlet and finds no content that could incite public unrest as defined under Section 98.

The High Court sets aside the declaration of forfeiture, allowing the pamphlet to be distributed freely.

Example 4:

Scenario: A blogger in Chennai writes a post criticizing a local politician. The government declares the blog post forfeited under Section 98, alleging it contains defamatory content.

Application to High Court:

The blogger, confident that the post is a fair critique, applies to the Madras High Court within two months of the forfeiture declaration.

The Madras High Court, having more than three judges, forms a Special Bench of three judges to hear the application.

The blogger submits the blog post as evidence, arguing that it is a factual critique based on public records.

The High Court reviews the blog post and finds it to be a legitimate exercise of free speech without any defamatory content as defined under Section 98.

The High Court sets aside the declaration of forfeiture, allowing the blog post to remain online.

Example 5:

Scenario: A filmmaker in Kolkata releases a documentary on social issues. The government declares the documentary forfeited under Section 98, claiming it contains content that could incite communal violence.

Application to High Court:

The filmmaker, believing the documentary promotes social awareness, applies to the Calcutta High Court within two months of the forfeiture declaration.

The Calcutta High Court, consisting of more than three judges, assigns a Special Bench of three judges to hear the case.

The filmmaker presents the documentary as evidence, arguing that it aims to foster understanding and peace among communities.

The High Court examines the documentary and finds no content that could incite communal violence as defined under Section 98.

The High Court sets aside the declaration of forfeiture, allowing the documentary to be screened publicly.

Section 100: Search for persons wrongfully confined.

If any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

SIMPLIFIED ACTS

If a District Magistrate, Sub-divisional Magistrate, or a first-class Magistrate thinks that someone is being kept in a way that is illegal, they can issue a search warrant. The person who gets this warrant can search for the person who is being kept illegally. The search

must follow the rules of the warrant. If they find the person, they must immediately bring them to a Magistrate. The Magistrate will then decide what to do based on the situation.

Explanation using Example

Example 1:

Scenario: Rani is a domestic worker employed in the house of Mr. Sharma in Mumbai. Rani's family has not heard from her for several weeks and they suspect she might be wrongfully confined in Mr. Sharma's house. Rani's brother approaches the local police station and files a complaint.

Application of Section 100:

The District Magistrate of Mumbai reviews the complaint and finds reasonable grounds to believe that Rani is being wrongfully confined.

The Magistrate issues a search warrant to the local police inspector.

The police, armed with the search warrant, conduct a search of Mr. Sharma's house and find Rani locked in a room.

Rani is immediately taken before the Magistrate, who then decides the appropriate course of action, which may include taking Mr. Sharma into custody and initiating legal proceedings against him.

Example 2:

Scenario: Arjun, a young software engineer, has not returned home from work for several days. His colleagues mention that he was last seen leaving the office with his manager under suspicious circumstances. Arjun's parents, worried about his safety, report the matter to the police.

Application of Section 100:

The Sub-divisional Magistrate of the area considers the report and believes there is sufficient reason to suspect that Arjun might be confined unlawfully.

The Magistrate issues a search warrant to the police.

The police execute the search warrant and find Arjun locked in a warehouse owned by the manager.

Arjun is rescued and brought before the Magistrate.

The Magistrate orders an investigation into the manager's actions and ensures Arjun's safe return to his family.

Example 3:

Scenario: Kavita, a minor girl, is suspected to be held against her will in a factory where she was taken for child labor. Her parents file a missing person report and suggest she might be in the factory.

Application of Section 100:

The Magistrate of the first class reviews the parents' report and suspects wrongful confinement.

The Magistrate issues a search warrant to the police.

The police conduct a search of the factory premises and discover Kavita confined in a locked room.

Kavita is immediately taken to the Magistrate.

The Magistrate arranges for Kavita's safe return to her parents and orders legal action against the factory owner for unlawful confinement and child labor.

Example 4:

Scenario: During a routine check, police receive a tip-off about several individuals being held against their will in a remote farmhouse. The police report this to the District Magistrate.

Application of Section 100:

The District Magistrate evaluates the information and finds it credible enough to warrant a search.

A search warrant is issued, directing the police to investigate the farmhouse.

Police officers search the premises and find a group of workers locked in a shed, forced to work without pay.

The workers are freed and brought before the Magistrate.

The Magistrate initiates proceedings to address their unlawful confinement and orders an investigation into the farmhouse owner's practices.

Example 5:

Scenario: Meena has been missing for several days, and her friends suspect she is being held by a local gang involved in human trafficking. They report their suspicions to the authorities.

Application of Section 100:

The Sub-divisional Magistrate, upon receiving the report, believes there is a valid reason to suspect wrongful confinement.

The Magistrate issues a search warrant to a special police task force.

The task force conducts a raid on the gang's hideout and rescues Meena, who is found confined in a basement.

Meena is taken before the Magistrate, who ensures her safety and directs the police to take appropriate legal action against the gang members for kidnapping and wrongful confinement.

Section 101: Power to compel restoration of abducted females.

Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

SIMPLIFIED ACTS

If someone swears under oath that a woman or a female child has been kidnapped or held against their will for any illegal reason, a District Magistrate, Sub-divisional Magistrate, or a Magistrate of the first class can take action.

The Magistrate can order that the woman be immediately set free or that the female child be returned to her parent, guardian, or the person legally responsible for her.

The Magistrate can use necessary force to make sure this order is followed.

Explanation using Example

Example 1:

Scenario: A young woman, Priya, aged 22, is abducted by a local gang and unlawfully detained for forced labor in a remote area. Her family files a complaint on oath to the District Magistrate about her abduction and unlawful detention.

Application of the Act:

Complaint Lodging: Priya's family submits a complaint on oath to the District Magistrate, detailing the abduction and unlawful detention.

Magistrate's Order: The District Magistrate, upon reviewing the complaint, issues an order for the immediate restoration of Priya to her liberty.

Enforcement: The Magistrate directs the local police force to locate Priya and ensure her safe return.

Use of Force: If necessary, the police use force to enter the premises where Priya is held, overcoming resistance from the gang.

Restoration: Priya is safely returned to her family, and the gang members are arrested for their illegal activities.

Example 2:

Scenario: A 14-year-old girl, Meena, is kidnapped by her estranged uncle and taken to another city to force her into marriage. Meena's legal guardian, her mother, files a complaint on oath to the Sub-divisional Magistrate.

Application of the Act:

Complaint Lodging: Meena's mother submits a complaint on oath to the Sub-divisional Magistrate, describing the kidnapping and unlawful purpose of forced marriage.

Magistrate's Order: The Sub-divisional Magistrate issues an immediate order for Meena's restoration to her mother.

Enforcement: The Magistrate instructs the police to locate Meena and return her to her lawful guardian.

Use of Force: The police track down Meena's location, where the uncle resists their attempts to take Meena back. The police use necessary force to rescue Meena.

Restoration: Meena is safely returned to her mother, and legal action is taken against the uncle for kidnapping and attempting to force a marriage.

Example 3:

Scenario: A 30-year-old woman, Kavita, is unlawfully detained by her employer, who confiscates her identification documents and restricts her movements to prevent her from leaving the job. Kavita manages to inform a friend, who files a complaint on oath to the Magistrate of the first class.

Application of the Act:

Complaint Lodging: Kavita's friend submits a complaint on oath to the Magistrate of the first class, outlining Kavita's unlawful detention by her employer.

Magistrate's Order: The Magistrate of the first class issues an order for Kavita's immediate release from unlawful detention.

Enforcement: The Magistrate orders the police to intervene and secure Kavita's release.

Use of Force: The police confront the employer, who refuses to comply. They use necessary force to liberate Kavita from the workplace.

Restoration: Kavita is freed and provided assistance to regain her identification documents and return to her normal life. Legal proceedings are initiated against the employer for unlawful detention.

Example 4:

Scenario: A 16-year-old girl, Rina, is taken by a neighbor under the pretense of providing her with a better education but is instead made to work as domestic help in another town. Rina's guardian files a complaint on oath to the District Magistrate.

Application of the Act:

Complaint Lodging: Rina's guardian submits a complaint on oath to the District Magistrate, describing the deceitful abduction and forced labor situation.

Magistrate's Order: The District Magistrate issues an immediate order for Rina's return to her guardian.

Enforcement: The District Magistrate instructs the police to locate and return Rina.

Use of Force: The police find Rina working in harsh conditions and use necessary force to bring her back.

Restoration: Rina is safely returned to her guardian, and the neighbor faces charges for abduction and child labor.

C - GENERAL PROVISIONS RELATING TO SEARCHES

Section 102: Direction, etc., of search-warrants.

The provisions of sections 32, 72, 74, 76, 79, 80 and 81 shall, so far as may be, apply to all search-warrants issued under section 96, section 97, section 98 or section 100.

SIMPLIFIED ACTS

The rules in sections 32, 72, 74, 76, 79, 80, and 81 should be followed as much as possible for all search warrants issued under sections 96, 97, 98, or 100.

Explanation using Example

Example 1:

Scenario: The police suspect that illegal firearms are being stored in a warehouse in Mumbai. They need to search the premises to find and seize these firearms.

Application of the Act:

Issuance of Search Warrant: The police obtain a search warrant under Section 96 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Execution of Search Warrant: The provisions of sections 32, 72, 74, 76, 79, 80, and 81 are applied during the execution of the search warrant. This means:

Section 32: The search must be conducted in the presence of two or more respectable inhabitants of the locality.

Section 72: The officer conducting the search must prepare a list of all items seized during the search.

Section 74: The officer must provide a copy of the list of seized items to the person from whom the items were seized.

Section 76: The officer must ensure that the search is conducted in a manner that respects the privacy and dignity of the individuals involved.

Section 79: The officer must ensure that the search is conducted during daylight hours unless otherwise specified in the warrant.

Section 80: The officer must ensure that the search is conducted in a manner that minimizes damage to property.

Section 81: The officer must ensure that the search is conducted in a manner that ensures the safety of all individuals involved.

Outcome: The police conduct the search in accordance with the specified provisions, find the illegal firearms, and seize them. The search is documented, and a copy of the list of seized items is provided to the warehouse owner.

Example 2:

Scenario: A person in Delhi is suspected of possessing counterfeit currency notes. The police need to search the person's house to find and seize the counterfeit notes.

Application of the Act:

Issuance of Search Warrant: The police obtain a search warrant under Section 97 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Execution of Search Warrant: The provisions of sections 32, 72, 74, 76, 79, 80, and 81 are applied during the execution of the search warrant. This means:

Section 32: The search must be conducted in the presence of two or more respectable inhabitants of the locality.

Section 72: The officer conducting the search must prepare a list of all items seized during the search.

Section 74: The officer must provide a copy of the list of seized items to the person from whom the items were seized.

Section 76: The officer must ensure that the search is conducted in a manner that respects the privacy and dignity of the individuals involved.

Section 79: The officer must ensure that the search is conducted during daylight hours unless otherwise specified in the warrant.

Section 80: The officer must ensure that the search is conducted in a manner that minimizes damage to property.

Section 81: The officer must ensure that the search is conducted in a manner that ensures the safety of all individuals involved.

Outcome: The police conduct the search in accordance with the specified provisions, find the counterfeit currency notes, and seize them. The search is documented, and a copy of the list of seized items is provided to the house owner.

Section 103: Persons in charge of closed place to allow search.

Search and Inspection Procedures

(1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of section 44.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person.

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

(8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 222 of the Bharatiya Nyaya Sanhita, 2023.

SIMPLIFIED ACTS

Search and Inspection Procedures

(1) If a place that needs to be searched or inspected is closed, the person living there or in charge must let the officer in and help with the search when shown a warrant.

(2) If the officer can't get in, they can follow the steps mentioned in section 44(2).

(3) If someone at the place is suspected of hiding something on their body, they can be searched. If it's a woman, another woman must do the search respectfully.

(4) Before starting the search, the officer must ask two or more trustworthy local people to watch the search. If no local people are available, they can ask people from another area.

(5) The search must be done in front of these witnesses. A list of everything found and where it was found must be made and signed by the witnesses. Witnesses don't have to go to court unless specifically asked.

(6) The person who owns or is in charge of the place can be there during the search. They will get a copy of the list of items found, signed by the witnesses.

(7) If someone is searched, they will get a list of everything taken from them.

(8) If someone refuses to watch the search without a good reason after being asked in writing, they are committing an offense under section 222 of the Bharatiya Nyaya Sanhita, 2023.

Explanation using Example

Example 1:

Scenario: The police have obtained a warrant to search a house suspected of harboring stolen goods.

Details:

The police arrive at the house with the search warrant.

The house is locked, and the owner is inside.

The police show the warrant to the owner and demand entry.

The owner opens the door and allows the police to enter.

The police conduct the search in the presence of two local residents who were called to witness the search.

During the search, the police find stolen goods hidden in a cupboard.

A list of the seized items is prepared and signed by the witnesses.

A copy of the list is given to the owner of the house.

Example 2:

Scenario: The police suspect that a person in a crowded market is carrying illegal drugs.

Details:

The police have a warrant to search the person.

The person is a woman, so the police call a female officer to conduct the search.

The female officer conducts the search with strict regard to decency.

The search is conducted in the presence of two respectable inhabitants of the locality.

The female officer finds illegal drugs concealed in the woman's bag.

A list of the seized drugs is prepared and signed by the witnesses.

A copy of the list is given to the woman.

Example 3:

Scenario: The police need to search a warehouse suspected of storing counterfeit goods, but the warehouse is locked and no one is inside.

Details:

The police arrive at the warehouse with a search warrant.

The warehouse is locked, and no one is present to open it.

The police follow the procedure outlined in sub-section (2) of section 44 to gain entry.

Once inside, the police conduct the search in the presence of two independent witnesses.

The police find counterfeit goods stored in the warehouse.

A list of the seized items is prepared and signed by the witnesses.

Since no occupant is present, a copy of the list is kept for record purposes.

Example 4:

Scenario: A person refuses to witness a search despite being ordered in writing by the police.

Details:

The police are conducting a search in a residential area and need witnesses.

They issue a written order to a local resident to witness the search.

The resident refuses without any reasonable cause.

The police inform the resident that refusing to witness the search is an offence under section 222 of the Bharatiya Nyaya Sanhita, 2023.

The resident still refuses, and the police proceed with the search with other witnesses.

The resident is later charged with the offence of refusing to witness the search.

Example 5:

Scenario: The police are searching a house, and the owner wants to be present during the search.

Details:

The police arrive at the house with a search warrant.

The owner is present and requests to be present during the search.

The police allow the owner to be present during the search.

The search is conducted in the presence of two independent witnesses.

The police find incriminating evidence in the house.

A list of the seized items is prepared and signed by the witnesses.

A copy of the list is given to the owner.

Section 104: Disposal of things found in search beyond jurisdiction.

When, in the execution of a search-warrant at any place beyond the local jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

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If a search warrant is carried out in a place outside the area of the Court that issued it, and any items being searched for are found:

These items, along with a list of them, must be immediately taken to the Court that issued the warrant.

However, if the place where the items are found is closer to a different Magistrate with authority over that area than to the original Court:

The items and the list should be taken to that closer Magistrate instead.

Unless there is a good reason not to, the closer Magistrate should then order that the items be taken to the original Court.

Explanation using Example

Example 1:

Scenario: A police officer in Mumbai receives a search warrant from a court in Delhi to search a warehouse in Pune for stolen electronics.

Execution:

The police officer executes the search warrant at the warehouse in Pune.

During the search, the officer finds the stolen electronics listed in the warrant.

The officer prepares a list of the recovered items as per the legal provisions.

Disposal:

Since Pune is closer to Mumbai than Delhi, the officer takes the recovered items and the list to the Magistrate in Pune.

The Magistrate in Pune reviews the items and the list.

Unless there is a valid reason not to, the Magistrate in Pune authorizes the transfer of the items to the court in Delhi that issued the original search warrant.

Example 2:

Scenario: A police officer in Chennai receives a search warrant from a court in Bangalore to search a house in Coimbatore for illegal firearms.

Execution:

The police officer executes the search warrant at the house in Coimbatore.

During the search, the officer finds the illegal firearms listed in the warrant.

The officer prepares a list of the recovered firearms as per the legal provisions.

Disposal:

Since Coimbatore is closer to Chennai than Bangalore, the officer takes the recovered firearms and the list to the Magistrate in Coimbatore.

The Magistrate in Coimbatore reviews the items and the list.

Unless there is a valid reason not to, the Magistrate in Coimbatore authorizes the transfer of the firearms to the court in Bangalore that issued the original search warrant.

D - MISCELLANEOUS

Section 105: Recording of search and seizure through audio-video electronic means.

The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.

SIMPLIFIED ACTS

When the police search a place or take any property, item, or thing under this Chapter or section 185, they must make a list of everything they take.

This list must be signed by witnesses.

The entire process should be recorded using audio or video, preferably with a mobile phone.

The police officer must quickly send this recording to the District Magistrate, Sub-divisional Magistrate, or Judicial Magistrate of the first class.

Explanation using Example

Example 1:

Scenario: The police receive a tip-off about illegal weapons being stored in a warehouse in Mumbai.

Action: The police obtain a search warrant and proceed to the warehouse to conduct a search.

Application of Section 105:

The police officers use their mobile phones to record the entire search process, including the discovery of illegal weapons.

They prepare a list of all the weapons and other items seized during the search.

The list is signed by two witnesses present at the scene.

The police officers immediately forward the audio-video recording to the District Magistrate.

Outcome: The recording serves as evidence that the search and seizure were conducted lawfully and transparently, ensuring that the rights of the individuals involved are protected.

Example 2:

Scenario: A police team in Delhi is investigating a case of counterfeit currency and plans to search a suspect's house.

Action: The police obtain the necessary legal permissions and proceed to the suspect's house to conduct the search.

Application of Section 105:

The police officers use a body camera to record the entire search process, capturing every room and area they inspect.

During the search, they find a stash of counterfeit currency and other related materials.

They prepare a detailed list of all the items seized and have it signed by two independent witnesses who are present.

The police officers promptly send the audio-video recording to the Sub-divisional Magistrate.

Outcome: The recording provides a clear and indisputable account of the search and seizure, which can be used in court to support the legality of the police actions and the authenticity of the evidence collected.

Example 3:

Scenario: In a small town in Kerala, the police suspect that a local shop is selling stolen goods.

Action: The police obtain a search warrant and visit the shop to conduct a search.

Application of Section 105:

The police officers use a digital camera to record the search process, ensuring that every part of the shop is covered.

They find several items that match the description of stolen goods reported in recent thefts.

A list of all seized items is prepared and signed by two local residents who are present as witnesses.

The police officers immediately forward the recording to the Judicial Magistrate of the first class.

Outcome: The audio-video recording ensures that the search and seizure process is documented accurately, providing transparency and accountability, and helping to uphold the integrity of the investigation.

Example 4:

Scenario: The police in Bangalore are investigating a drug trafficking ring and plan to search a suspect's apartment.

Action: The police obtain the necessary legal permissions and proceed to the apartment to conduct the search.

Application of Section 105:

The police officers use a mobile phone to record the entire search process, capturing every detail of the search.

They discover a significant quantity of illegal drugs and related paraphernalia.

A detailed list of all seized items is prepared and signed by two neighbors who are present as witnesses.

The police officers promptly send the audio-video recording to the District Magistrate.

Outcome: The recording provides a transparent and verifiable account of the search and seizure, which can be used in court to demonstrate that the police followed proper procedures and collected evidence lawfully.

Section 106: Power of police officer to seize certain property.

Seizure of Property

(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:

Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 503 and 504 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

SIMPLIFIED ACTS

Seizure of Property

(1) Any police officer can take any property that they think might be stolen or involved in a crime.

(2) If this police officer is not the head of the police station, they must immediately tell the head officer about the seizure.

(3) Every police officer who takes property under rule (1) must immediately inform the local Magistrate. If the property is too difficult to move to the court, or if there is no safe place to keep it, or if keeping it with the police is not necessary for the investigation, the officer can

give it to someone else. This person must promise to bring the property to court when needed and follow any further court orders about what to do with it:

Provided that if the property taken under rule (1) is something that can quickly spoil or decay, and if the owner is unknown or not around, and if the property is worth less than five hundred rupees, it can be sold at auction right away under the orders of the Superintendent of Police. The rules in sections 503 and 504 will apply to the money made from the sale as closely as possible.

Explanation using Example

Example 1:

Scenario: A police officer on patrol in a busy market area notices a man trying to sell a brand-new smartphone at a very low price. The officer suspects that the phone might be stolen.

Application of the Act:

Seizure: The police officer seizes the smartphone under Section 106(1) as it is suspected to be stolen property.

Reporting: Since the officer is a constable, he immediately reports the seizure to the officer in charge of the police station as required by Section 106(2).

Magistrate Notification: The officer in charge then reports the seizure to the Magistrate having jurisdiction over the area, as per Section 106(3).

Custody: Given that the smartphone is small and can be easily transported, it is kept in the police station's custody until further orders from the Court.

Example 2:

Scenario: During a raid on a warehouse, police officers find a large quantity of unaccounted gold jewelry. The circumstances suggest that the jewelry might be linked to a recent burglary.

Application of the Act:

Seizure: The police officers seize the gold jewelry under Section 106(1) due to the suspicion of it being stolen property.

Reporting: The officers report the seizure to their superior officer at the police station as required by Section 106(2).

Magistrate Notification: The officer in charge reports the seizure to the Magistrate having jurisdiction, as per Section 106(3).

Custody: Since the gold jewelry is valuable and requires secure storage, the police decide to give custody of the jewelry to a reputable jeweler who executes a bond to produce the jewelry before the Court when required. This is done to ensure the jewelry is kept safe and secure until the Court decides on its disposal.

Example 3:

Scenario: A police officer finds a bag of perishable fruits left unattended at a bus stop. The officer suspects it might be stolen or abandoned property.

Application of the Act:

Seizure: The police officer seizes the bag of fruits under Section 106(1) due to the suspicion of it being stolen or abandoned.

Reporting: The officer reports the seizure to the officer in charge of the police station as required by Section 106(2).

Magistrate Notification: The officer in charge reports the seizure to the Magistrate having jurisdiction, as per Section 106(3).

Auction: Since the fruits are perishable and their value is less than five hundred rupees, the Superintendent of Police orders the fruits to be sold by auction immediately. The proceeds from the auction are handled according to Sections 503 and 504, ensuring the money is properly accounted for and managed.

Example 4:

Scenario: During a traffic stop, a police officer finds a suspicious package in the trunk of a car. The package contains a large sum of cash, and the driver cannot provide a satisfactory explanation for its origin.

Application of the Act:

Seizure: The police officer seizes the cash under Section 106(1) due to the suspicion of it being linked to an offence.

Reporting: The officer reports the seizure to the officer in charge of the police station as required by Section 106(2).

Magistrate Notification: The officer in charge reports the seizure to the Magistrate having jurisdiction, as per Section 106(3).

Custody: Given the large amount of cash, the police decide to deposit it in a secure bank account under the Court's orders, ensuring it is safely stored until the investigation is complete and the Court decides on its disposal.

Section 107: Attachment, forfeiture or restoration of property.

Attachment of Property Derived from Criminal Activity

(1) Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner of Police, make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.

(2) If the Court or the Magistrate has reasons to believe, whether before or after taking evidence, that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of fourteen days as to why an order of attachment shall not be made.

(3) Where the notice issued to any person under sub-section (2) specifies any property as being held by any other person on behalf of such person, a copy of the notice shall also be served upon such other person.

(4) The Court or the Magistrate may, after considering the explanation, if any, to the show-cause notice issued under sub-section (2) and the material fact available before such Court or Magistrate and after giving a reasonable opportunity of being heard to such person or persons, may pass an order of attachment, in respect of those properties which are found to be the proceeds of crime:

Provided that if such person does not appear before the Court or the Magistrate or represent his case before the Court or Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Magistrate may proceed to pass the ex parte order.

(5) Notwithstanding anything contained in sub-section (2), if the Court or the Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Magistrate may by an interim order passed ex parte direct attachment or seizure of such property, and such order shall remain in force till an order under sub-section (6) is passed.

(6) If the Court or the Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Magistrate shall by order direct the District Magistrate to rateably distribute such proceeds of crime to the persons who are affected by such crime.

(7) On receipt of an order passed under sub-section (6), the District Magistrate shall, within a period of sixty days distribute the proceeds of crime either by himself or authorise any officer subordinate to him to effect such distribution.

(8) If there are no claimants to receive such proceeds or no claimant is ascertainable or there is any surplus after satisfying the claimants, such proceeds of crime shall stand forfeited to the Government.

SIMPLIFIED ACTS

Attachment of Property Derived from Criminal Activity

(1) If a police officer investigating a case believes that any property was gained, directly or indirectly, from criminal activity or an offense, he can, with approval from a senior police officer, ask the Court or Magistrate to seize that property.

(2) If the Court or Magistrate believes that the property is from criminal activity, they can issue a notice to the person holding the property, asking them to explain within 14 days why the property should not be seized.

(3) If the notice mentions that someone else is holding the property on behalf of the person, a copy of the notice must also be given to that other person.

(4) After considering the explanation and evidence, and giving the person a chance to be heard, the Court or Magistrate can order the seizure of the property if it is found to be from criminal activity. If the person does not respond within 14 days, the Court or Magistrate can make a decision without them.

(5) If the Court or Magistrate thinks that giving notice would ruin the chances of seizing the property, they can order the property to be seized immediately, and this order will stay in effect until a final decision is made.

(6) If the Court or Magistrate decides that the property is from criminal activity, they will order the District Magistrate to distribute the property to the victims of the crime.

(7) The District Magistrate must distribute the property to the victims within 60 days, either personally or through a subordinate officer.

(8) If there are no claimants or if there is any leftover property after satisfying the claimants, the remaining property will be forfeited to the Government.

Explanation using Example

Example 1:

Scenario: A police officer is investigating a case of large-scale embezzlement by a corporate executive, Mr. Sharma. During the investigation, the officer discovers that Mr. Sharma has purchased a luxury villa in Goa using the embezzled funds.

Application of the Act:

The police officer, with the approval of the Superintendent of Police, applies to the Magistrate for the attachment of the villa, believing it to be derived from the criminal activity.

The Magistrate, after reviewing the application, issues a notice to Mr. Sharma, asking him to show cause within 14 days why the villa should not be attached.

Mr. Sharma fails to respond within the specified period.

The Magistrate, after considering the evidence and Mr. Sharma's non-response, passes an ex parte order for the attachment of the villa.

The Magistrate then directs the District Magistrate to distribute the proceeds from the sale of the villa to the victims of the embezzlement.

The District Magistrate, within 60 days, ensures the proceeds are distributed to the affected employees and stakeholders of the company.

Example 2:

Scenario: During a drug trafficking investigation, the police discover that Mr. Khan has purchased several high-end cars using money obtained from drug sales.

Application of the Act:

The investigating officer, with the approval of the Commissioner of Police, applies to the Court for the attachment of the cars, suspecting they are proceeds of crime.

The Court, believing the cars to be proceeds of crime, issues a notice to Mr. Khan, asking him to show cause within 14 days why the cars should not be attached.

Mr. Khan responds, claiming the cars were purchased with legitimate earnings.

The Court, after considering Mr. Khan's explanation and the evidence presented, decides that the cars are indeed proceeds of crime and orders their attachment.

The Court directs the District Magistrate to distribute the proceeds from the sale of the cars to the victims affected by Mr. Khan's drug trafficking activities.

The District Magistrate, within 60 days, distributes the proceeds to the affected families and individuals.

If there are no claimants or any surplus remains after satisfying the claimants, the remaining proceeds are forfeited to the Government.

Section 108: Magistrate may direct search in his presence.

Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

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Any Magistrate can order a search to be done in front of them if they have the authority to issue a search warrant for that place.

Explanation using Example

Example 1:

Scenario: A Magistrate suspects that a local warehouse is being used to store stolen goods.

Application: The Magistrate, based on credible information, decides that a search of the warehouse is necessary. Instead of issuing a search warrant to the police, the Magistrate directs that the search be conducted in his presence to ensure transparency and adherence to legal procedures.

Outcome: The Magistrate accompanies the police to the warehouse, oversees the search, and ensures that any evidence found is properly documented and handled according to the law.

Example 2:

Scenario: There are reports of illegal drug activities in a residential building.

Application: The Magistrate receives a tip-off about the presence of illegal drugs in a specific apartment. To maintain the integrity of the search and to prevent any tampering with evidence, the Magistrate decides to be present during the search.

Outcome: The Magistrate directs the police to conduct the search while he is present. During the search, illegal drugs are found, and the Magistrate ensures that the evidence is collected and recorded properly, which later aids in the prosecution of the offenders.

Section 109: Power to impound document, etc., produced.

Any Court may, if it thinks fit, impound any document or thing produced before it under this Sanhita.

SIMPLIFIED ACTS

Any Court can, if it decides it is necessary, take and keep any document or item that is shown to it under this law.

Explanation using Example

Example 1:

Scenario: During a criminal trial, the prosecution presents a forged property deed as evidence to prove the accused's involvement in a land scam.

Application of Section 109: The judge, upon examining the document and suspecting its authenticity, decides to impound the forged property deed. This means the court takes custody of the document to prevent it from being tampered with or destroyed, ensuring it remains available for further investigation and proceedings.

Example 2:

Scenario: In a civil case regarding a disputed will, one party produces a suspicious-looking will that allegedly disinherits the other party.

Application of Section 109: The court, noticing irregularities in the will, such as unusual signatures or alterations, decides to impound the document. By doing so, the court ensures that the will is preserved in its current state and can be examined by handwriting experts or forensic analysts to determine its validity.

Example 3:

Scenario: During a tax evasion case, the income tax department submits financial records and bank statements of the accused, which are suspected to be falsified.

Application of Section 109: The court, upon reviewing the financial documents, finds discrepancies and decides to impound them. This action ensures that the documents are secured and can be scrutinized further to establish the extent of the alleged tax evasion.

Example 4:

Scenario: In a family dispute over ancestral property, one sibling produces an old sale deed claiming sole ownership of the property.

Application of Section 109: The court, suspecting that the sale deed might be fabricated or altered, decides to impound the document. This ensures that the deed is kept safe and can be examined by experts to verify its authenticity and the claims made by the sibling.

Section 110: Reciprocal arrangements regarding processes.

Section (1)

Where a Court in the territories to which this Sanhita extends (hereafter in this section referred to as the said territories) desires that -

- (a) a summons to an accused person; or
- (b) a warrant for the arrest of an accused person; or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it; or

(d) a search-warrant,

issued by it shall be served or executed at any place, -

(i) within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 70 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf.

Section (2)

Where a Court in the said territories has received for service or execution -

(a) a summons to an accused person; or

(b) a warrant for the arrest of an accused person; or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it; or

(d) a search-warrant,

issued by -

(I) a Court in any State or area in India outside the said territories;

(II) a Court, Judge or Magistrate in a contracting State,

it shall cause the same to be served or executed as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure specified by sections 82 and 83;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure specified by section 104:

Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf.

SIMPLIFIED ACTS

Section (1)

If a Court in the areas where this law applies (referred to as "the said territories") wants to:

- (a) send a notice to an accused person; or
- (b) issue an arrest warrant for an accused person; or
- (c) send a notice to someone to come and bring a document or other item; or
- (d) issue a search warrant,

and wants these to be served or carried out in a place:

(i) within the jurisdiction of a Court in any State or area in India outside the said territories, it can send the notice or warrant in duplicate by mail or other means to the presiding officer of that Court to be served or carried out. If a notice mentioned in (a) or (c) has been served, the rules in section 70 will apply as if the presiding officer of the Court it was sent to were a Magistrate in the said territories;

(ii) in any country or place outside India where the Central Government has made arrangements with that country for serving or carrying out notices or warrants in criminal matters (referred to as the "contracting State"), it can send the notice or warrant in duplicate in the specified form, directed to the appropriate Court, Judge, or Magistrate, and send it to the specified authority for transmission, as notified by the Central Government.

Section (2)

If a Court in the said territories receives for service or execution:

- (a) a notice to an accused person; or
- (b) an arrest warrant for an accused person; or
- (c) a notice to someone to come and bring a document or other item; or
- (d) a search warrant,

issued by:

(I) a Court in any State or area in India outside the said territories;

(II) a Court, Judge, or Magistrate in a contracting State,

it will serve or execute it as if it were a notice or warrant received from another Court in the said territories for service or execution within its local jurisdiction. If:

(i) an arrest warrant has been executed, the arrested person will be dealt with according to the procedures in sections 82 and 83 as much as possible;

(ii) a search warrant has been executed, the items found will be dealt with according to the procedures in section 104 as much as possible.

However, if a notice or search warrant from a contracting State has been executed, the documents or items produced or found in the search will be sent to the Court that issued the notice or search warrant through the authority specified by the Central Government.

Explanation using Example

Example 1:

Scenario: A court in Mumbai, Maharashtra, needs to summon a witness who resides in Bangalore, Karnataka, to produce certain documents related to a fraud case.

Application:

The Mumbai court issues a summons for the witness to attend and produce the documents.

Since Bangalore is outside the local jurisdiction of the Mumbai court but within India, the Mumbai court sends the summons in duplicate by post to the presiding officer of the appropriate court in Bangalore.

The Bangalore court receives the summons and serves it to the witness.

The witness is then required to attend the Mumbai court and produce the requested documents.

Example 2:

Scenario: A court in Delhi needs to arrest an accused person who has fled to Nepal, and there is an existing arrangement between India and Nepal for such matters.

Application:

The Delhi court issues a warrant for the arrest of the accused person.

Since Nepal is outside India but there is a reciprocal arrangement, the Delhi court sends the warrant in duplicate to the specified authority as per the Central Government's notification.

The specified authority in Nepal receives the warrant and forwards it to the appropriate court or magistrate in Nepal.

The Nepalese court or magistrate executes the warrant and arrests the accused person.

The arrested person is then dealt with according to the procedures specified by sections 82 and 83, and arrangements are made for their transfer to India.

Example 3:

Scenario: A court in Chennai, Tamil Nadu, receives a search warrant from a court in London, UK, to search a property in Chennai for evidence related to an international money laundering case.

Application:

The Chennai court receives the search warrant from the London court through the specified authority as per the Central Government's notification.

The Chennai court treats the search warrant as if it were issued by another Indian court and executes the search.

The items found during the search are dealt with according to the procedure specified by section 104.

The documents or things found in the search are then forwarded to the London court through the specified authority as per the Central Government's notification.

Example 4:

Scenario: A court in Kolkata, West Bengal, needs to serve a summons to an accused person who is currently residing in Dubai, UAE, and there is an arrangement between India and UAE for such matters.

Application:

The Kolkata court issues a summons for the accused person.

Since Dubai is outside India but there is a reciprocal arrangement, the Kolkata court sends the summons in duplicate to the specified authority as per the Central Government's notification.

The specified authority in UAE receives the summons and forwards it to the appropriate court or magistrate in Dubai.

The Dubai court or magistrate serves the summons to the accused person.

The accused person is then required to attend the Kolkata court as per the summons.

Example 5:

Scenario: A court in Hyderabad, Telangana, receives a warrant for the arrest of an accused person from a court in New York, USA, related to a cybercrime case.

Application:

The Hyderabad court receives the arrest warrant from the New York court through the specified authority as per the Central Government's notification.

The Hyderabad court treats the arrest warrant as if it were issued by another Indian court and executes the arrest.

The arrested person is dealt with according to the procedures specified by sections 82 and 83.

Arrangements are made for the transfer of the arrested person to the USA through the specified authority as per the Central Government's notification.

CHAPTER VIII: RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FORFEITURE OF PROPERTY

Section 111: Definitions.

In this Chapter, unless the context otherwise requires, -

(a) "contracting State" means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(b) "identifying" includes establishment of a proof that the property was derived from, or used in, the commission of an offence;

(c) "proceeds of crime" means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;

(d) "property" means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments

evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds of crime;

(e) "tracing" means determining the nature, source, disposition, movement, title or ownership of property.

SIMPLIFIED ACTS

Definitions

In this Chapter, unless the context otherwise requires, -

(a) "contracting State" means any country or place outside India with which the Indian Government has made arrangements through a treaty or other means;

(b) "identifying" includes proving that the property came from or was used in committing a crime;

(c) "proceeds of crime" means any property or money that someone got directly or indirectly from criminal activities (including crimes involving money transfers) or the value of such property;

(d) "property" means all kinds of property and assets, whether physical or not, movable or immovable, tangible or intangible, and includes documents showing ownership or interest in such property or assets that were derived from or used in committing a crime, and also includes property obtained through criminal activities;

(e) "tracing" means finding out the nature, source, movement, ownership, or title of property.

Explanation using Example

Example 1:

Scenario: The Indian government has a treaty with the United Kingdom to assist each other in criminal matters, including the attachment and forfeiture of property derived from criminal activities.

Application:

Contracting State: The United Kingdom is a "contracting State" as per the treaty with India.

Identifying: Indian authorities identify a property in London that was purchased using money obtained from a fraud committed in India.

Proceeds of Crime: The money used to buy the property in London is considered "proceeds of crime" because it was derived from fraudulent activities.

Property: The house in London is "property" as it is a tangible, immovable asset obtained through proceeds of crime.

Tracing: Indian authorities trace the money trail from the fraud in India to the purchase of the house in London, establishing the connection between the crime and the property.

Example 2:

Scenario: An Indian businessman is involved in illegal currency transfers and uses the proceeds to buy a luxury car in Dubai.

Application:

Contracting State: The United Arab Emirates (UAE) is a "contracting State" if there is an arrangement or treaty with India.

Identifying: Authorities in India identify that the luxury car in Dubai was bought using money from illegal currency transfers.

Proceeds of Crime: The money used for the car purchase is "proceeds of crime" as it was obtained through illegal currency transfers.

Property: The luxury car is "property" as it is a tangible, movable asset obtained through proceeds of crime.

Tracing: Indian authorities trace the illegal currency transfers to the purchase of the luxury car in Dubai, establishing the link between the crime and the property.

Example 3:

Scenario: A criminal organization in India engages in drug trafficking and uses the profits to invest in real estate in Singapore.

Application:

Contracting State: Singapore is a "contracting State" if there is a treaty or arrangement with India.

Identifying: Indian authorities identify several properties in Singapore bought with money from drug trafficking.

Proceeds of Crime: The money used to buy the properties is "proceeds of crime" as it was obtained from drug trafficking.

Property: The real estate in Singapore is "property" as it includes tangible, immovable assets obtained through proceeds of crime.

Tracing: Indian authorities trace the drug trafficking profits to the real estate investments in Singapore, establishing the connection between the crime and the properties.

Example 4:

Scenario: An Indian citizen commits cyber fraud and transfers the stolen money to a bank account in Switzerland.

Application:

Contracting State: Switzerland is a "contracting State" if there is a treaty or arrangement with India.

Identifying: Indian authorities identify the bank account in Switzerland where the stolen money was transferred.

Proceeds of Crime: The money in the Swiss bank account is "proceeds of crime" as it was obtained through cyber fraud.

Property: The funds in the bank account are "property" as they are intangible assets obtained through proceeds of crime.

Tracing: Indian authorities trace the stolen money from the cyber fraud to the bank account in Switzerland, establishing the link between the crime and the property.

Example 5:

Scenario: A person in India is involved in human trafficking and uses the earnings to buy cryptocurrency.

Application:

Contracting State: Any country where the cryptocurrency exchange is located can be a "contracting State" if there is an arrangement or treaty with India.

Identifying: Indian authorities identify the cryptocurrency purchased with money from human trafficking.

Proceeds of Crime: The money used to buy the cryptocurrency is "proceeds of crime" as it was obtained from human trafficking.

Property: The cryptocurrency is "property" as it is an intangible asset obtained through proceeds of crime.

Tracing: Indian authorities trace the human trafficking earnings to the purchase of cryptocurrency, establishing the connection between the crime and the property.

Section 112: Letter of request to competent authority for investigation in a country or place outside India.

Investigation into an Offence

(1) If, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Sanhita.

SIMPLIFIED ACTS

Investigation into an Offence

(1) If, during an investigation into a crime, the investigating officer or a higher-ranking officer believes that evidence might be found in another country, any Criminal Court can send a formal request to a court or authority in that country. This request asks them to:

Interview any person who might know about the case and record their statement.

Ask that person or anyone else to provide any documents or items related to the case.

Send all the collected evidence or copies of it back to the court that made the request.

(2) The request will be sent in the way the Central Government decides.

(3) Any statement, document, or item received from the other country will be considered as evidence collected during the investigation under this law.

Explanation using Example

Example 1:

Scenario: A major financial fraud case is being investigated in India, and the investigating officer suspects that crucial evidence is located in the United States.

Application: The investigating officer applies to the Criminal Court in India, stating that bank records and witness statements in the United States are essential for the investigation.

Action: The Criminal Court issues a letter of request to the competent authority in the United States, asking them to:

Examine the bank manager who is believed to have knowledge of the transactions.

Record the manager's statement.

Obtain and forward the relevant bank documents.

Outcome: The U.S. authority collects the evidence, records the statement, and sends authenticated copies of the documents to the Indian Court. This evidence is then used in the ongoing investigation in India.

Example 2:

Scenario: An Indian citizen is suspected of being involved in a cybercrime, and the investigating officer believes that the suspect's email records, stored on a server in Germany, are crucial for the case.

Application: The investigating officer, or a superior officer, applies to the Criminal Court in India, explaining the need for the email records stored in Germany.

Action: The Criminal Court issues a letter of request to the competent authority in Germany, asking them to:

Examine the IT administrator who manages the email server.

Record the administrator's statement regarding the suspect's email activities.

Retrieve and forward the relevant email records.

Outcome: The German authority collects the evidence, records the statement, and sends authenticated copies of the email records to the Indian Court. This evidence is then used in the cybercrime investigation in India.

Section 113: Letter of request from a country or place outside India to a Court or an authority for investigation in India.

(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit -

(i) forward the same to the Chief Judicial Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.

(2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.

SIMPLIFIED ACTS

(1) If a court or authority from another country sends a request to India for help with an investigation, the Indian Central Government can decide to:

(i) Send the request to a Chief Judicial Magistrate or a Judicial Magistrate they choose. This magistrate will then call the person mentioned in the request to come and give a statement or provide the document or item needed; or

(ii) Send the request to a police officer to investigate the matter as if the crime happened in India.

(2) All the evidence or documents collected by the magistrate or police officer will be sent to the Central Government. The Central Government will then send this information to the court or authority that made the request, in a way they think is appropriate.

Explanation using Example

Example 1:

Scenario: A financial fraud case is under investigation in the United Kingdom. The UK authorities suspect that some crucial documents and a key witness are located in India.

Application:

The UK court issues a letter of request to the Indian government, asking for the examination of the witness and the production of the documents.

The Central Government of India receives the request and decides to act on it.

The Central Government forwards the request to the Chief Judicial Magistrate in Mumbai.

The Chief Judicial Magistrate summons the witness to appear in court and records their statement. Additionally, the requested documents are collected.

The recorded statement and documents are then sent back to the Central Government.

The Central Government transmits the evidence to the UK court as per the procedures they deem fit.

Example 2:

Scenario: A drug trafficking ring is being investigated in Australia, and the Australian authorities believe that one of the suspects is hiding in India.

Application:

The Australian court sends a letter of request to the Indian government, asking for the investigation of the suspect in India.

The Central Government of India receives the request and decides to act on it.

The Central Government sends the letter to a senior police officer in Delhi.

The police officer conducts an investigation into the suspect's activities in India, treating it as if the crime had been committed within India.

The police officer collects evidence, including witness statements and any relevant documents.

The collected evidence is forwarded to the Central Government.

The Central Government transmits the evidence to the Australian court as per the procedures they deem fit.

Section 114: Assistance in securing transfer of persons.

Legal Provisions for Execution of Warrants and Summons

(1) Where a Court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate through such authority, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

(2) If, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a person who is in any place in a contracting State is required in connection with such investigation or inquiry and the Court is satisfied that such attendance is so required, it shall issue a summons or warrant, in duplicate, against the said person to such Court, Judge or Magistrate, in such form as the Central Government may, by notification, specify in this behalf, to cause the same to be served or executed.

(3) Where a Court in India, in relation to a criminal matter, has received a warrant for arrest of any person requiring him to attend or attend and produce a document or other thing in that Court or before any other investigating agency, issued by a Court, Judge or

Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another Court in India for execution within its local limits.

(4) Where a person transferred to a contracting State pursuant to sub-section (3) is a prisoner in India, the Court in India or the Central Government may impose such conditions as that Court or Government deems fit.

(5) Where the person transferred to India pursuant to sub-section (1) or sub-section (2) is a prisoner in a contracting State, the Court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such custody subject to such conditions as the Central Government may direct in writing.

SIMPLIFIED ACTS

Legal Provisions for Execution of Warrants and Summons

(1) If an Indian court wants to arrest someone or get a document from another country that has an agreement with India, it will send the request to a specific court, judge, or magistrate in that country. The Indian government will decide which authority to send it through, and that authority will make sure the request is carried out.

(2) During a criminal investigation, if an officer needs someone from another country that has an agreement with India to come to India, they can ask the court. If the court agrees, it will send a request to the appropriate court, judge, or magistrate in that country to make sure the person comes to India.

(3) If an Indian court receives a request from a court in another country that has an agreement with India to arrest someone or get a document, the Indian court will treat it like a request from another Indian court and will carry it out within its area.

(4) If a prisoner in India is sent to another country under these rules, the Indian court or government can set conditions for the transfer.

(5) If a prisoner from another country is sent to India under these rules, the Indian court will make sure the conditions of the transfer are followed. The prisoner will be kept in custody under the conditions set by the Indian government.

Explanation using Example

Example 1:

Scenario: An Indian court needs to secure the attendance of a witness residing in a contracting state (e.g., the United Kingdom) for a criminal trial in India.

Application:

The Indian court issues a warrant for the arrest of the witness to ensure their attendance.

The warrant is sent in duplicate to the appropriate authority in the UK, as specified by the Central Government of India.

The UK court, judge, or magistrate receives the warrant and ensures it is executed, compelling the witness to attend the trial in India.

Outcome: The witness is brought to India to testify in the criminal trial, ensuring that justice is served.

Example 2:

Scenario: During an investigation of a financial fraud case in India, the investigating officer needs to question a suspect who is currently in Canada.

Application:

The investigating officer applies to the Indian court for a summons to secure the suspect's attendance.

The Indian court, satisfied with the necessity of the suspect's attendance, issues a summons in duplicate.

The summons is sent to the appropriate Canadian authority, as specified by the Central Government of India.

The Canadian court, judge, or magistrate ensures the summons is served, requiring the suspect to attend the investigation in India.

Outcome: The suspect is brought to India for questioning, aiding the investigation process.

Example 3:

Scenario: An Indian court receives a warrant from a court in Australia for the arrest of an individual who needs to attend a trial in Australia.

Application:

The Indian court treats the Australian warrant as if it were issued by another Indian court.

The Indian court executes the warrant within its local limits, arresting the individual.

The individual is then transferred to Australia to attend the trial.

Outcome: The individual is sent to Australia to face trial, facilitating international cooperation in criminal matters.

Example 4:

Scenario: An Indian prisoner is required to testify in a criminal case in the United States.

Application:

The Indian court or Central Government imposes conditions for the transfer of the prisoner to the US.

The prisoner is transferred to the US under these conditions.

The US authorities ensure the prisoner's safe custody and return to India after the testimony.

Outcome: The prisoner testifies in the US court and is safely returned to India, maintaining the integrity of the legal process.

Example 5:

Scenario: A prisoner in France is required to testify in an Indian court.

Application:

The Indian court ensures that the conditions under which the prisoner is transferred from France are complied with.

The prisoner is kept in custody in India under conditions directed by the Central Government.

After the testimony, the prisoner is either returned to France or remains in custody in India as per the agreed conditions.

Outcome: The prisoner testifies in the Indian court, and the legal requirements of both countries are respected, ensuring international legal cooperation.

Section 115: Assistance in relation to orders of attachment or forfeiture of property.

(1) Where a Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 116 to 122 (both inclusive).

(2) Where the Court has made an order for attachment or forfeiture of any property under sub-section (1), and such property is suspected to be in a contracting State, the Court may issue a letter of request to a Court or an authority in the contracting State for execution of such order.

(3) Where a letter of request is received by the Central Government from a Court or an authority in a contracting State requesting attachment or forfeiture of the property in India,

derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 116 to 122 (both inclusive) or, as the case may be, any other law for the time being in force.

SIMPLIFIED ACTS

(1) If an Indian Court believes that someone has property that comes from committing a crime, the Court can order that the property be taken away or frozen. This decision will be made according to the rules in sections 116 to 122.

(2) If the Court orders the property to be taken away or frozen and thinks the property is in another country that has an agreement with India, the Court can ask a Court or authority in that country to help carry out the order.

(3) If the Indian Government gets a request from another country's Court or authority to take away or freeze property in India that comes from a crime committed in that other country, the Indian Government can send this request to an Indian Court. The Indian Court will then handle it according to the rules in sections 116 to 122 or any other current laws.

Explanation using Example

Example 1:

Scenario: A businessman in India, Mr. Sharma, is found to have acquired several properties through fraudulent activities, including money laundering and embezzlement. The court has substantial evidence that these properties were obtained through illegal means.

Application of Section 115:

The Indian court, upon gathering sufficient evidence, believes that Mr. Sharma's properties were obtained through the commission of offences.

The court issues an order to attach (temporarily seize) or forfeit (permanently seize) these properties under the provisions of sections 116 to 122.

Some of Mr. Sharma's properties are located in a foreign country, say the United Kingdom (a contracting State).

The Indian court sends a letter of request to a court in the United Kingdom, asking for the execution of the attachment or forfeiture order on the properties located there.

The UK court, upon receiving the request, proceeds to execute the order as per the legal provisions applicable in the UK.

Example 2:

Scenario: A foreign national, Mr. John, commits a financial crime in the United States (a contracting State) and uses the proceeds to purchase properties in India.

Application of Section 115:

The US court, after investigating Mr. John's activities, determines that the properties in India were purchased with money obtained from the commission of an offence.

The US court sends a letter of request to the Central Government of India, asking for assistance in attaching or forfeiting Mr. John's properties in India.

The Central Government of India receives the request and forwards it to the appropriate Indian court.

The Indian court, upon receiving the request, proceeds to execute the attachment or forfeiture order in accordance with sections 116 to 122 or any other relevant laws in force.

The properties in India are then attached or forfeited as per the court's order, ensuring that the proceeds of the crime are dealt with appropriately.

Example 3:

Scenario: Ms. Gupta, an Indian citizen, is involved in a drug trafficking ring and has acquired several assets in India and abroad through these illegal activities.

Application of Section 115:

The Indian court, after thorough investigation, finds that Ms. Gupta's assets were obtained through drug trafficking.

The court issues an order to attach or forfeit these assets under the provisions of sections 116 to 122.

Some of Ms. Gupta's assets are located in a contracting State, such as Canada.

The Indian court sends a letter of request to a Canadian court, asking for the execution of the attachment or forfeiture order on the assets located in Canada.

The Canadian court, upon receiving the request, takes the necessary steps to execute the order as per Canadian law.

Example 4:

Scenario: A criminal organization based in a contracting State, say Australia, is involved in cybercrime and has laundered money to purchase properties in India.

Application of Section 115:

The Australian court, after investigating the criminal organization, determines that the properties in India were purchased with money obtained from cybercrime.

The Australian court sends a letter of request to the Central Government of India, asking for assistance in attaching or forfeiting the properties in India.

The Central Government of India receives the request and forwards it to the appropriate Indian court.

The Indian court, upon receiving the request, proceeds to execute the attachment or forfeiture order in accordance with sections 116 to 122 or any other relevant laws in force.

The properties in India are then attached or forfeited as per the court's order, ensuring that the proceeds of the crime are dealt with appropriately.

Section 116: Identifying unlawfully acquired property.

Section 115 - Court Directions

(1) The Court shall, under sub-section (1), or on receipt of a letter of request under sub-section (3) of section 115, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions issued by the said Court in this behalf.

SIMPLIFIED ACTS

Section 115 - Court Directions

(1) The Court can order a police officer, who is at least a Sub-Inspector, to find and identify certain property. This can happen either on its own or when the Court receives a formal request.

(2) To find and identify the property, the police officer can do things like asking questions, investigating, or checking places, people, property, assets, bank records, or any other relevant information.

(3) The police officer must follow the specific instructions given by the Court when doing these inquiries, investigations, or surveys.

Explanation using Example

Example 1:

Scenario: A businessman, Mr. Sharma, is suspected of acquiring property through illegal means, such as money laundering and tax evasion. The Enforcement Directorate (ED) has gathered preliminary evidence and seeks to identify and trace the unlawfully acquired property.

Application of Section 116:

Court Directions: The ED approaches the court with a request to trace and identify Mr. Sharma's unlawfully acquired property.

Police Officer Assignment: The court, under Section 116(1), directs a police officer not below the rank of Sub-Inspector to take necessary steps to trace and identify the property.

Investigation Steps: The assigned police officer conducts an inquiry and investigation, which includes:

- Surveying Mr. Sharma's properties and assets.

- Examining documents and books of account in various banks and public financial institutions.

- Investigating any other relevant matters that could lead to the identification of unlawfully acquired property.

Court Compliance: The police officer carries out these steps in accordance with the directions issued by the court.

Example 2:

Scenario: Ms. Gupta, a government official, is accused of accepting bribes and using the money to purchase multiple properties. The Anti-Corruption Bureau (ACB) needs to trace and identify these properties to proceed with the case.

Application of Section 116:

Court Directions: The ACB submits a letter of request to the court under Section 115(3) to trace and identify the properties acquired by Ms. Gupta through bribery.

Police Officer Assignment: The court, under Section 116(1), directs a police officer not below the rank of Sub-Inspector to take all necessary steps to trace and identify the properties.

Investigation Steps: The police officer undertakes the following actions:

- Conducts an inquiry into Ms. Gupta's financial transactions and property records.

- Investigates her bank accounts and financial dealings with public financial institutions.

Surveys the properties registered in her name and any other assets that may be linked to the bribe money.

Court Compliance: The police officer performs these tasks as per the court's directions to ensure a thorough and lawful investigation.

Example 3:

Scenario: A criminal gang is suspected of acquiring multiple properties through illegal activities such as drug trafficking. The Narcotics Control Bureau (NCB) needs to identify and trace these properties to dismantle the gang's operations.

Application of Section 116:

Court Directions: The NCB files a request with the court to trace and identify the properties acquired by the gang through illegal activities.

Police Officer Assignment: The court, under Section 116(1), directs a police officer not below the rank of Sub-Inspector to take necessary steps to trace and identify the properties.

Investigation Steps: The police officer carries out the following:

Conducts an inquiry into the gang members' financial transactions and property holdings.

Investigates bank accounts, financial records, and any other relevant documents.

Surveys properties and assets linked to the gang members.

Court Compliance: The police officer follows the court's directions to ensure the investigation is conducted lawfully and effectively.

Example 4:

Scenario: A politician, Mr. Verma, is accused of embezzling public funds and using the money to buy luxury properties. The Central Bureau of Investigation (CBI) needs to trace and identify these properties to build a case against him.

Application of Section 116:

Court Directions: The CBI approaches the court with a request to trace and identify the properties acquired by Mr. Verma through embezzlement.

Police Officer Assignment: The court, under Section 116(1), directs a police officer not below the rank of Sub-Inspector to take necessary steps to trace and identify the properties.

Investigation Steps: The police officer undertakes the following actions:

Conducts an inquiry into Mr. Verma's financial transactions and property records.

Investigates his bank accounts and financial dealings with public financial institutions.

Surveys the luxury properties registered in his name and any other assets that may be linked to the embezzled funds.

Court Compliance: The police officer performs these tasks as per the court's directions to ensure a thorough and lawful investigation.

Section 117: Seizure or attachment of property.

(1) Where any officer conducting an inquiry or investigation under section 116 has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed, transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.

SIMPLIFIED ACTS

(1) If an officer is investigating something under section 116 and thinks that a property involved in the investigation might be hidden, transferred, or dealt with in a way that would make it hard to get, the officer can order to seize (take control of) the property. If it's not possible to seize the property, the officer can order that the property cannot be transferred or dealt with in any way without the officer's permission. A copy of this order must be given to the person who owns the property.

(2) This order from the officer will not be valid unless a court confirms it within thirty days of the order being made.

Explanation using Example

Example 1:

Scenario: A government officer is investigating a case of tax evasion involving a prominent businessman, Mr. Sharma. During the investigation, the officer discovers that Mr. Sharma owns several properties, including a luxury apartment in Mumbai and a farmhouse in Pune. The officer has credible information that Mr. Sharma is planning to sell these properties to avoid them being seized by the authorities.

Application of Section 117:

The officer, under Section 116, believes that Mr. Sharma is likely to conceal or transfer the properties to avoid seizure.

The officer issues an order to seize the luxury apartment in Mumbai.

Since it is not practical to physically seize the farmhouse in Pune, the officer issues an attachment order, preventing Mr. Sharma from selling or transferring the farmhouse without prior permission.

A copy of the seizure and attachment orders is served to Mr. Sharma.

The officer then seeks confirmation of these orders from the court within 30 days.

Example 2:

Scenario: The police are investigating a case of drug trafficking involving a notorious gang. During the investigation, they find that the gang leader, Mr. Khan, has several bank accounts and properties that are suspected to be acquired through illegal activities. The police have strong evidence that Mr. Khan is planning to transfer the money from these accounts to offshore accounts to avoid detection.

Application of Section 117:

The investigating officer, under Section 116, has reason to believe that Mr. Khan will transfer the money to avoid seizure.

The officer issues an order to seize the funds in Mr. Khan's bank accounts.

Since it is not feasible to physically seize the properties, the officer issues an attachment order, preventing Mr. Khan from selling or transferring the properties without prior permission.

A copy of the seizure and attachment orders is served to Mr. Khan.

The officer then seeks confirmation of these orders from the court within 30 days.

Example 3:

Scenario: An anti-corruption bureau is investigating a senior government official, Ms. Verma, for allegedly accepting bribes and amassing wealth disproportionate to her known sources of income. The bureau finds that Ms. Verma owns several plots of land and a luxury car. They receive a tip-off that Ms. Verma is planning to transfer the ownership of these assets to her relatives to avoid them being seized.

Application of Section 117:

The officer conducting the investigation under Section 116 believes that Ms. Verma is likely to transfer the assets to avoid seizure.

The officer issues an order to seize the luxury car.

Since it is not practical to seize the plots of land, the officer issues an attachment order, preventing Ms. Verma from transferring the ownership of the land without prior permission.

A copy of the seizure and attachment orders is served to Ms. Verma.

The officer then seeks confirmation of these orders from the court within 30 days.

Section 118: Management of properties seized or forfeited under this Chapter.

(1) The Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such property.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which the order has been made under sub-section (1) of section 117 or under section 120 in such manner and subject to such conditions as may be specified by the Central Government.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

SIMPLIFIED ACTS

(1) The Court can choose the District Magistrate of the area where the property is located, or another officer chosen by the District Magistrate, to act as the Administrator of that property.

(2) The Administrator chosen under point (1) will take care of and manage the property according to the rules set by the Central Government, especially if the property is involved in an order under section 117(1) or section 120.

(3) The Administrator must also follow the Central Government's instructions to sell or otherwise deal with the property that has been taken by the Central Government.

Explanation using Example

Example 1:

Scenario: Illegal Drug Trafficking Case

Details:

The police conduct a raid and seize a large property in Mumbai that is being used for illegal drug trafficking.

The court orders the seizure of the property under Section 117 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 118:

The court appoints the District Magistrate of Mumbai to act as the Administrator of the seized property.

The District Magistrate, as the Administrator, is responsible for managing the property according to the conditions specified by the Central Government.

The Central Government directs the Administrator to auction the property and deposit the proceeds into the government treasury.

Example 2:

Scenario: Terrorism Financing Case

Details:

A property in Delhi is found to be used for financing terrorist activities.

The court orders the forfeiture of the property under Section 120 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 118:

The court appoints an officer nominated by the District Magistrate of Delhi to act as the Administrator of the forfeited property.

The appointed Administrator takes control of the property and manages it as per the guidelines provided by the Central Government.

The Central Government instructs the Administrator to sell the property and use the funds for national security measures.

Example 3:

Scenario: Money Laundering Case

Details:

Authorities discover a property in Bangalore being used for money laundering activities.

The court issues an order for the attachment of the property under Section 117 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 118:

The court appoints the District Magistrate of Bangalore to oversee the management of the attached property.

The District Magistrate, acting as the Administrator, ensures the property is maintained and managed according to the conditions set by the Central Government.

The Central Government later directs the Administrator to sell the property and allocate the proceeds to public welfare programs.

Example 4:

Scenario: Human Trafficking Case

Details:

A property in Kolkata is identified as a hub for human trafficking operations.

The court orders the forfeiture of the property under Section 120 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 118:

The court appoints an officer nominated by the District Magistrate of Kolkata to act as the Administrator of the forfeited property.

The Administrator manages the property in compliance with the conditions specified by the Central Government.

The Central Government instructs the Administrator to convert the property into a rehabilitation center for victims of human trafficking.

Section 119: Notice of forfeiture of property.

(1) If as a result of the inquiry, investigation or survey under section 116, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

SIMPLIFIED ACTS

(1) If, after an inquiry, investigation, or survey under section 116, the Court believes that some or all of the properties in question are proceeds of crime, it can send a notice to the person involved (referred to as the person affected). This notice will give the person 30 days to explain where the money, income, or assets used to get the property came from, provide evidence to support their explanation, and give any other relevant information. The person must also explain why the properties should not be considered proceeds of crime and taken by the Central Government.

(2) If the notice mentioned in sub-section (1) states that any property is held by another person on behalf of the person affected, a copy of the notice must also be sent to that other person.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman in Mumbai, is under investigation for alleged money laundering activities. The authorities have conducted an inquiry and found that Rajesh owns several properties in Mumbai and Pune, which they suspect are proceeds of crime.

Application of Section 119:

The Court, after reviewing the inquiry report, believes that Rajesh's properties are proceeds of crime.

The Court serves a notice to Rajesh, giving him 30 days to explain the source of income, earnings, or assets used to acquire these properties.

Rajesh is required to provide evidence and relevant information to prove that the properties were acquired through legitimate means.

If Rajesh fails to provide satisfactory evidence, the Court may declare the properties as proceeds of crime and order their forfeiture to the Central Government.

Example 2:

Scenario: Priya, a software engineer in Bangalore, is suspected of being involved in a cyber fraud scheme. During the investigation, it is discovered that Priya has transferred a significant amount of money to her brother, Suresh, who used it to buy a luxury car.

Application of Section 119:

The Court, based on the investigation, believes that the money transferred to Suresh is proceeds of crime.

The Court serves a notice to Priya, asking her to explain the source of the money transferred to Suresh within 30 days.

A copy of the notice is also served to Suresh, as he is holding the property (luxury car) on behalf of Priya.

Both Priya and Suresh are required to provide evidence and relevant information to prove that the money and the car were acquired through legitimate means.

If they fail to provide satisfactory evidence, the Court may declare the money and the car as proceeds of crime and order their forfeiture to the Central Government.

Section 120: Forfeiture of property in certain cases.

Legal Provisions

Section 119 - Show-Cause Notice

(1) The Court may, after considering the explanation, if any, to the show-cause notice issued under section 119 and the material available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the Court or represent his case before it within a period of thirty days specified in the show-cause notice, the Court may proceed to record a finding under this sub-section ex parte on the basis of evidence available before it.

(2) Where the Court is satisfied that some of the properties referred to in the show-cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the Court to specify the properties which, to the best of its judgment, are proceeds of crime and record a finding accordingly under sub-section (1).

(3) Where the Court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 2013 or the Articles of Association of the company, forthwith register the Central Government as the transferee of such shares.

SIMPLIFIED ACTS

Legal Provisions

Section 119 - Show-Cause Notice

(1) The Court can decide if any property mentioned in a show-cause notice is connected to a crime. Before making this decision, the Court will look at the explanation given by the person who received the notice and any other information available. The person affected will be given a fair chance to explain their side. If the property is held by someone else on behalf of the affected person, that person will also get a chance to explain. If the affected person or the person holding the property does not respond within 30 days, the Court can make a decision based on the available evidence without hearing from them.

(2) If the Court believes that some of the properties mentioned in the notice are connected to a crime but cannot identify which ones specifically, it can use its best judgment to decide which properties are likely connected to the crime and make a decision accordingly.

(3) If the Court decides that any property is connected to a crime, that property will be taken by the Central Government and will no longer have any legal claims or debts attached to it.

(4) If shares in a company are taken by the Central Government under this section, the company must immediately register the Central Government as the new owner of those shares, regardless of what is stated in the Companies Act, 2013 or the company's own rules.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman, is suspected of being involved in a money laundering scheme. The Enforcement Directorate (ED) investigates and finds that Rajesh has acquired several properties using the proceeds of crime.

Application of Section 119:

Show-Cause Notice: The Court issues a show-cause notice to Rajesh, asking him to explain the source of his properties.

Explanation and Hearing: Rajesh appears before the Court and provides an explanation, claiming that the properties were acquired through legitimate business profits.

Court's Decision: After considering Rajesh's explanation and the evidence presented by the ED, the Court finds that some of the properties are indeed proceeds of crime.

Forfeiture: The Court orders that the identified properties be forfeited to the Central Government. Rajesh's properties are now legally owned by the government, free from any claims or encumbrances.

Example 2:

Scenario: Priya, an investor, holds shares in a company that is later found to be involved in fraudulent activities. The investigation reveals that Priya's shares were purchased using money obtained through these illegal activities.

Application of Section 119:

Show-Cause Notice: The Court issues a show-cause notice to Priya, asking her to explain the source of the funds used to purchase the shares.

Explanation and Hearing: Priya fails to respond to the show-cause notice within the 30-day period.

Ex Parte Decision: The Court proceeds ex parte (without Priya's presence) and, based on the evidence, determines that the shares are proceeds of crime.

Forfeiture: The Court orders that Priya's shares be forfeited to the Central Government. The company is required to register the Central Government as the new owner of the shares, overriding any provisions in the Companies Act, 2013 or the company's Articles of Association.

Example 3:

Scenario: Anil, a real estate developer, is found to have acquired multiple properties through a series of fraudulent transactions. The properties are held in the names of various family members and associates.

Application of Section 119:

Show-Cause Notice: The Court issues a show-cause notice to Anil and the other individuals holding the properties.

Explanation and Hearing: Anil and the other individuals appear before the Court and provide their explanations.

Court's Decision: After reviewing the explanations and evidence, the Court concludes that it is not possible to identify which specific properties are proceeds of crime. However, the Court uses its best judgment to identify certain properties as likely proceeds of crime.

Forfeiture: The Court orders that the identified properties be forfeited to the Central Government. These properties are now legally owned by the government, free from any claims or encumbrances.

Example 4:

Scenario: A company, XYZ Ltd., is found to have been involved in a large-scale financial fraud. Several shareholders, including Sunita, are suspected of having purchased their shares using the proceeds of this fraud.

Application of Section 119:

Show-Cause Notice: The Court issues a show-cause notice to Sunita, asking her to explain the source of the funds used to purchase her shares.

Explanation and Hearing: Sunita appears before the Court and provides an explanation, but the evidence suggests that the funds were indeed proceeds of crime.

Court's Decision: The Court records a finding that Sunita's shares are proceeds of crime.

Forfeiture: The Court orders that Sunita's shares be forfeited to the Central Government. XYZ Ltd. is required to register the Central Government as the new owner of the shares, regardless of any provisions in the Companies Act, 2013 or the company's Articles of Association.

Section 121: Fine in lieu of forfeiture.

Forfeiture of Property

(1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 120 and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the Court may, by order, revoke the declaration of forfeiture under section 120 and thereupon such property shall stand released.

SIMPLIFIED ACTS

Forfeiture of Property

(1) If the Court decides that any property should be taken by the Central Government under section 120, and only part of the property's source is not proven, the Court can give the person affected a choice. Instead of losing the property, they can pay a fine equal to the market value of the unproven part.

(2) Before the Court decides to impose this fine, the person affected must be given a fair chance to explain their side.

(3) If the person pays the fine within the allowed time, the Court can cancel the decision to take the property under section 120, and the property will be returned to the person.

Explanation using Example

Example 1:

Scenario: Rajesh is a businessman who has been under investigation for financial fraud. During the investigation, the court finds that Rajesh owns several properties. The court declares that one of his properties, a luxury apartment in Mumbai, is to be forfeited to the Central Government under Section 120 of The Bharatiya Nagarik Suraksha Sanhita 2023 because the source of funds for purchasing this property is not satisfactorily proven.

Application of Section 121:

The court determines that only 50% of the funds used to purchase the apartment are unaccounted for.

Instead of forfeiting the entire property, the court gives Rajesh an option to pay a fine equivalent to the market value of the unaccounted 50% of the property.

Rajesh is given a reasonable opportunity to present his case and be heard before the fine is imposed.

Rajesh agrees to pay the fine within the stipulated time.

Upon payment of the fine, the court revokes the declaration of forfeiture, and the property is released back to Rajesh.

Example 2:

Scenario: Priya is a government official who has been accused of accumulating wealth disproportionate to her known sources of income. The court investigates and finds that Priya owns a farmhouse in Goa. The court declares the farmhouse forfeited to the Central Government under Section 120 because Priya cannot satisfactorily explain the source of funds for the entire property.

Application of Section 121:

The court finds that Priya can account for 70% of the funds used to purchase the farmhouse, but the remaining 30% is unexplained.

The court offers Priya the option to pay a fine equal to the market value of the unexplained 30% of the property instead of forfeiting the entire farmhouse.

Priya is given a chance to be heard and present any additional evidence before the fine is imposed.

Priya decides to pay the fine within the allowed time frame.

After Priya pays the fine, the court revokes the forfeiture declaration, and the farmhouse is released back to her.

Example 3:

Scenario: Anil is a real estate developer who is under investigation for money laundering. The court finds that Anil owns a commercial building in Delhi. The court declares the building forfeited to the Central Government under Section 120 because Anil cannot satisfactorily explain the source of funds for the entire property.

Application of Section 121:

The court finds that Anil can account for 60% of the funds used to purchase the building, but the remaining 40% is unexplained.

The court offers Anil the option to pay a fine equal to the market value of the unexplained 40% of the property instead of forfeiting the entire building.

Anil is given a chance to be heard and present any additional evidence before the fine is imposed.

Anil decides to pay the fine within the allowed time frame.

After Anil pays the fine, the court revokes the forfeiture declaration, and the building is released back to him.

Section 122: Certain transfers to be null and void.

Where after the making of an order under sub-section (1) of section 117 or the issue of a notice under section 119, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 120, then, the transfer of such property shall be deemed to be null and void.

SIMPLIFIED ACTS

If an order is made under sub-section (1) of section 117 or a notice is issued under section 119, and any property mentioned in that order or notice is transferred in any way, that transfer will be ignored for the purposes of the proceedings under this Chapter.

If the property is later taken by the Central Government under section 120, then the transfer of that property will be considered as if it never happened.

Explanation using Example

Example 1:

Rajesh is under investigation for financial fraud. The authorities issue a notice under Section 119 of the Bharatiya Nagarik Suraksha Sanhita 2023, indicating that his property, a luxury apartment in Mumbai, is under scrutiny. Despite the notice, Rajesh transfers the ownership of the apartment to his cousin, Suresh, in an attempt to protect it from being seized.

Later, the authorities find Rajesh guilty and order the forfeiture of the apartment to the Central Government under Section 120. According to Section 122, the transfer of the apartment to Suresh is deemed null and void. The property is seized by the government, and Suresh has no legal claim over it.

Example 2:

Meera is suspected of being involved in illegal drug trafficking. The authorities make an order under Section 117 to attach her assets, including a farmhouse in Goa. Meera, trying to evade the attachment, sells the farmhouse to her friend, Anil, for a nominal amount.

Subsequently, the investigation concludes, and the farmhouse is forfeited to the Central Government under Section 120. As per Section 122, the sale of the farmhouse to Anil is ignored for the purposes of the proceedings, and the transfer is considered null and void. The government takes possession of the farmhouse, and Anil cannot claim ownership.

Example 3:

Vikram is involved in a large-scale money laundering operation. The authorities issue a notice under Section 119, targeting his assets, including a commercial building in Delhi. Vikram, in an attempt to shield the property, gifts the building to his brother, Arjun.

Eventually, the authorities decide to forfeit the building to the Central Government under Section 120. According to Section 122, the gift transfer to Arjun is null and void. The building is taken over by the government, and Arjun has no legal right to it.

Section 123: Procedure in respect of letter of request.

Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent

to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

SIMPLIFIED ACTS

Every request letter, summons, or warrant that the Central Government receives from another country, and every request letter, summons, or warrant that needs to be sent to another country under this Chapter, must be sent to that country or to the relevant Court in India in the way and form that the Central Government specifies through a notification.

Explanation using Example

Example 1:

Scenario: An Indian court needs to obtain evidence from a witness residing in the United Kingdom for a criminal case.

Application:

The Indian court issues a letter of request to the Central Government, asking for assistance in obtaining the witness's testimony.

The Central Government, following the procedure specified by notification, transmits the letter of request to the United Kingdom, a contracting State.

The UK authorities receive the request and arrange for the witness to provide the necessary testimony.

The testimony is then sent back to the Indian court through the Central Government, ensuring that the evidence is legally obtained and admissible in the Indian court.

Example 2:

Scenario: A court in the United States needs to serve a summons to an individual residing in India for a civil lawsuit.

Application:

The US court sends a summons to the Central Government of India, requesting assistance in serving the summons to the individual.

The Central Government, as per the specified procedure, transmits the summons to the appropriate Indian court.

The Indian court then serves the summons to the individual residing in India.

Once the summons is served, the Indian court informs the Central Government, which then notifies the US court that the summons has been successfully served.

Example 3:

Scenario: An Indian court issues a warrant for the arrest of a fugitive who has fled to Canada.

Application:

The Indian court issues a warrant and sends it to the Central Government, requesting assistance in executing the warrant in Canada.

The Central Government, following the specified procedure, transmits the warrant to the Canadian authorities.

The Canadian authorities, upon receiving the warrant, locate and arrest the fugitive.

The fugitive is then extradited to India, following the legal procedures, to face trial in the Indian court.

Section 124: Application of this Chapter.

The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.

SIMPLIFIED ACTS

The Central Government can announce in the Official Gazette that this Chapter will apply to a contracting State.

This announcement will only be made if there are mutual agreements with that State.

The application of this Chapter to that State will follow the conditions, exceptions, or qualifications mentioned in the announcement.

Explanation using Example

Example 1:

The Indian government has a reciprocal arrangement with the United Kingdom for mutual legal assistance in criminal matters. The Central Government issues a notification in the Official Gazette stating that any request for assistance from the UK will be subject to the condition that the UK must provide similar assistance to India in return. Additionally, the notification specifies that certain types of property, such as residential homes, are exempt from attachment and forfeiture under this arrangement.

Example 2:

India has a reciprocal agreement with Canada for the attachment and forfeiture of property related to drug trafficking. The Central Government publishes a notification in the Official Gazette indicating that this Chapter will apply to Canada with the qualification that only properties valued above INR 50 lakhs will be subject to attachment and forfeiture. This ensures that minor properties are not targeted, focusing efforts on significant assets.

CHAPTER IX: SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

Section 125: Security for keeping 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 or bail bond, 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 XI of the Bharatiya Nyaya Sanhita, 2023, other than an offence punishable under sub-section (1) of section 193 or section 196 or section 197 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 or bail 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.

SIMPLIFIED ACTS

(1) If a higher court (Court of Session) or a first-class magistrate court finds someone guilty of certain crimes listed in section (2) or helping someone commit those crimes, and thinks it's necessary to ensure that person keeps the peace, the court can, at the time of sentencing, require that person to sign a bond or bail bond. This bond will be for keeping the peace for a period of up to three years, as the court decides.

(2) The crimes mentioned in section (1) include:

(a) Any crime punishable under Chapter XI of the Bharatiya Nyaya Sanhita, 2023, except for crimes under sections 193(1), 196, or 197.

(b) Any crime that involves assault, using criminal force, or causing damage.

(c) Any crime of threatening someone (criminal intimidation).

(d) Any other crime that caused or was likely to cause a disturbance of the peace.

(3) If the conviction is overturned on appeal or for any other reason, the bond or bail bond will no longer be valid.

(4) An order under this section can also be made by an appellate court (a higher court reviewing the case) or by a court using its power to review the case.

Explanation using Example

Example 1:

Rajesh was convicted by a Magistrate of the first class for criminal intimidation under Chapter XI of the Bharatiya Nyaya Sanhita, 2023. The court, considering Rajesh's history of aggressive behavior, decided it was necessary to ensure he keeps the peace. At the time of sentencing, the court ordered Rajesh to execute a bond for keeping the peace for a period of two years. Rajesh had to provide a surety and agree to forfeit a certain amount of money if he breached the peace during this period. If Rajesh appeals the conviction and the appellate court sets aside the conviction, the bond he executed would become void.

Example 2:

Sunita was found guilty of committing mischief by damaging her neighbor's property during a dispute. The Court of Session, upon conviction, believed that Sunita might cause further disturbances. Therefore, the court ordered Sunita to execute a bail bond for keeping the peace for one year. Sunita had to assure the court that she would not engage in any behavior that could lead to a breach of peace, and she had to provide a financial guarantee. If Sunita's conviction is overturned on appeal, the bail bond she executed would no longer be valid.

Example 3:

Vikram was convicted of assaulting a fellow villager during a festival. The Magistrate of the first class, considering the potential for future conflicts, ordered Vikram to execute a bond for keeping the peace for three years. Vikram had to agree to certain conditions, such as not approaching the victim and maintaining good behavior, with a financial penalty if he failed to comply. If Vikram's conviction is later overturned by a higher court, the bond would be rendered void.

Example 4:

Anita was convicted of abetting an offence that involved using criminal force. The Court of Session, recognizing the seriousness of the offence and the likelihood of future disturbances, ordered Anita to execute a bond for keeping the peace for a period of one and a half years. Anita had to provide a surety and agree to forfeit a specified amount if she breached the peace. If Anita's conviction is set aside on appeal, the bond would become void.

Example 5:

Ramesh was convicted of an offence that caused a breach of the peace during a local election. The Magistrate of the first class, to prevent further disturbances, ordered Ramesh to execute a bond for keeping the peace for two years. Ramesh had to agree to certain conditions, such as not participating in any political rallies and maintaining good behavior, with a financial penalty if he failed to comply. If Ramesh's conviction is later overturned by a higher court, the bond would be rendered void.

Section 126: Security for keeping peace in other cases.

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity 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 or bail bond 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 tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

SIMPLIFIED ACTS

(1) If an Executive Magistrate gets information that someone might cause trouble, disturb the peace, or do something wrong that could lead to a disturbance, and the Magistrate believes there is enough reason to act, he can ask that person to explain why they shouldn't be required to sign a bond or bail bond. This bond would be a promise to keep the peace for up to one year, as decided by the Magistrate.

(2) These actions can be taken by any Executive Magistrate if the potential trouble or disturbance is expected to happen within their area of authority, or if the person likely to cause trouble is within their area, even if the trouble might happen outside their area.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, has been frequently involved in heated arguments with his neighbors over parking space. These arguments have escalated to the point where there is a real concern that they might turn violent. The local police receive multiple complaints from the neighborhood about Ravi's aggressive behavior. An Executive Magistrate, upon reviewing the complaints and the police reports, believes that Ravi is likely to commit a breach of the peace. The Magistrate then issues a notice to Ravi, requiring him to appear in court and show cause why he should not be ordered to execute a bond for keeping the peace for a period of six months. Ravi is required to provide a bond, ensuring that he will not engage in any behavior that disturbs the public tranquility during this period.

Example 2:

In a small town in Kerala, there is a local political leader named Suresh who has been organizing rallies that often turn into violent clashes between his supporters and opponents. The local authorities have received credible information that Suresh is planning another rally that is likely to disturb the public peace. An Executive Magistrate, considering the past incidents and the potential for future disturbances, decides to take preventive action. The Magistrate issues an order requiring Suresh to show cause why he should not be required to execute a bail bond for keeping the peace for one year. Suresh must then appear before the Magistrate and provide a bond, ensuring that he will not engage in activities that could lead to a breach of the peace.

Example 3:

In a village in Uttar Pradesh, there is a long-standing land dispute between two families. Recently, the tension between the families has escalated, and there have been several minor skirmishes. The local police report that the situation is likely to worsen and could lead to a major conflict. An Executive Magistrate, after reviewing the situation, decides that preventive measures are necessary. The Magistrate issues notices to the heads of both families, requiring them to show cause why they should not be ordered to execute bonds for keeping the peace for a period of one year. Both family heads are required to provide bonds, ensuring that they will not engage in any actions that could disturb the public tranquility.

Example 4:

A group of young men in a neighborhood in Delhi has been involved in several incidents of eve-teasing and harassment of women. The local residents have lodged multiple complaints, and the police have warned the group several times. Despite the warnings, the behavior continues, and there is a growing concern that it might lead to a serious breach of the peace. An Executive Magistrate, upon receiving detailed reports from the police, decides to take action. The Magistrate issues notices to the identified members of the group,

requiring them to show cause why they should not be ordered to execute bonds for keeping the peace for a period of one year. The young men are required to provide bonds, ensuring that they will refrain from any activities that could disturb the public tranquility.

Example 5:

In a bustling market area in Kolkata, a street vendor named Anil has been involved in several altercations with other vendors over prime selling spots. These altercations have sometimes turned physical, causing disturbances in the market. The market association and several vendors have complained to the local authorities about Anil's behavior. An Executive Magistrate, after reviewing the complaints and the police reports, believes that Anil is likely to commit a breach of the peace. The Magistrate issues a notice to Anil, requiring him to show cause why he should not be ordered to execute a bond for keeping the peace for a period of six months. Anil is required to provide a bond, ensuring that he will not engage in any behavior that disturbs the public tranquility during this period.

Section 127: Security for good behaviour from persons disseminating certain matters.

Section (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 152 or section 196 or section 197 or section 299 of the Bharatiya Nyaya Sanhita, 2023; 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 Bharatiya Nyaya Sanhita, 2023;

(ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 294 of the Bharatiya Nyaya Sanhita, 2023,

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 or bail bond, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

Section (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, 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.

SIMPLIFIED ACTS

Section (1)

If an Executive Magistrate finds out that someone in their area is doing any of the following things, either inside or outside their area:

(i) Spreading or trying to spread, or helping to spread:

(a) Any information that is illegal to publish under certain sections of the Bharatiya Nyaya Sanhita, 2023; or

(b) Any information about a Judge doing their job that counts as criminal threats or defamation under the Bharatiya Nyaya Sanhita, 2023;

(ii) Making, producing, publishing, selling, importing, exporting, distributing, showing, or sharing any obscene material mentioned in section 294 of the Bharatiya Nyaya Sanhita, 2023,

and the Magistrate believes there is enough reason to take action, the Magistrate can ask that person to explain why they should not be required to sign a bond or bail bond to promise good behavior for up to one year.

Section (2)

No action can be taken under this section against the editor, owner, printer, or publisher of any registered publication that follows the rules of the Press and Registration of Books Act, 1867, unless the State Government or an authorized officer gives permission.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, posts a video on social media where he falsely accuses a local judge of accepting bribes. This video goes viral and causes public outrage. The Executive Magistrate of Mumbai receives information about this video and believes that Ravi's actions amount to criminal defamation under the Bharatiya Nyaya Sanhita, 2023. The Magistrate then issues a notice to Ravi, requiring him to show cause why he should not be ordered to execute a bond for his good behaviour for a period of six months.

Example 2:

Priya, a shop owner in Delhi, is found selling obscene magazines that are prohibited under section 294 of the Bharatiya Nyaya Sanhita, 2023. The Executive Magistrate of Delhi receives a complaint about Priya's activities and believes there is sufficient ground to proceed against her. The Magistrate issues a notice to Priya, asking her to show cause why she should not be required to execute a bond for her good behaviour for a period of one year.

Example 3:

An online blogger, Arjun, writes a series of articles defaming a public official, accusing him of corruption without any evidence. These articles are widely shared and cause significant damage to the official's reputation. The Executive Magistrate in Bengaluru receives information about these articles and determines that Arjun's actions fall under criminal defamation as per the Bharatiya Nyaya Sanhita, 2023. The Magistrate issues a notice to Arjun, requiring him to show cause why he should not be ordered to execute a bond for his good behaviour for a period of nine months.

Example 4:

Sunita, a resident of Kolkata, imports and sells DVDs containing obscene content, which is illegal under section 294 of the Bharatiya Nyaya Sanhita, 2023. The Executive Magistrate of Kolkata receives a tip-off about Sunita's activities and finds sufficient grounds to take action. The Magistrate issues a notice to Sunita, asking her to show cause why she should not be required to execute a bond for her good behaviour for a period of one year.

Example 5:

A local newspaper in Chennai publishes an article accusing a judge of misconduct without any substantial evidence. The article leads to public distrust in the judiciary. The Executive Magistrate of Chennai receives information about the publication and believes it amounts to criminal defamation under the Bharatiya Nyaya Sanhita, 2023. However, since the newspaper is registered under the Press and Registration of Books Act, 1867, the Magistrate can only proceed against the editor, proprietor, printer, or publisher with the order or authority of the State Government.

Section 128: 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 or bail bond for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

SIMPLIFIED ACTS

If an Executive Magistrate gets information that someone in their area is hiding and there is a reason to believe that this person is planning to commit a serious crime, the Magistrate can take action.

The Magistrate can ask this person to explain why they should not be required to sign a bond or bail bond promising to behave well.

This bond or bail bond can be for a period of up to one year, as decided by the Magistrate.

Explanation using Example

Example 1:

Ravi, a resident of a small town in Maharashtra, has been frequently seen loitering around a local bank at odd hours. The local police receive information that Ravi is taking measures to avoid being noticed, such as wearing disguises and using different routes to approach the bank. The police suspect that Ravi might be planning to commit a robbery. The Executive Magistrate, upon receiving this information, calls Ravi to a hearing. During the hearing, the Magistrate asks Ravi to explain why he should not be required to provide a bond for his good behaviour. Ravi fails to provide a satisfactory explanation. Consequently, the Magistrate orders Ravi to execute a bond for his good behaviour for a period of six months to ensure he does not engage in any criminal activities.

Example 2:

In a village in Uttar Pradesh, Suresh has been observed by the villagers to be acting suspiciously around the local market area. He often hides in alleys and avoids direct contact with people. The villagers report their concerns to the local police, who then inform the Executive Magistrate. The police believe that Suresh is planning to commit theft in the market. The Magistrate summons Suresh and asks him to show cause why he should not be required to execute a bond for his good behaviour. Suresh is unable to provide a convincing reason for his suspicious behaviour. As a result, the Magistrate orders Suresh to execute a bond for his good behaviour for a period of one year to prevent any potential criminal activity.

Section 129: Security for good behaviour from habitual offenders.

When an Executive Magistrate receives information that there is within his local jurisdiction a person who -

(a) is by habit a robber, house-breaker, thief, or forger; or

(b) is by habit a receiver of stolen property knowing the same to have been stolen; or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or

(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 X of the Bharatiya Nyaya Sanhita, 2023, or under section 178, section 179, section 180 or section 181 of that Sanhita; 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;

(b) the Foreigners Act, 1946;

(c) the Employees' Provident Fund and Miscellaneous Provisions Act, 1952;

(d) the Essential Commodities Act, 1955;

(e) the Protection of Civil Rights Act, 1955;

(f) the Customs Act, 1962;

(g) the Food Safety and Standards Act, 2006; 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 not be ordered to execute a bail bond, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

SIMPLIFIED ACTS

When an Executive Magistrate gets information that there is a person in their area who:

(a) is usually a robber, house-breaker, thief, or forger; or

(b) regularly buys stolen property knowing it is stolen; or

(c) often protects or hides thieves, or helps in hiding or selling stolen property; or

(d) often commits, tries to commit, or helps commit crimes like kidnapping, abduction, extortion, cheating, mischief, or any crime punishable under Chapter X of the Bharatiya Nyaya Sanhita, 2023, or under sections 178, 179, 180, or 181 of that law; or

(e) regularly commits, tries to commit, or helps commit crimes that disturb the peace; or

(f) regularly commits, tries to commit, or helps commit:

(i) any crime under one or more of these laws:

(a) the Drugs and Cosmetics Act, 1940;

(b) the Foreigners Act, 1946;

(c) the Employees' Provident Fund and Miscellaneous Provisions Act, 1952;

(d) the Essential Commodities Act, 1955;

(e) the Protection of Civil Rights Act, 1955;

(f) the Customs Act, 1962;

(g) the Food Safety and Standards Act, 2006; or

(ii) any crime punishable under any other law that prevents hoarding, profiteering, food or drug adulteration, or corruption; or

(g) is so desperate and dangerous that letting them roam free without security is risky for the community,

the Magistrate can, following the proper procedure, ask this person to explain why they should not be required to sign a bail bond to ensure good behavior for a period of up to three years, as the Magistrate sees fit.

Explanation using Example

Example 1:

Ravi is a known thief in his locality in Mumbai. Over the past few years, he has been arrested multiple times for house-breaking and theft. Recently, the local police received information that Ravi is planning another burglary. The Executive Magistrate, having jurisdiction over the area, decides to take preventive action. Under Section 129 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate issues a notice to Ravi, requiring him to show cause why he should not be ordered to execute a bail bond for his good behaviour for a period of two years. Ravi fails to provide a satisfactory explanation, and the Magistrate orders him to furnish a bail bond, ensuring that he will not engage in any criminal activities during this period.

Example 2:

Sita runs a small grocery store in Delhi. Over the years, she has been caught several times for selling adulterated food products. The Food Safety and Standards Authority of India (FSSAI) has fined her multiple times, but she continues her illegal activities. The Executive Magistrate, upon receiving a report from the FSSAI, decides to take action under Section 129 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Magistrate issues a notice to Sita, asking her to show cause why she should not be required to execute a bail bond for her good behaviour for a period of one year. Sita is unable to justify her actions, and the Magistrate orders her to furnish a bail bond, ensuring that she will comply with food safety regulations and not engage in the sale of adulterated products.

Example 3:

Ramesh is a habitual offender involved in extortion and cheating in his town in Uttar Pradesh. He has been arrested several times for threatening local shopkeepers and extracting money from them. The local police have received fresh complaints about his activities. The Executive Magistrate, acting on this information, decides to invoke Section 129 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Magistrate issues a notice to Ramesh, requiring him to show cause why he should not be ordered to execute a bail bond for his good behaviour for a period of three years. Ramesh fails to provide a convincing explanation, and the Magistrate orders him to furnish a bail bond, ensuring that he will refrain from any criminal activities during this period.

Example 4:

Geeta is known in her community for harboring thieves and helping them dispose of stolen property. The local police have evidence of her involvement in several such cases. The Executive Magistrate, upon receiving this information, decides to take preventive action under Section 129 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Magistrate issues a notice to Geeta, asking her to show cause why she should not be required to execute a bail bond for her good behaviour for a period of two years. Geeta is unable to provide a satisfactory explanation, and the Magistrate orders her to furnish a bail bond, ensuring that she will not engage in any activities related to harboring thieves or disposing of stolen property during this period.

Section 130: Order to be made.

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

SIMPLIFIED ACTS

When a Magistrate is working under section 126, 127, 128, or 129 and thinks it's necessary to ask someone to explain their actions under these sections, the Magistrate must:

Write an order that includes:

A summary of the information they received.

The amount of money the person needs to promise to pay (bond).

How long this promise (bond) will be in effect.

The number of people who will guarantee (sureties) the bond, after checking if these people are suitable and reliable.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, has been reported to the local Magistrate under Section 126 for causing disturbances in his neighborhood. The Magistrate, after reviewing the complaints and evidence, decides it is necessary to require Rajesh to show cause why he should not be ordered to keep the peace. The Magistrate issues a written order stating the details of the complaints, the amount of the bond Rajesh must execute (₹10,000), the term for which the bond will be in force (one year), and the requirement for two sureties who are financially stable and have a good reputation in the community.

Example 2:

Priya, a shop owner in Delhi, has been accused of engaging in activities that threaten public safety under Section 127. The Magistrate, after considering the information received, deems it necessary to require Priya to show cause why she should not be bound to good behavior. The Magistrate issues a written order detailing the substance of the accusations, the amount of the bond Priya must execute (₹20,000), the term for which it will be in force (six months), and the requirement for one surety who is a respected member of the business community.

Section 131: Procedure in respect of person present in Court.

If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

SIMPLIFIED ACTS

If the person the order is about is in Court, the order must be read out loud to them.

If the person prefers, the main points of the order should be explained to them instead.

Explanation using Example

Example 1:

Rajesh is accused of disturbing the peace in his neighborhood by playing loud music late at night. The police file a report, and Rajesh is summoned to court. During the court hearing, the judge issues an order requiring Rajesh to keep the peace for the next six months. Since Rajesh is present in the courtroom, the judge reads the order aloud to him. Rajesh, who is not very fluent in legal language, requests the judge to explain the order in simpler terms. The judge then explains that Rajesh must not engage in any activities that disturb the peace of his neighborhood for the next six months, and any violation could result in further legal action.

Example 2:

Meena is brought to court for allegedly harassing her neighbors. The court decides to issue an order for her to maintain good behavior for a year. Meena is present in the courtroom when the order is made. The judge reads the order to her, but Meena, who has difficulty understanding Hindi, asks for an explanation in her native language, Tamil. The court arranges for a translator who explains to Meena that she must not engage in any harassing behavior towards her neighbors for the next year, and failure to comply could lead to stricter penalties.

Section 132: Summons or warrant in case of person not so present.

If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

SIMPLIFIED ACTS

If the person is not in Court, the Magistrate will send a notice asking them to come to Court. If the person is in jail, the Magistrate will send an order to the officer in charge to bring the person to Court.

If the Magistrate gets a report from a police officer or other information (which the Magistrate will write down) that suggests there is a risk of a serious disturbance, and the only way to stop it is to arrest the person immediately, the Magistrate can issue an arrest warrant at any time.

Explanation using Example

Example 1:

Scenario: Rajesh, a local shopkeeper, has been accused of threatening his neighbor, Suresh, with violence over a property dispute. Suresh files a complaint with the local police, who then report the matter to the Magistrate.

Application of Section 132:

Step 1: The Magistrate reviews the police report and finds that Rajesh is not present in court.

Step 2: The Magistrate issues a summons requiring Rajesh to appear in court on a specified date.

Step 3: If Rajesh fails to appear in court on the specified date, the Magistrate may then issue a warrant for his arrest to ensure his presence in court.

Outcome: Rajesh receives the summons and appears in court on the specified date to address the allegations against him.

Example 2:

Scenario: Priya, a college student, is involved in a heated argument with her classmates, which escalates to the point where there is a real threat of physical violence. The police are called, and Priya is taken into custody to prevent any further escalation.

Application of Section 132:

Step 1: The police report the incident to the Magistrate, highlighting the immediate threat of a breach of the peace.

Step 2: The Magistrate records the substance of the police report and determines that the breach of peace cannot be prevented without Priya's immediate arrest.

Step 3: The Magistrate issues a warrant directing the officer in whose custody Priya is to bring her before the court immediately.

Outcome: Priya is brought before the court without delay, and the Magistrate takes necessary actions to ensure that the peace is maintained and any potential violence is averted.

Section 133: Copy of order to accompany summons or warrant.

Every summons or warrant issued under section 132 shall be accompanied by a copy of the order made under section 130, and such copy shall be delivered by the officer serving or

executing such summons or warrant to the person served with, or arrested under, the same.

SIMPLIFIED ACTS

Whenever a summons or warrant is issued under section 132, it must come with a copy of the order made under section 130.

The officer who delivers or carries out the summons or warrant must give this copy to the person who is being served with the summons or arrested.

Explanation using Example

Example 1:

Scenario: Rajesh, a local shop owner, has been causing disturbances in his neighborhood by playing loud music late at night. The local residents have filed multiple complaints against him.

Application of the Act:

Order Issued: The magistrate issues an order under Section 130 of The Bharatiya Nagarik Suraksha Sanhita 2023, directing Rajesh to maintain peace and not cause any disturbances.

Summons Issued: A summons is issued under Section 132, requiring Rajesh to appear before the magistrate.

Copy of Order: As per Section 133, a copy of the order made under Section 130 must accompany the summons.

Delivery: The police officer serving the summons delivers both the summons and the copy of the order to Rajesh.

Outcome: Rajesh receives the summons along with the copy of the order, ensuring he is fully aware of the specific instructions and the reasons for his required appearance in court.

Example 2:

Scenario: Priya has been involved in a series of fraudulent activities, and a warrant for her arrest has been issued.

Application of the Act:

Order Issued: The magistrate issues an order under Section 130, detailing the reasons for Priya's arrest and the need for her to be brought before the court.

Warrant Issued: A warrant is issued under Section 132 for Priya's arrest.

Copy of Order: According to Section 133, a copy of the order made under Section 130 must accompany the warrant.

Execution: The police officer executing the warrant arrests Priya and provides her with both the warrant and the copy of the order.

Outcome: Priya is arrested and is given a copy of the order along with the warrant, ensuring she understands the grounds for her arrest and the legal process that follows.

Section 134: Power to dispense with personal attendance.

The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by an advocate.

SIMPLIFIED ACTS

The Magistrate can allow a person to not show up in person if there is a good reason.

This applies to someone who has been asked to explain why they shouldn't be required to sign a promise to keep the peace or behave well.

The Magistrate can let this person be represented by a lawyer instead of appearing themselves.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, has been involved in a neighborhood dispute that escalated to the point where the local police were called. The police, concerned about the potential for further disturbances, referred the matter to the Magistrate. The Magistrate issued a notice to Ravi, requiring him to show cause why he should not be ordered to execute a bond for keeping the peace. However, Ravi is a senior citizen with mobility issues and finds it difficult to attend court in person. Recognizing Ravi's situation, the Magistrate decides to dispense with Ravi's personal attendance and allows his advocate to appear on his behalf to present his case.

Example 2:

Priya, a software engineer in Bangalore, was accused of sending threatening messages to a colleague. The police, aiming to prevent any further harassment, brought the case to the Magistrate. The Magistrate issued a notice to Priya, asking her to show cause why she should not be ordered to execute a bond for good behaviour. Priya, who is currently on a crucial business trip abroad, is unable to attend the court hearing in person. Understanding the importance of her professional commitments and the fact that she has

no prior criminal record, the Magistrate permits Priya's advocate to appear on her behalf to explain her situation and present her defense.

Section 135: Inquiry as to truth of information.

Section 130 - Inquiry by Magistrate

(1) When an order under section 130 has been read or explained under section 131 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 132, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 130 has been made to execute a bond or bail bond, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond or bail bond is executed or, in default of execution, until the inquiry is concluded:

Provided that -

(a) no person against whom proceedings are not being taken under section 127, section 128, or section 129 shall be directed to execute a bond or bail bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 130.

(4) For the purposes of this section the fact that a person is a habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under

this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

SIMPLIFIED ACTS

Section 130 - Inquiry by Magistrate

(1) When a person is in court because of an order under section 130, or if they appear or are brought before a Magistrate because of a summons or warrant under section 132, the Magistrate will investigate to find out if the information that led to the action is true. The Magistrate will also gather any additional evidence needed.

(2) This investigation will be done in a way similar to how trials are conducted and evidence is recorded in summons-cases.

(3) During the investigation, if the Magistrate thinks immediate action is needed to prevent violence, public disturbance, or any crime, or to ensure public safety, they can require the person to sign a bond or bail bond to keep the peace or behave well until the investigation is over. The Magistrate can also keep the person in custody until they sign the bond or until the investigation is finished. However:

(a) A person who is not being investigated under sections 127, 128, or 129 cannot be forced to sign a bond for good behavior.

(b) The conditions of the bond, like the amount or the need for guarantors, should not be harsher than those specified in the order under section 130.

(4) To prove that a person is a habitual offender or very dangerous, evidence can be based on their general reputation or other means.

(5) If two or more people are involved in the matter being investigated, the Magistrate can decide to handle their cases together or separately, as they see fit.

(6) The investigation must be completed within six months from when it started. If it is not finished within this time, the proceedings will end unless the Magistrate records special reasons in writing to continue. If a person has been detained during the investigation, the proceedings against them will end after six months of detention unless ended earlier.

(7) If the Magistrate allows the proceedings to continue beyond six months, the Sessions Judge can cancel this decision if the affected person applies and the Judge finds that there was no special reason or the decision was unreasonable.

Explanation using Example

Example 1:

Rajesh, a local shopkeeper, has been accused of inciting a group of people to create a public disturbance in his neighborhood. The police, acting on this information, issue a summons for Rajesh to appear before the Magistrate under Section 132 of the Bharatiya Nagarik Suraksha Sanhita 2023.

When Rajesh appears in court, the Magistrate reads out the order under Section 130 and explains the allegations to him. The Magistrate then proceeds to inquire into the truth of the information by examining witnesses and collecting evidence, as per the procedure for summons-cases.

During the inquiry, the Magistrate finds that there is a risk of Rajesh causing further disturbances. To prevent any breach of peace, the Magistrate directs Rajesh to execute a bond for maintaining good behavior until the inquiry is concluded. Rajesh is required to provide sureties and a monetary bond. If Rajesh fails to execute the bond, he will be detained in custody until the inquiry is completed.

Example 2:

Sunita, a known habitual offender in her locality, is brought before the Magistrate after being accused of planning a theft. The police have issued a warrant under Section 132, and Sunita is presented in court.

The Magistrate, under Section 130, begins an inquiry into the truth of the information against Sunita. Witnesses testify that Sunita has a reputation for being involved in criminal activities. The Magistrate records this evidence and considers it necessary to take immediate measures to prevent any potential crime.

The Magistrate directs Sunita to execute a bail bond for keeping the peace and maintaining good behavior until the inquiry is concluded. Sunita is required to provide sureties, and the conditions of the bond are set in accordance with the order under Section 130. If Sunita fails to execute the bond, she will be detained in custody until the inquiry is completed.

The inquiry is conducted efficiently and is completed within six months. If it had not been completed within this period, the proceedings would have been terminated unless the Magistrate recorded special reasons for continuing the inquiry. If Sunita had been detained during the inquiry, the proceedings against her would have been terminated after six months of detention unless concluded earlier.

Section 136: 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 or bail bond, 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 130;
- (b) the amount of every bond or bail 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 child, the bond shall be executed only by his sureties.

SIMPLIFIED ACTS

If, after looking into the matter, it is shown that it is necessary to keep the peace or ensure good behavior, the person being investigated must sign a bond or bail bond. The Magistrate will then make an order for this:

Provided that -

- (a) No one will be asked to provide a type of security, an amount, or for a time period that is different from what is specified in the order made under section 130;
- (b) The amount of every bond or bail bond will be set based on the specifics of the case and will not be too high;
- (c) If the person being investigated is a child, the bond will only be signed by their guarantors.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, has been involved in several street fights and has a history of disturbing the peace in his neighborhood. The local police have received multiple complaints about his behavior. The Magistrate conducts an inquiry and finds that Ravi's actions are a threat to public peace. To ensure that Ravi maintains good behavior, the Magistrate orders him to execute a bond of ₹10,000 for a period of one year. This means Ravi must promise to pay ₹10,000 if he engages in any further disruptive behavior within the next year. The amount is decided based on Ravi's financial situation and is not excessive.

Example 2:

Seema, a 16-year-old girl from Delhi, has been caught repeatedly engaging in petty theft. The police have warned her several times, but she continues with her behavior. The Magistrate conducts an inquiry and determines that it is necessary for Seema to execute a bond to ensure she behaves well in the future. However, since Seema is a minor, the bond must be executed by her parents or guardians as her sureties. The Magistrate orders Seema's parents to execute a bond of ₹5,000 for a period of six months, ensuring that they take responsibility for her behavior during this time.

Section 137: Discharge of person informed against.

If, on an inquiry under section 135, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

SIMPLIFIED ACTS

If, during an investigation under section 135, it is not proven that the person being investigated needs to sign a bond to keep the peace or behave well:

The Magistrate will note this in the records.

If the person is in custody only for the investigation, they will be released.

If the person is not in custody, they will be formally cleared of the investigation.

Explanation using Example

Example 1:

Scenario: Rajesh, a local shopkeeper, is accused by his neighbor of being a public nuisance and threatening peace in the neighborhood. The neighbor files a complaint, and Rajesh is brought before the Magistrate for an inquiry under Section 135 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Inquiry Outcome: During the inquiry, it is found that there is no substantial evidence to prove that Rajesh is a threat to peace or that he has been behaving badly. The witnesses testify in Rajesh's favor, and the Magistrate concludes that there is no need for Rajesh to execute a bond for keeping the peace or maintaining good behavior.

Magistrate's Action: The Magistrate makes an entry in the record stating that it is not necessary for Rajesh to execute a bond. Since Rajesh was in custody only for the purpose of the inquiry, the Magistrate orders his immediate release.

Example 2:

Scenario: Priya, a college student, is accused of participating in a protest that allegedly turned violent. She is detained and brought before the Magistrate for an inquiry under Section 135 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Inquiry Outcome: During the inquiry, it is revealed that Priya was present at the protest but did not engage in any violent activities. Video evidence and witness statements confirm that she was peacefully protesting and did not pose any threat to public order or safety.

Magistrate's Action: The Magistrate records that it is not necessary for Priya to execute a bond for maintaining good behavior. Since Priya was not in custody, the Magistrate formally discharges her from the case, allowing her to continue her studies without any legal obligations stemming from this incident.

Section 138: Commencement of period for which security is required.

Bare Act

(1) If any person, in respect of whom an order requiring security is made under section 125 or section 136, is at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

SIMPLIFIED ACTS

(1) If someone is ordered to provide security (a guarantee of good behavior) under section 125 or section 136, and they are currently in prison or have just been sentenced to prison, the time period for providing that security will start after they finish their prison sentence.

(2) In other situations, the time period for providing security will start on the date of the order, unless the Magistrate decides, for a good reason, to set a later start date.

Explanation using Example

Example 1:

Rahul was involved in a brawl and was found guilty of disturbing public peace. The Magistrate, under Section 125, ordered Rahul to provide a security bond to ensure he keeps the peace for the next year. However, Rahul was also sentenced to 6 months of

imprisonment for his actions. According to Section 138(1) of The Bharatiya Nagarik Suraksha Sanhita 2023, the one-year period for which Rahul is required to provide security will start only after he completes his 6-month prison sentence.

Example 2:

Priya was caught engaging in activities that were deemed harmful to public order. The Magistrate, under Section 136, ordered her to provide a security bond for good behavior for a period of 2 years. Priya was not sentenced to imprisonment. According to Section 138(2) of The Bharatiya Nagarik Suraksha Sanhita 2023, the 2-year period for which Priya is required to provide security will start from the date the Magistrate issued the order. However, if the Magistrate finds a sufficient reason, he may decide that the period should start from a later date.

Section 139: Contents of bond.

The bond or bail bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond or bail bond.

SIMPLIFIED ACTS

If a person has to sign a bond or bail bond, it means they promise to either: a. Keep the peace, or b. Behave well.

If they promise to behave well, then: a. Committing a crime, b. Trying to commit a crime, or c. Helping someone else commit a crime,

that can lead to jail time, will break their promise in the bond or bail bond.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, has been involved in several minor altercations in his neighborhood. The local police, concerned about his behavior, decide to take preventive action.

Application of Section 139: The police ask Rajesh to sign a bond under Section 139 of The Bharatiya Nagarik Suraksha Sanhita 2023. This bond requires Rajesh to commit to keeping the peace in his neighborhood. If Rajesh gets into another altercation or commits any offense that is punishable with imprisonment, he will be considered in breach of this bond. As a result, he may face legal consequences, including possible arrest and further penalties.

Example 2:

Scenario: Priya, a college student in Delhi, has been caught multiple times for participating in unlawful protests that disrupt public order. The authorities decide to take preventive measures to ensure she does not engage in such activities again.

Application of Section 139: Priya is required to execute a bail bond under Section 139, binding her to good behavior. This means she must refrain from participating in any unlawful activities or protests that could lead to imprisonment. If Priya is found to be involved in any such activities again, it will be considered a breach of her bail bond, and she could face arrest and additional legal action.

Section 140: Power to reject sureties.

(1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bail bond:

Provided that before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bail bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

SIMPLIFIED ACTS

(1) A Magistrate can refuse to accept a person as a surety (someone who promises to pay money if another person does not follow the rules of their bail) or can reject a surety that was previously accepted by him or another Magistrate if he believes that the person is not suitable for the bail bond:

However, before refusing or rejecting a surety, the Magistrate must either conduct an investigation himself, under oath, to determine if the surety is suitable, or have another Magistrate conduct the investigation and provide a report.

(2) Before starting the investigation, the Magistrate must give reasonable notice to the surety and the person who offered the surety. During the investigation, the Magistrate must record the main points of the evidence presented.

(3) If, after reviewing the evidence and any report from another Magistrate, the Magistrate decides that the surety is not suitable, he must make an order to refuse or reject the surety and explain his reasons for doing so:

However, before rejecting a surety that was previously accepted, the Magistrate must issue a summons or warrant to bring the person for whom the surety is bound to appear before him.

Explanation using Example

Example 1:

Rajesh is arrested for a minor theft and is granted bail by the Magistrate. His friend, Suresh, offers to be his surety. However, the Magistrate learns that Suresh has a history of failing to appear in court when required and has a criminal record. The Magistrate decides to hold an inquiry to determine Suresh's fitness as a surety. After giving notice to both Rajesh and Suresh, the Magistrate conducts the inquiry and records the evidence. Based on the evidence, the Magistrate concludes that Suresh is not a fit person to be a surety and rejects him, providing detailed reasons for the decision.

Example 2:

Priya is accused of a bailable offense and her brother, Amit, offers to be her surety. Initially, the Magistrate accepts Amit as a surety. However, later it comes to the Magistrate's attention that Amit has been involved in fraudulent activities. The Magistrate decides to re-evaluate Amit's suitability as a surety. He issues a notice to Amit and Priya and conducts an inquiry, recording all the evidence presented. After reviewing the evidence and the report from a subordinate Magistrate, the Magistrate finds Amit unfit to be a surety and issues an order rejecting him, ensuring that Priya is brought before the court to address the change in her bail conditions.

Section 141: Imprisonment in default of security.

Legal Provisions

(1)

(a) If any person ordered to give security under section 125 or section 136 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until

within such period he gives the security to the Court or Magistrate who made the order requiring it;

(b) If any person after having executed a bond or bail bond for keeping the peace in pursuance of an order of a Magistrate under section 136, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond or bail 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 or bail 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 any one of whom the proceedings are referred to the Sessions Judge under sub-section (2) such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned, shall not exceed the period for which he was ordered to give security.

(5) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (4) to an Additional Sessions Judge and upon such transfer, such Additional Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(6) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(7) Imprisonment for failure to give security for keeping the peace shall be simple.

(8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 127, be simple, and, where the proceedings have been taken

under section 128 or section 129, be rigorous or simple as the Court or Magistrate in each case directs.

SIMPLIFIED ACTS

Legal Provisions

(1)

(a) If someone is required to provide a security deposit under section 125 or section 136 and they don't do it by the start date, they will be sent to prison. If they are already in prison, they will stay there until the period ends or until they provide the security to the Court or Magistrate who asked for it.

(b) If someone has signed a bond or bail bond to keep the peace as ordered by a Magistrate under section 136, and they break the terms of the bond, the Magistrate or their successor can order their arrest and detention in prison until the bond period ends. This is in addition to any other punishment or penalty they might face according to the law.

(2) If a Magistrate orders someone to provide security for more than one year and they don't do it, the Magistrate will issue a warrant to detain them in prison until the Sessions Judge gives further orders. The case will be sent to the Sessions Judge as soon as possible.

(3) The Sessions Judge will review the case, ask the Magistrate for any additional information or evidence needed, and give the person a chance to be heard. The Judge will then make a decision. However, the person cannot be imprisoned for more than three years for failing to provide security.

(4) If security is required from two or more people in the same case and one of them is referred to the Sessions Judge, the case for the other person(s) will also be included. The same rules from sub-sections (2) and (3) will apply, but the imprisonment period cannot exceed the time they were ordered to provide security for.

(5) A Sessions Judge can transfer any case referred to them under sub-section (2) or (4) to an Additional Sessions Judge. The Additional Sessions Judge will then have the same powers as the Sessions Judge for that case.

(6) If the security is given to the jail officer, they must immediately inform the Court or Magistrate who made the order and wait for their instructions.

(7) If someone is imprisoned for not providing security to keep the peace, the imprisonment will be simple.

(8) If someone is imprisoned for not providing security for good behavior, the imprisonment will be simple if the case is under section 127. If the case is under section 128 or 129, the imprisonment can be either rigorous or simple, as decided by the Court or Magistrate.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, was involved in a neighborhood dispute and was ordered by a Magistrate under Section 125 to provide a security bond of ₹50,000 to ensure he keeps the peace for one year. Rajesh failed to provide the security bond by the specified date. As a result, the Magistrate ordered that Rajesh be committed to prison until he either provides the security bond or the one-year period expires. Rajesh remained in prison for two months before his family managed to arrange the security bond, which was then submitted to the Magistrate, leading to his release.

Example 2:

Sunita, from Delhi, was previously involved in a case where she was required to execute a bail bond under Section 136 to ensure good behavior for six months. However, during this period, Sunita was found to have breached the conditions of her bail bond by engaging in a public altercation. The Magistrate, after recording the evidence of the breach, ordered Sunita's arrest and detention in prison for the remaining period of the bail bond. Sunita was detained for the remaining four months of the bond period, in addition to facing potential further legal consequences for her actions.

Example 3:

Vikram, a businessman in Bangalore, was ordered by a Magistrate to provide security for good behavior for a period of two years under Section 128. Vikram failed to provide the required security. The Magistrate issued a warrant for Vikram's detention and referred the case to the Sessions Judge. The Sessions Judge, after reviewing the case and giving Vikram an opportunity to be heard, decided that Vikram should be detained in prison until he provides the security or the two-year period expires. Vikram was imprisoned but later managed to provide the security after six months, leading to his release.

Example 4:

In a village in Uttar Pradesh, two individuals, Ramesh and Suresh, were involved in a communal dispute and were both ordered to provide security for keeping the peace for one year. Ramesh provided the security, but Suresh did not. The Magistrate referred Suresh's case to the Sessions Judge. Since both cases were related, the Sessions Judge also reviewed Ramesh's case. The Judge decided that Suresh should be detained in prison until he provides the security or the one-year period expires. Ramesh's case was closed as he had already provided the security.

Example 5:

Anita, a resident of Kolkata, was ordered to provide security for good behavior under Section 127 for a period of one year. Anita failed to provide the security and was detained in

prison. After three months, Anita's family managed to arrange the security and tendered it to the officer in charge of the jail. The officer referred the matter to the Magistrate, who then ordered Anita's release upon verification of the security.

Example 6:

Ravi, from Chennai, was ordered to provide security for good behavior under Section 129 for a period of six months. Ravi failed to provide the security and was detained in prison. The imprisonment was rigorous as directed by the Magistrate. After four months, Ravi's friends managed to arrange the security and submitted it to the Magistrate, leading to Ravi's release.

Section 142: Power to release persons imprisoned for failing to give security.

Legal Provisions

Discharge and Security Orders

(1) Whenever the District Magistrate in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the High Court or Court of Session, or, where the order was made by any other Court, District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case, may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The State Government may prescribe, by rules, the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any person has been discharged is, in the opinion of District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case.

(7) Unless such person gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case may remand such person to prison to undergo such unexpired portion.

(8) A person remanded to prison under sub-section (7) shall, subject to the provisions of section 141, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

(9) The High Court or Court of Session may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by any order made by it, and District Magistrate, in the case of an order passed by an Executive Magistrate under section 136, or the Chief Judicial Magistrate in any other case may make such cancellation where such bond was executed under his order or under the order of any other Court in his district.

(10) Any surety for the peaceable conduct or good behaviour of another person ordered to execute a bond under this Chapter may at any time apply to the Court making such order to cancel the bond and on such application being made, the Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it.

SIMPLIFIED ACTS

Legal Provisions

Discharge and Security Orders

(1) If the District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief Judicial Magistrate (in other cases) believes that a person in jail for not providing security can be released without causing danger to the community or anyone else, they can order the release of that person.

(2) If someone is in jail for not providing security, the High Court or Court of Session, or the District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief

Judicial Magistrate (in other cases) can reduce the amount of security, the number of sureties, or the time for which security is required.

(3) The release order mentioned in (1) can either be unconditional or have conditions that the person agrees to:

However, any condition will stop being effective once the period for which security was required ends.

(4) The State Government can set rules for the conditions under which a conditional release can be made.

(5) If the conditions of a person's release are not met, the District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief Judicial Magistrate (in other cases) can cancel the release.

(6) If a conditional release is canceled, the person can be arrested by any police officer without a warrant and brought before the District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief Judicial Magistrate (in other cases).

(7) If the person does not provide security as per the original order for the remaining period they were supposed to be detained, the District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief Judicial Magistrate (in other cases) can send the person back to prison for the remaining time.

(8) A person sent back to prison under (7) can be released at any time if they provide security as per the original order for the remaining period to the Court or Magistrate who made the order, or their successor.

(9) The High Court or Court of Session can cancel any bond for keeping peace or good behavior at any time for valid reasons recorded in writing. The District Magistrate (for orders by an Executive Magistrate under section 136) or the Chief Judicial Magistrate (in other cases) can also cancel such bonds if they were executed under their order or any other Court in their district.

(10) A surety (person who guarantees another's good behavior) can apply to the Court to cancel the bond at any time. The Court will then issue a summons or warrant to bring the person for whom the surety is bound to appear before it.

Explanation using Example

Example 1:

Ravi was involved in a neighborhood dispute and was ordered by an Executive Magistrate to provide a security bond to ensure he would keep the peace. Ravi failed to provide the security and was subsequently imprisoned. After a few months, the District Magistrate

reviewed Ravi's case and determined that Ravi could be released without posing any danger to the community. The District Magistrate ordered Ravi's release without any conditions.

Example 2:

Sita was imprisoned for failing to provide a security bond after being involved in a public disturbance. The Chief Judicial Magistrate decided to reduce the amount of the security bond required for her release. Sita accepted the new terms and was released on the condition that she would not engage in any further disturbances. However, after a few weeks, Sita was found to be involved in another public disturbance. The Chief Judicial Magistrate, upon learning of this breach, canceled her conditional release. Sita was arrested without a warrant and brought before the Chief Judicial Magistrate, who ordered her to be remanded to prison for the remaining period of her original sentence unless she could provide the original security bond.

Example 3:

Arjun was ordered to provide a security bond for good behavior after being involved in a series of minor thefts. He failed to provide the bond and was imprisoned. The High Court later reviewed his case and decided to cancel the bond requirement, citing sufficient reasons recorded in writing. Arjun was released from prison immediately following the High Court's order.

Example 4:

Meera stood as a surety for her friend, Priya, who was required to provide a security bond for good behavior. Priya violated the terms of her bond by engaging in a fight. Meera, worried about her liability, applied to the Court to cancel the bond. The Court issued a summons for Priya to appear. Upon Priya's appearance, the Court canceled the bond, and Priya was required to provide a new security bond or face imprisonment.

Example 5:

Vikram was imprisoned for failing to provide a security bond after being involved in a violent protest. The State Government prescribed certain conditions for his conditional release, which included attending anger management classes and reporting to the local police station weekly. Vikram accepted these conditions and was released. However, he failed to attend the anger management classes. The District Magistrate, upon discovering this breach, canceled Vikram's conditional release. Vikram was arrested without a warrant and brought before the District Magistrate, who ordered him to be remanded to prison for the remaining period of his original sentence.

Section 143: Security for unexpired period of bond.

(1) When a person for whose appearance a summons or warrant has been issued under the proviso to sub-section (3) of section 140 or under sub-section (10) of section 142, appears

or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond or bail bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security.

(2) Every such order shall, for the purposes of sections 139 to 142 (both inclusive) be deemed to be an order made under section 125 or section 136, as the case may be.

SIMPLIFIED ACTS

(1) If someone has been summoned or arrested with a warrant according to the rules in section 140(3) or section 142(10), and they show up or are brought to the Magistrate or Court, the Magistrate or Court will cancel their current bond or bail. The person will then need to provide a new bond or bail for the remaining time, similar to the original one.

(2) This new order will be treated as if it was made under section 125 or section 136, for the purposes of sections 139 to 142.

Explanation using Example

Example 1:

Scenario: Rajesh was arrested for disturbing the peace in his neighborhood. The Magistrate issued a bond for Rajesh to keep the peace for one year. After six months, Rajesh was again summoned to court for a similar disturbance.

Application of Section 143: When Rajesh appears before the Magistrate, the Magistrate cancels the original bond and orders Rajesh to provide fresh security for the remaining six months of the original bond period. This means Rajesh must now give a new bond or bail bond for the next six months to ensure he keeps the peace.

Example 2:

Scenario: Priya was required to execute a bond to ensure good behavior for two years after being involved in a public altercation. After one year, she is brought before the court again for another altercation.

Application of Section 143: The court cancels Priya's original bond and orders her to provide fresh security for the remaining one year of the bond period. Priya must now give a new bond or bail bond for the next year to ensure her good behavior.

Example 3:

Scenario: Arjun was issued a warrant for failing to appear in court for a hearing related to a bond he executed to keep the peace for six months. He is later apprehended and brought before the Magistrate.

Application of Section 143: The Magistrate cancels Arjun's original bond and orders him to provide fresh security for the remaining period of the bond. If three months were left on the original bond, Arjun must now give a new bond or bail bond for the next three months to ensure he keeps the peace.

Example 4:

Scenario: Meera was required to execute a bond for good behavior for one year after a public nuisance complaint. After eight months, she is summoned to court for another nuisance complaint.

Application of Section 143: When Meera appears before the court, the court cancels her original bond and orders her to provide fresh security for the remaining four months of the bond period. Meera must now give a new bond or bail bond for the next four months to ensure her good behavior.

CHAPTER X: ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

Section 144: Order for maintenance of wives, children and parents.

Maintenance of Dependents

(1) If any person having sufficient means neglects or refuses to maintain:

(a) his wife, unable to maintain herself; or

(b) his legitimate or illegitimate child, whether married or not, unable to maintain itself; or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself; or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or

mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation: For the purposes of this Chapter, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation: If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

SIMPLIFIED ACTS

Maintenance of Dependents

(1) If a person who has enough money does not take care of:

- (a) his wife, who cannot support herself; or
- (b) his legitimate or illegitimate child, whether married or not, who cannot support itself; or
- (c) his legitimate or illegitimate child (not a married daughter) who is an adult but cannot support itself due to physical or mental issues; or
- (d) his father or mother, who cannot support themselves,

a Magistrate can, after confirming the neglect or refusal, order that person to pay a monthly allowance to support his wife, child, father, or mother, at an amount the Magistrate decides is fair:

Provided that the Magistrate can order the father of a female child mentioned in clause (b) to pay the allowance until she becomes an adult, if the Magistrate believes her husband (if she is married) does not have enough money:

Provided further that the Magistrate can, while the case for monthly allowance is ongoing, order the person to pay a temporary monthly allowance for the support of his wife, child, father, or mother, and cover the costs of the case, at an amount the Magistrate thinks is reasonable:

Provided also that an application for the temporary monthly allowance and case costs should be resolved within sixty days from the date the notice of the application is served to the person.

Explanation: For this Chapter, "wife" includes a woman who has been divorced by, or has divorced, her husband and has not remarried.

(2) Any allowance for support or temporary support and case costs must be paid from the date of the order, or if ordered, from the date of the application for support or temporary support and case costs.

(3) If the person ordered to pay does not comply without a good reason, the Magistrate can issue a warrant to collect the amount due like a fine, and can sentence the person to jail for up to one month or until the payment is made, whichever is sooner:

Provided that no warrant will be issued to collect any amount due under this section unless an application is made to the Court within one year from the date it became due:

Provided further that if the person offers to support his wife on the condition that she lives with him, and she refuses, the Magistrate can consider her reasons and still make an order if he believes her reasons are valid.

Explanation: If a husband marries another woman or keeps a mistress, it is considered a valid reason for his wife to refuse to live with him.

(4) A wife is not entitled to receive support or temporary support and case costs from her husband if she is living in adultery, or if she refuses to live with her husband without a good reason, or if they are living separately by mutual agreement.

(5) If it is proven that a wife who has been granted an order is living in adultery, or refuses to live with her husband without a good reason, or if they are living separately by mutual agreement, the Magistrate will cancel the order.

Explanation using Example

Example 1:

Scenario: Rajesh, a well-off businessman, has separated from his wife, Priya. Priya is not employed and has no means to support herself. Rajesh has also stopped providing financial support to their 10-year-old son, Aryan.

Application: Priya approaches the Magistrate of the first class and provides proof that Rajesh has sufficient means but is neglecting to maintain her and Aryan. The Magistrate, upon verifying the evidence, orders Rajesh to pay a monthly allowance to Priya for her and Aryan's maintenance.

Outcome: Rajesh is ordered to pay ₹20,000 per month to Priya for her and Aryan's maintenance. Additionally, during the pendency of the proceedings, the Magistrate orders Rajesh to pay an interim maintenance of ₹15,000 per month and covers the legal expenses incurred by Priya.

Example 2:

Scenario: Sunita, a 25-year-old woman with a physical disability, is unable to work and support herself. Her father, Ramesh, who has sufficient means, refuses to provide for her. Sunita is unmarried and dependent on her father.

Application: Sunita files an application with the Magistrate of the first class, presenting evidence of her disability and her father's refusal to support her. The Magistrate, after reviewing the evidence, orders Ramesh to pay a monthly allowance for Sunita's maintenance.

Outcome: Ramesh is ordered to pay ₹10,000 per month to Sunita for her maintenance. The Magistrate also directs Ramesh to pay an interim maintenance of ₹8,000 per month during the proceedings and covers Sunita's legal expenses.

Example 3:

Scenario: Anil, an elderly man, is unable to support himself due to his age and health issues. His son, Vikram, who is financially stable, refuses to take care of him.

Application: Anil approaches the Magistrate of the first class with proof of his inability to maintain himself and Vikram's neglect. The Magistrate, upon verifying the evidence, orders Vikram to pay a monthly allowance for Anil's maintenance.

Outcome: Vikram is ordered to pay ₹12,000 per month to Anil for his maintenance. Additionally, the Magistrate orders Vikram to pay an interim maintenance of ₹10,000 per month during the proceedings and covers Anil's legal expenses.

Example 4:

Scenario: Meera, a divorced woman, has not remarried and is unable to support herself. Her ex-husband, Suresh, who has sufficient means, refuses to provide any financial support.

Application: Meera files an application with the Magistrate of the first class, presenting evidence of her financial situation and Suresh's refusal to support her. The Magistrate, after reviewing the evidence, orders Suresh to pay a monthly allowance for Meera's maintenance.

Outcome: Suresh is ordered to pay ₹15,000 per month to Meera for her maintenance. The Magistrate also directs Suresh to pay an interim maintenance of ₹12,000 per month during the proceedings and covers Meera's legal expenses.

Example 5:

Scenario: Kavita, a married woman, refuses to live with her husband, Rohan, because he has contracted a second marriage. Rohan offers to maintain Kavita only if she lives with him, but she refuses.

Application: Kavita approaches the Magistrate of the first class, explaining her refusal to live with Rohan due to his second marriage. The Magistrate, considering the grounds of her refusal, orders Rohan to pay a monthly allowance for Kavita's maintenance.

Outcome: Rohan is ordered to pay ₹18,000 per month to Kavita for her maintenance. The Magistrate also directs Rohan to pay an interim maintenance of ₹14,000 per month during the proceedings and covers Kavita's legal expenses.

Section 145: Procedure.

Proceedings under Section 144

(1) Proceedings under section 144 may be taken against any person in any district -

- (a) where he is; or
- (b) where he or his wife resides; or
- (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child; or
- (d) where his father or mother resides.

(2) All evidence in such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with, in the presence of his advocate, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case ex parte and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 144 shall have power to make such order as to costs as may be just.

SIMPLIFIED ACTS

Proceedings under Section 144

(1) Actions under section 144 can be taken against a person in any district:

- (a) where the person is currently located; or
- (b) where the person or their spouse lives; or
- (c) where the person last lived with their spouse, or with the mother of their child if the child is not legally recognized; or
- (d) where the person's father or mother lives.

(2) All evidence in these actions must be presented in front of the person who might be ordered to pay maintenance (financial support), or if they are excused from attending, in front of their lawyer. The evidence must be recorded as it is in regular court cases:

Provided that if the judge believes the person is purposely avoiding being served with court papers or not showing up to court, the judge can decide the case without them being there. If this happens, the person can ask to have the decision overturned within three months, but they must show a good reason and may have to pay costs to the other party as the judge sees fit.

(3) The Court can decide who should pay the legal costs in these cases in a way that is fair.

Explanation using Example

Example 1:

Ravi and Priya were married and lived together in Mumbai. After a few years, Ravi moved to Delhi for work, while Priya stayed back in Mumbai. Due to financial difficulties, Priya filed for maintenance under Section 145 of the Bharatiya Nagarik Suraksha Sanhita 2023. The proceedings could be initiated in Mumbai where Priya resides, even though Ravi is currently in Delhi. During the proceedings, Ravi was required to be present, but he kept avoiding the court summons. The Magistrate, satisfied that Ravi was willfully avoiding the court, decided to proceed ex parte (without Ravi's presence) and ordered Ravi to pay maintenance to Priya. Ravi later applied to set aside the ex parte order within three months, showing good cause for his absence, and the Magistrate considered his application, possibly imposing terms such as payment of costs to Priya.

Example 2:

Sunita, an unmarried woman, had a child with Rajesh, who initially supported them but later abandoned them. Sunita and her child lived in Pune, while Rajesh moved to Bangalore. Sunita filed for maintenance for her child under Section 145 of the Bharatiya Nagarik Suraksha Sanhita 2023. The proceedings could be initiated in Pune where Sunita and her child reside. Rajesh was required to attend the court hearings, but he sent his advocate instead. The evidence was recorded in the presence of Rajesh's advocate. The Magistrate, after considering the evidence, ordered Rajesh to pay maintenance for the child. Rajesh was also ordered to pay the costs of the proceedings as deemed just by the court.

Section 146: Alteration in allowance.

(1) On proof of a change in the circumstances of any person, receiving, under section 144 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.

(2) Where it appears to the Magistrate that in consequence of any decision of a competent Civil Court, any order made under section 144 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 144 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied that -

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order, -

(i) in the case where such sum was paid before such order, from the date on which such order was made;

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance or interim maintenance, as the case may be, after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a monthly allowance for the maintenance and interim maintenance or any of them has been ordered to be paid under section 144, the Civil Court shall take into account the sum which has been paid to, or recovered by, such person as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of the said order.

SIMPLIFIED ACTS

Section 144 - Maintenance Orders

(1) If there is proof that the situation of a person receiving or paying a monthly allowance for maintenance (support) has changed, the Magistrate can change the amount of the allowance as he sees fit. This applies to allowances for a wife, child, father, or mother.

(2) If a Civil Court makes a decision that affects an order made under Section 144, the Magistrate must cancel or change the order to match the Civil Court's decision.

(3) If a woman who has received a maintenance order under Section 144 gets divorced, the Magistrate must cancel the order if:

(a) The woman remarries after the divorce. The order is canceled from the date she remarries.

(b) The woman was divorced by her husband and has received all the money she was entitled to under customary or personal law. The order is canceled:

(i) From the date the order was made if she received the money before the order.

(ii) From the end of the period for which the husband has already paid maintenance if she received the money after the order.

(c) The woman divorced her husband and gave up her right to maintenance after the divorce. The order is canceled from the date she gave up her rights.

(4) When a Civil Court makes a decision about recovering maintenance or dowry, it must consider any monthly maintenance payments already made under Section 144.

Explanation using Example

Example 1:

Ravi and Priya were married for 10 years before they decided to get a divorce. The court ordered Ravi to pay Priya a monthly maintenance allowance of ₹20,000 under Section 144. After a year, Ravi lost his job and his financial situation worsened. Ravi approached the Magistrate with proof of his changed circumstances. The Magistrate, considering Ravi's new financial condition, decided to reduce the monthly maintenance allowance to ₹10,000.

Example 2:

Sunita was receiving a monthly maintenance allowance of ₹15,000 from her ex-husband, Rajesh, as ordered under Section 144. Sunita later remarried. Rajesh approached the Magistrate with proof of Sunita's remarriage. The Magistrate, satisfied with the evidence, cancelled the maintenance order from the date of Sunita's remarriage.

Example 3:

Amit was ordered to pay a monthly maintenance allowance of ₹12,000 to his elderly father under Section 144. After a few years, Amit's father inherited a significant amount of money from a relative, which changed his financial situation. Amit approached the Magistrate with proof of his father's improved financial condition. The Magistrate, considering the new circumstances, decided to reduce the maintenance allowance to ₹5,000.

Example 4:

Meera was receiving a monthly maintenance allowance of ₹18,000 from her ex-husband, Suresh, as ordered under Section 144. Meera later received a lump sum amount as per their customary law, which was payable upon divorce. Suresh approached the Magistrate with proof of this payment. The Magistrate, satisfied with the evidence, cancelled the maintenance order from the date the lump sum was paid.

Example 5:

Anita was ordered to pay a monthly maintenance allowance of ₹10,000 to her child under Section 144. Later, the Civil Court passed a decree for the recovery of dowry from Anita. The Civil Court took into account the sum already paid by Anita as monthly maintenance

while determining the amount to be recovered for dowry, ensuring that there was no double recovery.

Section 147: Enforcement of order of maintenance.

A copy of the order of maintenance or interim maintenance and expenses of proceedings, as the case may be, shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be, is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

SIMPLIFIED ACTS

If a court orders someone to pay maintenance (financial support) or temporary maintenance and legal expenses, a copy of this order will be given for free to the person who is supposed to receive the money. This could be the person themselves, their guardian, or the person who will actually get the money.

This order can be enforced by any Magistrate (a type of judge) in any location where the person who has to pay the money is found. The Magistrate must first confirm the identities of the people involved and that the payment has not been made.

Explanation using Example

Example 1:

Ravi and Priya are a married couple living in Mumbai. Due to irreconcilable differences, Priya files for maintenance under Chapter X of The Bharatiya Nagarik Suraksha Sanhita 2023. The court orders Ravi to pay monthly maintenance to Priya. A copy of this order is given to Priya without any payment. Ravi, however, moves to Delhi and stops paying the maintenance. Priya approaches a Magistrate in Delhi with the order. The Magistrate, after verifying the identities of Ravi and Priya and confirming the non-payment, enforces the order, ensuring Ravi resumes the maintenance payments to Priya.

Example 2:

Sunita, an elderly woman, is financially dependent on her son, Rajesh, who lives in Bangalore. Rajesh stops providing for her, and Sunita files for maintenance. The court orders Rajesh to pay a monthly allowance to Sunita. A copy of this order is given to Sunita without any payment. Rajesh relocates to Chennai and fails to comply with the order. Sunita approaches a Magistrate in Chennai with the order. The Magistrate, after confirming the identities and the non-payment, enforces the order, compelling Rajesh to pay the maintenance to Sunita.

CHAPTER XI: MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A - UNLAWFUL ASSEMBLIES

Section 148: Dispersal of assembly by use of civil force.

(1) Any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

SIMPLIFIED ACTS

(1) Any Executive Magistrate or the officer in charge of a police station, or if that officer is not available, any police officer who is at least a sub-inspector, can order any group of people that is causing trouble or is likely to cause trouble to break up and leave. The people in that group must then leave as ordered.

(2) If the group does not leave after being told to do so, or if they act in a way that shows they do not intend to leave, the Executive Magistrate or police officer mentioned in section (1) can use force to make them leave. They can also ask for help from any person who is not a member of the armed forces to help break up the group and, if needed, arrest and detain the people in the group so they can be punished according to the law.

Explanation using Example

Example 1:

Scenario: A large group of people gathers in a public park in Mumbai to protest against a new government policy. The protest starts peacefully but soon turns aggressive, with some members of the crowd starting to vandalize public property and block roads.

Application of Section 148:

Command to Disperse: The officer in charge of the local police station arrives at the scene and assesses the situation. Seeing the potential for public disturbance, he commands the assembly to disperse immediately.

Duty to Disperse: The members of the assembly are legally required to disperse as per the officer's command.

Use of Force: If the crowd does not disperse voluntarily, the officer, along with other police personnel, may use reasonable force to disperse the crowd. This could include using batons, tear gas, or water cannons.

Assistance from Civilians: The officer may also request assistance from nearby civilians (not members of the armed forces) to help disperse the crowd.

Arrest and Confinement: If necessary, the police may arrest and detain individuals who refuse to disperse, to prevent further disturbance and ensure they can be punished according to the law.

Example 2:

Scenario: In a small town in Rajasthan, a group of five people gathers outside a government office to protest against a local administrative decision. The protest is peaceful but starts attracting more people, and the crowd grows larger, raising concerns about potential disruption to public order.

Application of Section 148:

Command to Disperse: An Executive Magistrate, present at the scene, assesses the situation and determines that the assembly is likely to cause a disturbance of public peace. He commands the assembly to disperse.

Duty to Disperse: The members of the assembly are legally obligated to disperse following the Magistrate's command.

Use of Force: If the assembly does not disperse voluntarily, the Magistrate, along with police officers, may use reasonable force to disperse the crowd.

Assistance from Civilians: The Magistrate may request assistance from nearby civilians to help in dispersing the assembly.

Arrest and Confinement: If the assembly shows a determination not to disperse, the police may arrest and confine the individuals involved to prevent further disturbance and ensure they face legal consequences.

Example 3:

Scenario: During a festival in Kolkata, a group of more than five people starts an impromptu street performance that attracts a large crowd, blocking traffic and causing inconvenience to the public.

Application of Section 148:

Command to Disperse: A sub-inspector on duty notices the growing crowd and the disruption it is causing. He commands the assembly to disperse to restore public order.

Duty to Disperse: The performers and the crowd are legally required to disperse as per the sub-inspector's command.

Use of Force: If the crowd does not disperse voluntarily, the sub-inspector, along with other police officers, may use reasonable force to disperse the crowd.

Assistance from Civilians: The sub-inspector may request assistance from nearby civilians to help in dispersing the crowd.

Arrest and Confinement: If the crowd shows a determination not to disperse, the police may arrest and confine the individuals involved to prevent further disturbance and ensure they face legal consequences.

Section 149: Use of armed forces to disperse assembly.

Section 148 - Dispersal of Assembly by Armed Forces

(1) If any assembly referred to in sub-section (1) of section 148 cannot otherwise be dispersed, and it is necessary for the public security that it should be dispersed, the District Magistrate or any other Executive Magistrate authorised by him, who is present, may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Executive Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

SIMPLIFIED ACTS

Section 148 - Breaking Up a Crowd with the Help of Armed Forces

(1) If a crowd mentioned in Section 148(1) can't be broken up in any other way, and it's important for public safety to break it up, the District Magistrate or any other authorized Executive Magistrate who is there can call in the armed forces to break it up.

(2) This Magistrate can ask any officer in charge of a group of armed forces to break up the crowd with their help, and to arrest and hold the people in the crowd as the Magistrate directs, or as needed to break up the crowd or to punish them according to the law.

(3) Every officer of the armed forces must follow this order in the way they think is best, but they should use as little force and cause as little harm to people and property as possible while breaking up the crowd and arresting and holding the people.

Explanation using Example

Example 1:

A large group of protestors gathers in a central square of a major city in India, protesting against a new government policy. The protest starts peacefully but soon turns violent, with protestors throwing stones, damaging public property, and clashing with the police. The local police try to disperse the crowd using tear gas and water cannons, but the situation escalates further. The District Magistrate, present at the scene, assesses that the assembly cannot be dispersed by the police alone and that public security is at risk. The Magistrate then authorizes the use of the armed forces to disperse the assembly. An officer in command of a nearby military unit is instructed to intervene. The officer orders his troops to use minimal force to break up the crowd, arrest the main instigators, and restore order. The armed forces manage to disperse the crowd with minimal injuries and damage, and the arrested individuals are handed over to the police for further legal action.

Example 2:

During a religious festival in a small town, a rumor spreads that a particular community is planning to attack another community. This leads to a large, unlawful assembly of people armed with sticks and stones, ready to confront the other community. The local police attempt to calm the situation but are outnumbered and unable to control the crowd. The Executive Magistrate, who is present, determines that the assembly poses a significant threat to public security and decides to call in the armed forces. The Magistrate directs the commanding officer of a nearby paramilitary unit to disperse the crowd. The officer and his team arrive and use loudspeakers to warn the crowd to disperse peacefully. When the crowd does not comply, the armed forces use minimal force to break up the assembly, arrest key troublemakers, and prevent any violent clashes. The situation is brought under control, and the arrested individuals are processed according to the law.

Section 150: Power of certain armed force officers to disperse assembly.

When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

SIMPLIFIED ACTS

If a group of people is clearly threatening public safety and there is no Executive Magistrate available to handle the situation, any officer of the armed forces with a commission or official rank can break up the group using the armed forces under his command.

The officer can also arrest and detain any members of the group to help break it up or to ensure they are punished according to the law.

However, if the officer is able to contact an Executive Magistrate while taking these actions, he must do so and then follow the Magistrate's instructions on whether to continue or stop his actions.

Explanation using Example

Example 1:

During a large public protest in New Delhi against a newly enacted law, tensions escalate and the crowd begins to vandalize public property and attack law enforcement officers. The situation becomes volatile, and the local Executive Magistrate is unreachable due to communication failures. A nearby Army Colonel, who is a commissioned officer, assesses the situation and determines that public security is at severe risk. Utilizing Section 150 of the Bharatiya Nagarik Suraksha Sanhita 2023, he orders his troops to disperse the assembly. The troops use non-lethal methods to break up the crowd and detain several individuals involved in the violence. As soon as communication is restored, the Colonel contacts the Executive Magistrate and follows their further instructions regarding the ongoing situation and the detained individuals.

Example 2:

In a rural town in Maharashtra, a large group of individuals gathers to protest the construction of a new factory, which they believe will harm the environment. The protest starts peacefully but soon turns into a violent mob, blocking roads and setting vehicles on fire. The local Executive Magistrate is out of town and cannot be reached immediately. A nearby police station's Deputy Superintendent of Police (a gazetted officer) takes charge, invoking Section 150 of the Bharatiya Nagarik Suraksha Sanhita 2023. He deploys police forces to disperse the assembly using tear gas and water cannons. Several agitators are

arrested to restore order. Once the Executive Magistrate is reachable, the Deputy Superintendent coordinates with them to decide on further actions and the handling of the arrested protesters.

Section 151: Protection against prosecution for acts done under sections 148, 149 and 150.

Prosecution and Protection under Sections 148, 149, and 150

(1) No prosecution against any person for any act purporting to be done under section 148, section 149 or section 150 shall be instituted in any Criminal Court except:

- (a) with the sanction of the Central Government where such person is an officer or member of the armed forces;
- (b) with the sanction of the State Government in any other case.

(2) The following shall not be deemed to have committed an offence:

- (a) No Executive Magistrate or police officer acting under any of the said sections in good faith;
- (b) No person doing any act in good faith in compliance with a requisition under section 148 or section 149;
- (c) No officer of the armed forces acting under section 150 in good faith;
- (d) No member of the armed forces doing any act in obedience to any order which he was bound to obey.

(3) In this section and in the preceding sections of this Chapter:

- (a) The expression "armed forces" means the army, naval and air forces, operating as land forces and includes any other armed forces of the Union so operating;
- (b) "Officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;
- (c) "Member", in relation to the armed forces, means a person in the armed forces other than an officer.

SIMPLIFIED ACTS

Prosecution and Protection under Sections 148, 149, and 150

(1) You cannot take someone to a Criminal Court for actions they claim to have done under sections 148, 149, or 150 unless:

(a) The Central Government approves it if the person is an officer or member of the armed forces;

(b) The State Government approves it in any other case.

(2) The following people are not considered to have committed a crime:

(a) Any Executive Magistrate or police officer who acted in good faith under these sections;

(b) Anyone who did something in good faith because they were asked to under sections 148 or 149;

(c) Any armed forces officer who acted in good faith under section 150;

(d) Any member of the armed forces who followed an order they were required to obey.

(3) In this section and the previous sections of this Chapter:

(a) "Armed forces" means the army, navy, and air force when they are operating on land, and includes any other armed forces of the Union operating on land;

(b) "Officer" in the armed forces means anyone who is officially recognized as an officer, including junior commissioned officers, warrant officers, petty officers, non-commissioned officers, and non-gazetted officers;

(c) "Member" in the armed forces means anyone in the armed forces who is not an officer.

Explanation using Example

Example 1:

Scenario: A police officer, Inspector Sharma, is tasked with dispersing an unlawful assembly that has gathered in a public park in Delhi. The crowd becomes violent, and Inspector Sharma orders his team to use tear gas to disperse the crowd. During the operation, some individuals in the crowd suffer minor injuries.

Application of Section 151:

Protection: Inspector Sharma and his team are protected under Section 151(2)(a) as they were acting in good faith under Section 148 to disperse the unlawful assembly.

Prosecution: No criminal prosecution can be initiated against Inspector Sharma or his team without the sanction of the State Government as per Section 151(1)(b).

Example 2:

Scenario: Captain Raj, an officer in the Indian Army, is ordered to assist the local police in controlling a riot in a border town. During the operation, Captain Raj orders his troops to use non-lethal force to control the situation. Some property is damaged in the process.

Application of Section 151:

Protection: Captain Raj and his troops are protected under Section 151(2)(c) and (d) as they were acting in good faith under Section 150 and obeying orders.

Prosecution: No criminal prosecution can be initiated against Captain Raj or his troops without the sanction of the Central Government as per Section 151(1)(a).

Example 3:

Scenario: A local resident, Mr. Kumar, is asked by the police to help barricade a street to prevent an unlawful assembly from entering a residential area. Mr. Kumar complies and helps set up the barricade. During the process, a few individuals from the assembly try to break through and get injured.

Application of Section 151:

Protection: Mr. Kumar is protected under Section 151(2)(b) as he was acting in good faith in compliance with a requisition under Section 148.

Prosecution: No criminal prosecution can be initiated against Mr. Kumar without the sanction of the State Government as per Section 151(1)(b).

Example 4:

Scenario: Sub-Inspector Meena is involved in controlling a large protest that has turned violent. She orders her team to use water cannons to disperse the crowd. Some protestors file a complaint against her for using excessive force.

Application of Section 151:

Protection: Sub-Inspector Meena is protected under Section 151(2)(a) as she was acting in good faith under Section 148 to maintain public order.

Prosecution: No criminal prosecution can be initiated against Sub-Inspector Meena without the sanction of the State Government as per Section 151(1)(b).

B - PUBLIC NUISANCES

Section 152: Conditional order for removal of nuisance.

Section (1)

Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers -

(a) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(b) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(c) that the construction of any building, or, the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(e) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(f) that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order -

(i) to remove such obstruction or nuisance; or

(ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

(iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or

(iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or

(v) to fence such tank, well or excavation; or

(vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order,

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

Section (2)

No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation

A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

SIMPLIFIED ACTS

Section (1)

If a District Magistrate, Sub-divisional Magistrate, or any other specially authorized Executive Magistrate receives a report from a police officer or other information, and after considering any evidence they think is necessary, believes:

(a) that any illegal blockage or nuisance should be removed from a public place, road, river, or channel that the public can legally use; or

(b) that any business activity or storage of goods is harmful to the community's health or comfort, and therefore should be stopped, regulated, or the goods removed; or

(c) that the construction of any building or disposal of any substance that could cause a fire or explosion should be stopped; or

(d) that any building, tent, structure, or tree is in such a bad condition that it might fall and hurt people nearby, and therefore needs to be removed, repaired, or supported; or

(e) that any tank, well, or excavation near a public place should be fenced to prevent danger to the public; or

(f) that any dangerous animal should be destroyed, confined, or otherwise dealt with,

the Magistrate can issue a conditional order requiring the person responsible for the obstruction, nuisance, business, goods, building, tent, structure, substance, tank, well, excavation, animal, or tree to:

(i) remove the obstruction or nuisance; or

(ii) stop or regulate the business, or remove or regulate the goods as directed; or

- (iii) stop the construction of the building or change how the substance is disposed of; or
 - (iv) remove, repair, or support the building, tent, structure, or tree; or
 - (v) fence the tank, well, or excavation; or
 - (vi) destroy, confine, or deal with the dangerous animal as directed,
- or, if they disagree, to appear before the Magistrate or another subordinate Executive Magistrate at a specified time and place to explain why the order should not be made final.

Section (2)

No order made by a Magistrate under this section can be challenged in any Civil Court.

Explanation

A "public place" also includes property owned by the State, camping grounds, and areas left empty for health or recreational purposes.

Explanation using Example

Example 1:

Ravi owns a small shop in a busy market area in Delhi. He starts storing large quantities of flammable chemicals in his shop for resale. The local residents and shopkeepers notice a strong chemical odor and report it to the police, fearing a potential fire hazard. The police investigate and report the situation to the District Magistrate. After reviewing the evidence, the Magistrate issues a conditional order under Section 152 of The Bharatiya Nagarik Suraksha Sanhita 2023, directing Ravi to remove the chemicals within 7 days. If Ravi fails to comply, he must appear before the Magistrate to explain why the order should not be made absolute.

Example 2:

In a small town in Maharashtra, a large tree in front of a school is leaning dangerously after a recent storm. Parents and teachers are concerned that the tree might fall and injure the children. They report the issue to the local authorities. The Sub-divisional Magistrate, upon receiving the report and inspecting the site, issues a conditional order under Section 152, instructing the owner of the property where the tree is located to either remove or support the tree within 10 days. If the owner does not comply, they must appear before the Magistrate to show cause why the order should not be enforced.

Example 3:

In a village in Uttar Pradesh, a local farmer has a well that is adjacent to a frequently used public path. The well is unfenced and poses a danger to villagers, especially at night. After a few incidents of people nearly falling into the well, the villagers lodge a complaint with the

police. The police report the matter to the Executive Magistrate, who then issues a conditional order under Section 152, requiring the farmer to fence the well within 15 days to prevent any accidents. If the farmer does not comply, he must appear before the Magistrate to justify why the order should not be made absolute.

Example 4:

A factory in Gujarat is emitting noxious fumes that are affecting the health of nearby residents. The residents file a complaint with the local health department, which forwards the complaint to the police. The police conduct an investigation and submit their findings to the District Magistrate. The Magistrate, after considering the evidence, issues a conditional order under Section 152, directing the factory owner to either install proper filtration systems or cease operations within 30 days. If the factory owner fails to comply, they must appear before the Magistrate to explain why the order should not be enforced.

Example 5:

In a crowded neighborhood in Kolkata, a resident has set up a temporary tent structure on the sidewalk, obstructing the way for pedestrians. The local community files a complaint with the municipal authorities, who then inform the police. The police report the obstruction to the Sub-divisional Magistrate. The Magistrate issues a conditional order under Section 152, instructing the resident to remove the tent within 3 days. If the resident does not comply, they must appear before the Magistrate to show cause why the order should not be made absolute.

Section 153: Service or notification of order.

(1) The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of summons.

(2) If such order cannot be so served, it shall be notified by proclamation published in such manner as the State Government may, by rules, direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

SIMPLIFIED ACTS

(1) If possible, the order should be given directly to the person it is meant for, in the same way that a court summons is delivered.

(2) If the order cannot be delivered directly, it should be announced publicly in a way that the State Government decides through rules. A copy of the order should also be posted in a place where the person is most likely to see it.

Explanation using Example

Example 1:

Rajesh, a shop owner in Mumbai, has been causing a public nuisance by playing loud music late at night, disturbing the neighborhood. The local police issue an order under Section 153 of The Bharatiya Nagarik Suraksha Sanhita 2023 to Rajesh, instructing him to stop playing loud music after 10 PM.

(1) The police officer visits Rajesh's shop and personally hands over the order to him, ensuring that Rajesh understands the instructions and consequences of non-compliance.

Example 2:

Sita, a resident of a small village in Uttar Pradesh, has been dumping garbage in a public park, creating a health hazard for the community. The local authorities issue an order under Section 153 of The Bharatiya Nagarik Suraksha Sanhita 2023, directing Sita to cease this activity immediately.

(2) The authorities attempt to serve the order to Sita at her home, but she is not present and cannot be located. Consequently, the order is notified by proclamation. The local government publishes the order in the village's weekly newsletter and posts a copy on the notice board at the village panchayat office and at the entrance of the public park. This ensures that Sita and other villagers are informed about the order and the required actions.

Section 154: Person to whom order is addressed to obey or show cause.

The person against whom such order is made shall -

(a) perform, within the time and in the manner specified in the order, the act directed thereby; or

(b) appear in accordance with such order and show cause against the same; and such appearance or hearing may be permitted through audio-video conferencing.

SIMPLIFIED ACTS

The person who receives this order must -

(a) do what the order says, within the time and in the way the order specifies; or

(b) show up as the order requires and explain why they shouldn't have to follow it; and this can be done through a video call.

Explanation using Example

Example 1:

Scenario: Noise Pollution Complaint

Situation: Ramesh, a resident of a quiet neighborhood, has been playing loud music late at night, causing disturbance to his neighbors. The local police receive multiple complaints about the noise.

Order Issued: The police issue an order to Ramesh under Section 154 of The Bharatiya Nagarik Suraksha Sanhita 2023, directing him to stop playing loud music after 10 PM.

Compliance Options:

(a) Perform the Act: Ramesh must stop playing loud music after 10 PM as specified in the order.

(b) Show Cause: Ramesh can appear before the authorities, either in person or through audio-video conferencing, to explain why he should not be required to comply with the order.

Example 2:

Scenario: Illegal Construction

Situation: Priya has started constructing an additional floor on her house without obtaining the necessary permits, causing concern among her neighbors about the safety and legality of the construction.

Order Issued: The municipal authorities issue an order to Priya under Section 154 of The Bharatiya Nagarik Suraksha Sanhita 2023, directing her to halt the construction immediately and obtain the required permits.

Compliance Options:

(a) Perform the Act: Priya must stop the construction work immediately and apply for the necessary permits within the time specified in the order.

(b) Show Cause: Priya can appear before the municipal authorities, either in person or through audio-video conferencing, to explain why she should be allowed to continue the construction without the permits.

Section 155: Penalty for failure to comply with section 154.

If the person against whom an order is made under section 154 does not perform such act or appear and show cause, he shall be liable to the penalty specified in that behalf in section 223 of the Bharatiya Nyaya Sanhita, 2023, and the order shall be made absolute.

SIMPLIFIED ACTS

If someone is given an order under section 154 and they do not do what the order says or do not show up to explain why they didn't do it, they will face the penalty mentioned in section 223 of the Bharatiya Nyaya Sanhita, 2023.

The order will then become final and must be followed.

Explanation using Example

Example 1:

Rajesh runs a small factory in a residential area in Mumbai. The local authorities receive multiple complaints from residents about the noise and pollution caused by Rajesh's factory. Under Section 154 of the Bharatiya Nagarik Suraksha Sanhita 2023, the authorities issue an order to Rajesh to reduce the noise levels and control the pollution within a specified time frame. Rajesh ignores the order and continues his operations without making any changes. As a result, under Section 155, Rajesh is liable to face penalties as specified in Section 223 of the Bharatiya Nyaya Sanhita 2023, and the order to reduce noise and pollution becomes absolute, meaning Rajesh must comply without further delay.

Example 2:

Sunita owns a plot of land in a busy market area in Delhi. She starts constructing a building without obtaining the necessary permits, causing obstruction and inconvenience to the public. The municipal corporation issues an order under Section 154 of the Bharatiya Nagarik Suraksha Sanhita 2023, directing Sunita to stop the construction and obtain the required permits. Sunita disregards the order and continues with the construction. Consequently, under Section 155, Sunita is subject to penalties as outlined in Section 223 of the Bharatiya Nyaya Sanhita 2023, and the order to halt construction and obtain permits becomes absolute, compelling Sunita to comply immediately.

Section 156: Procedure where existence of public right is denied.

Section 152 - Prevention of Obstruction, Nuisance, or Danger

(1) Where an order is made under section 152 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 157, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 157.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made

such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

SIMPLIFIED ACTS

Section 152 - Prevention of Obstruction, Nuisance, or Danger

(1) If an order is made to prevent blocking, causing trouble, or creating danger to the public in using any road, river, channel, or place, the Magistrate will ask the person against whom the order was made if they deny that the public has a right to use that road, river, channel, or place. If the person denies it, the Magistrate will investigate the matter before taking further action.

(2) During the investigation, if the Magistrate finds any reliable evidence supporting the person's denial of the public's right, he will pause the proceedings until a competent Court decides on the matter. If there is no reliable evidence, the Magistrate will continue with the proceedings as described in section 157.

(3) If the person, when questioned by the Magistrate, does not deny the public's right to use the road, river, channel, or place, or if they deny it but fail to provide reliable evidence, they will not be allowed to deny it again in future proceedings.

Explanation using Example

Example 1:

Scenario: Blocking a Public Road

Situation: A local shopkeeper, Mr. Sharma, sets up an extended stall on a public road, causing obstruction to the pedestrians and vehicles. The local residents file a complaint, and the Magistrate issues an order under Section 152 to remove the obstruction.

Application of Section 156:

Appearance Before Magistrate: Mr. Sharma appears before the Magistrate and denies that the road is a public road.

Inquiry by Magistrate: The Magistrate questions Mr. Sharma about his denial and decides to inquire into the matter.

Evidence Evaluation: During the inquiry, Mr. Sharma fails to provide any reliable evidence to support his claim that the road is not public.

Proceeding with Order: The Magistrate, finding no reliable evidence, proceeds under Section 157 to enforce the removal of the obstruction.

Example 2:

Scenario: Encroachment on a Public Park

Situation: A resident, Mrs. Gupta, builds a small garden and fence that encroaches into a public park area. The local municipality files a complaint, and the Magistrate issues an order under Section 152 to remove the encroachment.

Application of Section 156:

Appearance Before Magistrate: Mrs. Gupta appears before the Magistrate and denies that the area she encroached upon is part of the public park.

Inquiry by Magistrate: The Magistrate questions Mrs. Gupta about her denial and decides to inquire into the matter.

Evidence Evaluation: Mrs. Gupta presents some old documents claiming the land is private, but the documents are not reliable or sufficient.

Proceeding with Order: The Magistrate, finding no reliable evidence, proceeds under Section 157 to enforce the removal of the encroachment.

Example 3:

Scenario: Dispute Over a Public Water Channel

Situation: A farmer, Mr. Patel, diverts a public water channel to irrigate his private fields, causing a nuisance to other farmers who rely on the channel. The affected farmers file a complaint, and the Magistrate issues an order under Section 152 to stop the diversion.

Application of Section 156:

Appearance Before Magistrate: Mr. Patel appears before the Magistrate and denies that the water channel is public.

Inquiry by Magistrate: The Magistrate questions Mr. Patel about his denial and decides to inquire into the matter.

Evidence Evaluation: Mr. Patel provides some evidence, such as witness statements and old maps, suggesting the channel is private.

Stay of Proceedings: The Magistrate finds the evidence reliable and stays the proceedings until a competent court decides on the matter of the channel's public status.

Court Decision: The competent court later rules that the channel is indeed public.

Proceeding with Order: The Magistrate, based on the court's decision, proceeds under Section 157 to enforce the cessation of the diversion.

Example 4:

Scenario: Unauthorized Construction on a Public Pathway

Situation: A builder, Mr. Verma, constructs a temporary shed on a public pathway, causing inconvenience to the public. The local authorities file a complaint, and the Magistrate issues an order under Section 152 to remove the shed.

Application of Section 156:

Appearance Before Magistrate: Mr. Verma appears before the Magistrate and denies that the pathway is public.

Inquiry by Magistrate: The Magistrate questions Mr. Verma about his denial and decides to inquire into the matter.

Evidence Evaluation: Mr. Verma fails to provide any reliable evidence to support his claim that the pathway is not public.

Proceeding with Order: The Magistrate, finding no reliable evidence, proceeds under Section 157 to enforce the removal of the shed.

Section 157: Procedure where person against whom order is made under section 152 appears to show cause.

(1) If the person against whom an order under section 152 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case:

Provided that the proceedings under this section shall be completed, as soon as possible, within a period of ninety days, which may be extended for the reasons to be recorded in writing, to one hundred and twenty days.

SIMPLIFIED ACTS

(1) If the person who the order under section 152 is against shows up and explains why the order should not apply, the Magistrate will listen to the evidence just like in a regular court case.

(2) If the Magistrate believes that the order, either as it is or with some changes, is fair and appropriate, the order will be finalized either without changes or with the necessary changes.

(3) If the Magistrate is not convinced, the case will not continue any further:

However, the whole process should be finished as soon as possible, ideally within ninety days, but it can be extended to one hundred and twenty days if there are written reasons for the delay.

Explanation using Example

Example 1:

Scenario: Noise Pollution Complaint

Ravi lives in a residential area in Mumbai. His neighbor, Mr. Sharma, runs a small workshop from his home, which generates a lot of noise, especially during late hours. Ravi and other neighbors have repeatedly requested Mr. Sharma to reduce the noise, but he has not complied. Consequently, Ravi files a complaint with the local Magistrate under Section 152 of The Bharatiya Nagarik Suraksha Sanhita 2023, seeking an order to stop the noise pollution.

Application of Section 157:

Order Issued: The Magistrate issues an order under Section 152 directing Mr. Sharma to cease the noise pollution.

Appearance to Show Cause: Mr. Sharma appears before the Magistrate to show cause why the order should not be enforced. He argues that the noise is within permissible limits and provides evidence to support his claim.

Taking Evidence: The Magistrate takes evidence from both parties, including noise level measurements and testimonies from other neighbors.

Magistrate's Decision: After reviewing the evidence, the Magistrate finds that the noise levels are indeed above permissible limits but can be reduced with certain modifications to Mr. Sharma's workshop operations.

Order Made Absolute with Modification: The Magistrate modifies the original order, allowing Mr. Sharma to continue his workshop but with specific restrictions on operating hours and noise levels. The order is made absolute with these modifications.

Example 2:

Scenario: Illegal Construction

Sita owns a house in a residential colony in Delhi. Her neighbor, Mr. Verma, starts constructing an additional floor on his house without obtaining the necessary permissions. The construction causes significant inconvenience and poses a safety risk to Sita and other

residents. Sita files a complaint under Section 152 of The Bharatiya Nagarik Suraksha Sanhita 2023, seeking an order to stop the illegal construction.

Application of Section 157:

Order Issued: The Magistrate issues an order under Section 152 directing Mr. Verma to halt the construction immediately.

Appearance to Show Cause: Mr. Verma appears before the Magistrate to show cause why the order should not be enforced. He argues that he has applied for the necessary permissions and the construction is safe.

Taking Evidence: The Magistrate takes evidence from both parties, including documents related to the construction permissions and expert opinions on the safety of the construction.

Magistrate's Decision: After reviewing the evidence, the Magistrate finds that Mr. Verma has not yet obtained the required permissions and the construction poses a safety risk.

Order Made Absolute without Modification: The Magistrate is satisfied that the original order is reasonable and proper. The order is made absolute without any modifications, and Mr. Verma is directed to stop the construction until all necessary permissions are obtained and safety measures are ensured.

Section 158: Power of Magistrate to direct local investigation and examination of an expert.

The Magistrate may, for the purposes of an inquiry under section 156 or section 157 -

- (a) direct a local investigation to be made by such person as he thinks fit; or
- (b) summon and examine an expert.

SIMPLIFIED ACTS

The Magistrate can, for the purposes of an investigation under section 156 or section 157 -

- (a) order a local investigation to be done by someone he chooses; or
- (b) call and question an expert.

Explanation using Example

Example 1:

Scenario: A factory in a residential area is accused of causing severe air pollution, leading to health issues among the local residents.

Application of Section 158:

Local Investigation: The Magistrate, upon receiving complaints from the residents and after preliminary inquiry under Section 156 or 157, directs a local investigation. He appoints an environmental officer to visit the factory and surrounding areas to measure pollution levels and gather evidence.

Examination of an Expert: The Magistrate summons an environmental scientist to examine the collected data and provide an expert opinion on whether the factory's emissions are within permissible limits and if they are indeed causing health issues.

Example 2:

Scenario: A historic building in a town is reported to be structurally unsafe, posing a risk to public safety.

Application of Section 158:

Local Investigation: The Magistrate, after receiving a report from the local municipal authority and conducting a preliminary inquiry, directs a local investigation. He appoints a civil engineer to inspect the building and assess its structural integrity.

Examination of an Expert: The Magistrate summons a structural engineer to review the findings of the local investigation and provide an expert opinion on the necessary measures to ensure the building's safety or recommend its demolition if it is beyond repair.

Section 159: Power of Magistrate to furnish written instructions, etc.

Local Investigation by Magistrate

(1) Where the Magistrate directs a local investigation by any person under section 158, the Magistrate may -

(a) furnish such person with such written instructions as may seem necessary for his guidance;

(b) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case.

(3) Where the Magistrate summons and examines an expert under section 158, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

SIMPLIFIED ACTS

Local Investigation by Magistrate

(1) When a Magistrate orders a local investigation by someone under section 158, the Magistrate can:

- (a) give that person written instructions to help them understand what to do;
- (b) decide who will pay for the investigation, either fully or partially.

(2) The report from this person can be used as evidence in the case.

(3) If the Magistrate calls and questions an expert under section 158, the Magistrate can decide who will pay for the expert's time and examination.

Explanation using Example

Example 1:

Scenario: Noise Pollution Complaint

Ravi, a resident of a small town in India, files a complaint with the local Magistrate about excessive noise pollution caused by a nearby factory. The Magistrate decides to conduct a local investigation under Section 158 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 159:

Written Instructions: The Magistrate appoints an environmental officer to conduct the investigation and provides written instructions detailing the specific noise levels to be measured, the times of day to conduct the measurements, and the locations around the factory to be monitored.

Expenses: The Magistrate declares that the factory owner will bear the expenses of the local investigation, including the cost of the noise measuring equipment and the officer's time.

Report as Evidence: The environmental officer completes the investigation and submits a report indicating that the factory is indeed causing noise pollution beyond permissible limits. This report is read as evidence in the case.

Expert Summoning Costs: If the Magistrate decides to summon an acoustic expert to testify about the noise levels and their impact on health, the Magistrate may direct that the factory owner pays for the expert's fees and travel expenses.

Example 2:

Scenario: Illegal Construction Complaint

Meena, a resident of a city in India, complains to the local Magistrate about an illegal construction that is blocking a public pathway. The Magistrate decides to conduct a local investigation under Section 158 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 159:

Written Instructions: The Magistrate appoints a municipal officer to investigate the complaint and provides written instructions to measure the dimensions of the construction, verify property boundaries, and check for necessary permits.

Expenses: The Magistrate declares that the person responsible for the illegal construction will bear the expenses of the local investigation, including the cost of any surveying equipment and the officer's time.

Report as Evidence: The municipal officer completes the investigation and submits a report indicating that the construction is indeed illegal and encroaching on public property. This report is read as evidence in the case.

Expert Summoning Costs: If the Magistrate decides to summon a civil engineer to provide expert testimony on the structural integrity and legality of the construction, the Magistrate may direct that the person responsible for the illegal construction pays for the expert's fees and travel expenses.

Section 160: Procedure on order being made absolute and consequences of disobedience.

Section 155 or Section 157 - Magistrate's Order

(1) When an order has been made absolute under section 155 or section 157, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within the time to be fixed in the notice, and inform him that, in case of disobedience, he shall be liable to the penalty provided by section 223 of the Bharatiya Nyaya Sanhita, 2023.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction, and if such other property is without such jurisdiction, the order shall authorise its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

SIMPLIFIED ACTS

Section 155 or Section 157 - Magistrate's Order

(1) When a final order is made under section 155 or section 157, the Magistrate will notify the person the order is against. The Magistrate will also tell this person to do what the

order says within a certain time, and warn them that if they don't obey, they will face penalties under section 223 of the Bharatiya Nyaya Sanhita, 2023.

(2) If the person doesn't do what the order says within the given time, the Magistrate can arrange for it to be done and make the person pay for it. The Magistrate can sell any building, goods, or other property removed by the order, or sell any other movable property of the person, whether it's within the Magistrate's area or not. If the property is outside the Magistrate's area, the order must be approved by a Magistrate in the area where the property is located before it can be attached and sold.

(3) No one can be sued for anything done in good faith under this section.

Explanation using Example

Example 1:

Scenario: Illegal Construction Blocking Public Road

Context: Rajesh has constructed an illegal extension to his shop that encroaches on a public road, causing inconvenience to the public.

Application of Section 160:

Order Made Absolute: The Magistrate issues an order under Section 155 directing Rajesh to remove the illegal construction within 30 days.

Notice Given: The Magistrate gives notice to Rajesh, informing him of the order and the requirement to remove the construction within the specified time. Rajesh is also informed that failure to comply will result in penalties under Section 223 of the Bharatiya Nyaya Sanhita, 2023.

Disobedience: Rajesh does not remove the construction within the 30 days.

Magistrate's Action: The Magistrate arranges for the removal of the illegal construction and incurs costs for the same.

Cost Recovery: The Magistrate recovers the costs by selling some of Rajesh's movable property, such as goods from his shop, within the local jurisdiction. If necessary, the Magistrate can also authorize the attachment and sale of Rajesh's property outside the local jurisdiction.

Example 2:

Scenario: Noise Pollution from a Factory

Context: A factory owned by Mehta Industries is causing excessive noise, disturbing the peace of a nearby residential area.

Application of Section 160:

Order Made Absolute: The Magistrate issues an order under Section 157 directing Mehta Industries to install noise control measures within 60 days.

Notice Given: The Magistrate gives notice to the factory owner, Mr. Mehta, informing him of the order and the requirement to install noise control measures within the specified time. Mr. Mehta is also informed that failure to comply will result in penalties under Section 223 of the Bharatiya Nyaya Sanhita, 2023.

Disobedience: Mr. Mehta does not install the noise control measures within the 60 days.

Magistrate's Action: The Magistrate arranges for the installation of noise control measures and incurs costs for the same.

Cost Recovery: The Magistrate recovers the costs by selling some of the factory's movable property, such as machinery, within the local jurisdiction. If necessary, the Magistrate can also authorize the attachment and sale of the factory's property outside the local jurisdiction.

Example 3:

Scenario: Unhygienic Conditions in a Restaurant

Context: A restaurant owned by Priya is found to be maintaining unhygienic conditions, posing a health risk to customers.

Application of Section 160:

Order Made Absolute: The Magistrate issues an order under Section 155 directing Priya to clean and sanitize the restaurant within 15 days.

Notice Given: The Magistrate gives notice to Priya, informing her of the order and the requirement to clean and sanitize the restaurant within the specified time. Priya is also informed that failure to comply will result in penalties under Section 223 of the Bharatiya Nyaya Sanhita, 2023.

Disobedience: Priya does not clean and sanitize the restaurant within the 15 days.

Magistrate's Action: The Magistrate arranges for the cleaning and sanitization of the restaurant and incurs costs for the same.

Cost Recovery: The Magistrate recovers the costs by selling some of the restaurant's movable property, such as kitchen equipment, within the local jurisdiction. If necessary, the Magistrate can also authorize the attachment and sale of the restaurant's property outside the local jurisdiction.

Section 161: Injunction pending inquiry.

Section 152 - Immediate Measures by Magistrate

(1) If a Magistrate making an order under section 152 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

SIMPLIFIED ACTS

Section 152 - Immediate Actions by Magistrate

(1) If a Magistrate makes an order under section 152 and believes that quick action is needed to stop a serious danger or harm to the public, he can issue a command to the person the order is against to prevent that danger or harm until the issue is resolved.

(2) If that person does not immediately follow the command, the Magistrate can take action himself or have someone else take action to stop the danger or harm.

(3) No one can sue the Magistrate for anything he does in good faith under this section.

Explanation using Example

Example 1:

Scenario: A factory in a residential area is emitting toxic fumes due to a malfunction in its filtration system. The fumes pose an imminent danger to the health of the local residents.

Application of Section 161:

Immediate Measures by Magistrate: The local Magistrate, upon receiving complaints and verifying the situation, decides that immediate action is necessary to prevent serious harm to the public.

Issuance of Injunction: The Magistrate issues an injunction to the factory owner, ordering them to cease operations immediately until the filtration system is repaired and the emissions are brought under control.

Non-Compliance: If the factory owner does not comply with the injunction, the Magistrate has the authority to take necessary actions, such as shutting down the factory operations using law enforcement or other means.

Good Faith Protection: Any actions taken by the Magistrate in good faith to prevent the danger are protected under this section, meaning the factory owner cannot sue the Magistrate for these actions.

Example 2:

Scenario: A large construction project is causing severe noise pollution in a densely populated neighborhood, disturbing the peace and causing health issues among the residents.

Application of Section 161:

Immediate Measures by Magistrate: The Magistrate, after receiving multiple complaints and conducting an inspection, determines that the noise pollution is causing serious harm and needs to be addressed immediately.

Issuance of Injunction: The Magistrate issues an injunction to the construction company, ordering them to halt all noisy activities during certain hours and to implement noise reduction measures.

Non-Compliance: If the construction company fails to comply with the injunction, the Magistrate can take further steps, such as imposing fines or ordering the police to enforce the noise restrictions.

Good Faith Protection: The Magistrate's actions, taken in good faith to protect public health and tranquility, are protected under this section, preventing the construction company from filing a lawsuit against the Magistrate for these actions.

Section 162: Magistrate may prohibit repetition or continuance of public nuisance.

A District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate or Deputy Commissioner of Police empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Bharatiya Nyaya Sanhita, 2023, or any special or local law.

SIMPLIFIED ACTS

A District Magistrate, Sub-divisional Magistrate, Executive Magistrate, or Deputy Commissioner of Police, who is given authority by the State Government or the District Magistrate, can tell any person to stop or not repeat a public nuisance.

A public nuisance is something that is harmful or annoying to the public, as defined in the Bharatiya Nyaya Sanhita, 2023, or any other special or local law.

Explanation using Example

Example 1:

Ravi runs a small factory in a residential area of Mumbai. The factory produces a lot of noise and emits smoke, causing discomfort to the residents. The residents file multiple complaints with the local authorities. The Sub-divisional Magistrate, after investigating the complaints, issues an order to Ravi, instructing him to stop the noise and smoke emissions immediately. Ravi is warned that if he continues to cause the public nuisance, he will face legal action under Section 162 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Example 2:

In a busy market area in Delhi, a street vendor named Suresh sets up his stall in a way that blocks the main pathway, causing inconvenience to pedestrians and other vendors. Despite several warnings from the local police, Suresh continues to place his stall in the same spot. The Deputy Commissioner of Police, empowered by the State Government, issues an order to Suresh, prohibiting him from setting up his stall in a manner that obstructs the public pathway. Suresh is informed that any further violation will result in strict action under Section 162 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

C - URGENT CASES OF NUISANCE OR APPREHENDED DANGER

Section 163: Power to issue order in urgent cases of nuisance or apprehended danger.

Section

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 153, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof:

Provided that if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by an advocate and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

SIMPLIFIED ACTS

Section

(1) If a District Magistrate, Sub-divisional Magistrate, or any other Executive Magistrate (authorized by the State Government) believes there is a good reason to act quickly to prevent harm or fix a problem, they can issue a written order. This order will explain the situation and be delivered as described in section 153. The order can tell someone to stop doing something or to take action regarding property they control. This is to prevent obstruction, annoyance, injury to someone lawfully working, danger to life, health, or safety, or to stop public disturbances, riots, or fights.

(2) In emergencies or when there isn't enough time to notify the person, the order can be issued without informing them first (ex parte).

(3) The order can be directed at a specific person, people living in a certain area, or the general public visiting a particular place.

(4) The order cannot last more than two months:

However, if the State Government thinks it's necessary to prevent danger to life, health, safety, or to stop a riot or fight, they can extend the order for up to six more months by issuing a notification.

(5) Any Magistrate can cancel or change an order they made, or an order made by a Magistrate under them, or by their predecessor, either on their own or if someone affected by the order requests it.

(6) The State Government can also cancel or change an order they made under the extension rule in sub-section (4), either on their own or if someone affected by the order requests it.

(7) When a request to cancel or change an order is received, the Magistrate or the State Government must give the person a chance to explain why the order should be changed or canceled. If the request is denied, the reasons must be written down.

Explanation using Example

Example 1:

A factory in a residential area is emitting harmful fumes due to a malfunction in its filtration system. The residents start complaining about the foul smell and health issues like headaches and respiratory problems. The District Magistrate, upon receiving multiple complaints and conducting a preliminary investigation, finds sufficient ground to believe that immediate action is necessary to prevent further harm to the residents' health and safety. The Magistrate issues a written order to the factory owner, directing them to cease operations until the filtration system is repaired and meets safety standards. This order is served immediately to prevent any delay in mitigating the health hazard.

Example 2:

A large public gathering is planned in a park for a political rally. The local police receive intelligence reports indicating a high risk of violent clashes between rival political groups. The Sub-divisional Magistrate, considering the potential danger to public safety and the likelihood of a riot, issues an ex parte order prohibiting the rally. The order is directed to the organizers and is also publicly announced to inform the general public. The order remains in force for two months, but the State Government, assessing the ongoing risk, extends it for an additional three months to ensure public tranquillity.

Example 3:

A construction company is using heavy machinery at night in a densely populated neighborhood, causing significant noise pollution and disturbing the residents' sleep. The Executive Magistrate, specially empowered by the State Government, receives numerous

complaints and decides that immediate action is necessary to prevent further disturbance. The Magistrate issues a written order to the construction company, directing them to halt all nighttime operations and restrict their work to daytime hours. The order is served to the company and remains in force for two months, ensuring that the residents can have a peaceful night's sleep.

Example 4:

During a festival, a local market becomes extremely crowded, raising concerns about potential stampedes and safety hazards. The District Magistrate, observing the situation, determines that immediate measures are required to prevent any danger to human life. The Magistrate issues an order to the market organizers, directing them to implement crowd control measures, such as limiting the number of people entering the market at any given time and setting up barricades. The order is served promptly and remains in effect for the duration of the festival to ensure public safety.

D - DISPUTES AS TO IMMOVABLE PROPERTY

Section 164: Procedure where dispute concerning land or water is likely to cause breach of peace.

Section

(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by an advocate 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 Sanhita for the service of summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties

was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(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 of dispute, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed;

(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 is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(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 in derogation of powers of the Magistrate to proceed under section 126.

SIMPLIFIED ACTS

Section

(1) If an Executive Magistrate gets a report from a police officer or other information that there is a dispute about land or water that could lead to violence, he must write an order explaining why he thinks so. He will ask the people involved in the dispute to come to his court on a specific date and time, either in person or through a lawyer, and to submit written statements about who actually possesses the disputed property.

(2) In this section, "land or water" also includes buildings, markets, fisheries, crops, or other land produce, and any rents or profits from such property.

(3) A copy of the order must be delivered to the people involved as per the rules for serving summons. Additionally, at least one copy should be posted in a noticeable place near the disputed property.

(4) The Magistrate will review the statements, listen to the parties, and consider all evidence presented. He will also gather any additional evidence he thinks is necessary. Without considering who has the right to possess the property, he will try to decide who was in possession of the property on the date he made the order. If it appears that someone was forcibly and wrongfully removed from the property within two months before the police report or other information was received, or after that date but before his order, the Magistrate may treat that person as if they were in possession on the date of his order.

(5) Anyone required to attend or any interested person can show that there is no such dispute. If they do, the Magistrate will cancel his order, and all further proceedings will stop. Otherwise, the Magistrate's order will be final.

(6)

(a) If the Magistrate decides that one of the parties was in possession or should be treated as being in possession under the conditions mentioned in sub-section (4), he will issue an order declaring that party entitled to possession until legally evicted. He will also forbid any disturbance of this possession until such eviction. If he proceeds under the conditions of sub-section (4), he may restore possession to the party that was forcibly and wrongfully removed.

(b) The order made under this sub-section will be served and published as described in sub-section (3).

(7) If any party involved in the proceedings dies, the Magistrate can include the deceased party's legal representative in the proceedings and continue the inquiry. If there is a question about who the legal representative is, all claimants will be included in the proceedings.

(8) If the Magistrate thinks that any crop or produce from the disputed property is likely to spoil quickly, he can order proper custody or sale of the property. After the inquiry, he will decide how to dispose of the property or its sale proceeds.

(9) At any stage of the proceedings, the Magistrate can, if he thinks it necessary, issue a summons to any witness to attend or produce any document or item.

(10) This section does not limit the Magistrate's power to proceed under section 126.

Explanation using Example

Example 1:

Scenario: Dispute over Agricultural Land

Ramesh and Suresh are neighboring farmers in a village in Maharashtra. They have a long-standing dispute over a piece of agricultural land that both claim to own. The dispute has escalated to the point where there is a risk of physical confrontation between the two parties, which could disturb the peace in the village.

Application of Section 164:

Report to Magistrate: The local police officer, after receiving complaints from both parties and observing the tension, files a report to the Executive Magistrate.

Order to Attend Court: The Magistrate, satisfied that the dispute could lead to a breach of peace, issues a written order requiring Ramesh and Suresh to attend his court on a specified date and time. They are also required to submit written statements of their respective claims regarding the possession of the land.

Service of Order: Copies of the order are served to Ramesh and Suresh, and a copy is affixed to a conspicuous place near the disputed land.

Hearing and Evidence: On the specified date, the Magistrate hears both parties, reviews their written statements, and considers any evidence they present. The Magistrate also takes additional evidence if necessary.

Decision on Possession: The Magistrate determines that Ramesh was in possession of the land at the time of the initial report. However, it is found that Suresh forcibly dispossessed Ramesh two weeks before the report was filed. Therefore, the Magistrate treats Ramesh as being in possession on the date of the order.

Final Order: The Magistrate issues an order declaring Ramesh entitled to possession of the land until evicted through due legal process and forbids any disturbance of his possession. The order is served and published as required.

Example 2:

Scenario: Dispute over Water Source

In a village in Tamil Nadu, two communities, A and B, are in conflict over the use of a common water source. Community A claims that they have been using the water source for irrigation for decades, while Community B argues that they have the right to use it for their drinking water needs. The dispute has led to several heated arguments and minor scuffles, raising concerns about a potential breach of peace.

Application of Section 164:

Report to Magistrate: The local police officer, after receiving multiple complaints and witnessing the escalating tension, submits a report to the Executive Magistrate.

Order to Attend Court: The Magistrate, convinced that the dispute could lead to a breach of peace, issues a written order requiring representatives from both communities to attend his court on a specified date and time. They are also required to submit written statements of their respective claims regarding the use of the water source.

Service of Order: Copies of the order are served to the representatives of both communities, and a copy is posted near the water source.

Hearing and Evidence: On the specified date, the Magistrate hears the arguments from both communities, reviews their written statements, and considers any evidence they present. The Magistrate also takes additional evidence if necessary.

Decision on Possession: The Magistrate determines that Community A was in possession of the water source for irrigation purposes at the time of the initial report. However, it is found that Community B forcibly started using the water source for drinking purposes a month before the report was filed. Therefore, the Magistrate treats Community A as being in possession on the date of the order.

Final Order: The Magistrate issues an order declaring Community A entitled to use the water source for irrigation until evicted through due legal process and forbids any disturbance of their possession. The order is served and published as required.

Example 3:

Scenario: Dispute over Market Stall

In a busy market in Delhi, two vendors, Priya and Anil, are in conflict over a particular stall. Priya claims that she has been using the stall for the past year, while Anil argues that he has the right to the stall based on an agreement with the market association. The dispute has led to several altercations, causing concern among other vendors and shoppers.

Application of Section 164:

Report to Magistrate: The local police officer, after receiving complaints from both vendors and observing the disturbances, files a report to the Executive Magistrate.

Order to Attend Court: The Magistrate, satisfied that the dispute could lead to a breach of peace, issues a written order requiring Priya and Anil to attend his court on a specified date and time. They are also required to submit written statements of their respective claims regarding the possession of the stall.

Service of Order: Copies of the order are served to Priya and Anil, and a copy is posted near the disputed stall.

Hearing and Evidence: On the specified date, the Magistrate hears both parties, reviews their written statements, and considers any evidence they present. The Magistrate also takes additional evidence if necessary.

Decision on Possession: The Magistrate determines that Priya was in possession of the stall at the time of the initial report. However, it is found that Anil forcibly took over the stall two weeks before the report was filed. Therefore, the Magistrate treats Priya as being in possession on the date of the order.

Final Order: The Magistrate issues an order declaring Priya entitled to possession of the stall until evicted through due legal process and forbids any disturbance of her possession. The order is served and published as required.

Section 165: Power to attach subject of dispute and to appoint receiver.

(1)

If the Magistrate at any time after making the order under sub-section (1) of section 164 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 164, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2)

When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver

thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908:

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate:

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just.

SIMPLIFIED ACTS

(1)

If the Magistrate, after making an order under section 164(1), thinks the situation is urgent, or if he decides that none of the parties involved were in possession as described in section 164, or if he can't figure out who was in possession of the disputed property, he can take control of the disputed property until a proper Court decides who has the right to possess it:

However, the Magistrate can stop controlling the property at any time if he believes there is no longer a risk of a fight over it.

(2)

When the Magistrate takes control of the disputed property, he can make arrangements to look after it if no Civil Court has already appointed someone to do so. He can also appoint a caretaker (receiver) for the property, who will have the same powers as a receiver appointed under the Code of Civil Procedure, 1908, but under the Magistrate's supervision:

If a Civil Court later appoints a receiver for the disputed property, the Magistrate:

(a) must order his appointed receiver to hand over the property to the Civil Court's receiver and then release his appointed receiver from duty;

(b) can make any other necessary or related orders as needed.

Explanation using Example

Example 1:

Scenario: Dispute over Agricultural Land

Ramesh and Suresh are neighbors in a village in Maharashtra. They both claim ownership of a piece of agricultural land that lies between their properties. The dispute escalates, and there is a risk of physical confrontation between their families.

Application of Section 165:

The local Magistrate, after issuing an order under Section 164 to maintain peace, realizes that the situation is an emergency and there is a high likelihood of violence.

The Magistrate is unable to determine who is in actual possession of the land.

To prevent any breach of peace, the Magistrate orders the attachment of the disputed land.

The Magistrate appoints a local government official as a receiver to manage the land until a competent Civil Court can determine the rightful owner.

The receiver ensures that the land is maintained and any produce from the land is accounted for.

Later, if a Civil Court appoints a different receiver, the Magistrate orders the initial receiver to hand over possession to the new receiver and discharges the initial receiver.

Example 2:

Scenario: Dispute over a Commercial Property

Two business partners, Anil and Sunil, have a falling out and both claim ownership of a commercial property in Delhi. The dispute leads to a heated argument, and there is a potential for a violent clash between their supporters.

Application of Section 165:

The Magistrate, after making an order under Section 164 to prevent any breach of peace, finds that neither Anil nor Sunil can prove they were in possession of the property.

The Magistrate considers the situation urgent and decides to attach the commercial property to prevent any further escalation.

Since no receiver has been appointed by a Civil Court, the Magistrate appoints a neutral third party as a receiver to manage the property.

The receiver is responsible for collecting rent from tenants and ensuring the property is maintained.

If a Civil Court later appoints a different receiver, the Magistrate directs the initial receiver to transfer control to the new receiver and then discharges the initial receiver.

The Magistrate may also issue additional orders to ensure a smooth transition and continued peace.

Example 3:

Scenario: Dispute over a Residential House

A family dispute arises between two brothers, Raj and Vijay, over the ownership of their ancestral house in Kolkata. Both brothers claim the house and tensions rise, leading to a risk of violent confrontation.

Application of Section 165:

The Magistrate, after issuing an order under Section 164, determines that the situation is urgent and there is a significant risk of violence.

The Magistrate cannot ascertain which brother is in actual possession of the house.

To prevent any breach of peace, the Magistrate orders the attachment of the house.

The Magistrate appoints a trusted family friend as a receiver to manage the house until a competent Civil Court can decide the rightful owner.

The receiver ensures that the house is maintained and any rental income is accounted for.

If a Civil Court later appoints a different receiver, the Magistrate orders the initial receiver to hand over possession to the new receiver and discharges the initial receiver.

The Magistrate may also issue additional orders to ensure the safety and maintenance of the property during the transition.

Section 166: Dispute concerning right of use of land or water.

Section 164 - Dispute Regarding Right of User of Land or Water

(1) Whenever an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by an advocate on a specified date and time and to put in written statements of their respective claims.

Explanation: For the purposes of this sub-section, the expression "land or water" has the meaning given to it in sub-section (2) of section 164.

(2) The Magistrate shall peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists; and the provisions of section 164 shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 164 the Magistrate finds that the dispute is as regards an alleged right of user of land or water, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1), and when in any proceedings commenced under sub-section (1) the Magistrate finds that the dispute should be dealt with under section 164, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 164.

SIMPLIFIED ACTS

Section 164 - Dispute Regarding Right of User of Land or Water

(1) If an Executive Magistrate gets a report from a police officer or other information that there is a dispute about the right to use any land or water in his area, and this dispute might cause trouble, he will write an order. This order will explain why he thinks there is a problem and will ask the people involved to come to his court on a specific date and time, either in person or with a lawyer, and to submit written statements about their claims.

Explanation: For this section, "land or water" means what is defined in sub-section (2) of section 164.

(2) The Magistrate will read the statements, listen to the parties, look at all the evidence they provide, consider this evidence, and if needed, gather more evidence. He will then try to decide if the right to use the land or water exists. The rules in section 164 will apply to this inquiry as much as possible.

(3) If the Magistrate decides that the right exists, he can make an order to stop anyone from interfering with this right. This might include ordering the removal of any obstacles that prevent the exercise of this right.

Provided that no such order will be made if the right can be used all year unless it has been used within the last three months before the police report or other information was received. If the right can only be used at certain times or occasions, it must have been used during the last such time or occasion before the report was received.

(4) If during the proceedings started under sub-section (1) of section 164, the Magistrate finds that the dispute is about the right to use land or water, he can continue the proceedings as if they were started under sub-section (1). If he finds that the dispute should be handled under section 164, he can continue the proceedings as if they were started under sub-section (1) of section 164, after recording his reasons.

Explanation using Example

Example 1:

Scenario: Dispute over a Pathway through Agricultural Land

Background: Ramesh owns a piece of agricultural land in a village in Maharashtra. His neighbor, Suresh, claims that he has the right to use a pathway that runs through Ramesh's land to access the main road. Ramesh disputes this claim and blocks the pathway, leading to a heated argument between the two.

Application of Section 166:

Report to Magistrate: Suresh files a complaint with the local police, who then report the matter to the Executive Magistrate, stating that the dispute is likely to cause a breach of peace.

Magistrate's Order: The Magistrate, satisfied that a dispute exists, issues a written order requiring both Ramesh and Suresh to appear in court on a specified date with their respective claims in writing.

Hearing and Evidence: On the specified date, both parties present their written statements and evidence. Suresh provides old village records and testimonies from other villagers to support his claim of the pathway being used for years.

Magistrate's Decision: After considering all the evidence, the Magistrate decides that Suresh does have a right to use the pathway. The Magistrate issues an order prohibiting Ramesh from obstructing the pathway and instructs him to remove any barriers.

Example 2:

Scenario: Dispute over Water Usage from a Community Well

Background: In a small town in Rajasthan, a community well is used by several families for their daily water needs. Recently, one family, the Sharmas, started using a motor pump to draw water, which significantly reduces the water available for others. The other families, led by the Patels, object to this and a dispute arises.

Application of Section 166:

Report to Magistrate: The Patels report the matter to the local police, who then inform the Executive Magistrate about the potential breach of peace due to the dispute.

Magistrate's Order: The Magistrate, upon receiving the report, issues a written order requiring both the Sharmas and the Patels to appear in court on a specified date with their respective claims in writing.

Hearing and Evidence: On the specified date, both parties present their written statements and evidence. The Patels provide testimonies from other families and historical usage patterns of the well.

Magistrate's Decision: After reviewing the evidence, the Magistrate concludes that the Sharmas' use of the motor pump is unfairly depriving others of their right to water. The Magistrate issues an order prohibiting the use of motor pumps and ensuring equitable access to the well for all families.

Example 3:

Scenario: Dispute over Fishing Rights in a Village Pond

Background: In a village in Kerala, a pond is traditionally used by the villagers for fishing. Recently, a new resident, Mr. Nair, claims exclusive fishing rights over the pond, stating that he has bought the land surrounding it. The villagers, led by Mr. Menon, dispute this claim, leading to tensions.

Application of Section 166:

Report to Magistrate: Mr. Menon and other villagers report the matter to the local police, who then inform the Executive Magistrate about the potential breach of peace due to the dispute.

Magistrate's Order: The Magistrate, upon receiving the report, issues a written order requiring both Mr. Nair and the villagers to appear in court on a specified date with their respective claims in writing.

Hearing and Evidence: On the specified date, both parties present their written statements and evidence. The villagers provide historical records and testimonies showing that the pond has been a common fishing ground for generations.

Magistrate's Decision: After reviewing the evidence, the Magistrate concludes that the villagers have a traditional right to fish in the pond. The Magistrate issues an order prohibiting Mr. Nair from interfering with the villagers' fishing activities and ensuring that the pond remains accessible to all.

Example 4:

Scenario: Dispute over Irrigation Canal Usage

Background: In a rural area of Punjab, an irrigation canal runs through multiple farms. Farmer Ajeet Singh claims that he has the right to divert water from the canal to his fields, but his neighbor, Baljeet Singh, argues that this reduces the water available for his crops, leading to a dispute.

Application of Section 166:

Report to Magistrate: Baljeet Singh reports the matter to the local police, who then inform the Executive Magistrate about the potential breach of peace due to the dispute.

Magistrate's Order: The Magistrate, upon receiving the report, issues a written order requiring both Ajeet Singh and Baljeet Singh to appear in court on a specified date with their respective claims in writing.

Hearing and Evidence: On the specified date, both parties present their written statements and evidence. Ajeet Singh provides documents showing his historical usage of the canal water, while Baljeet Singh presents evidence of the negative impact on his crops.

Magistrate's Decision: After reviewing the evidence, the Magistrate concludes that Ajeet Singh's diversion of water is excessive and unfairly impacts Baljeet Singh. The Magistrate issues an order regulating the usage of the canal water to ensure fair distribution among all farmers.

Section 167: Local inquiry.

Local Inquiry for Sections 164, 165, and 166

(1) Whenever a local inquiry is necessary for the purposes of section 164, section 165 or section 166, a District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under section 164, section 165 or section 166, the Magistrate passing a decision may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of advocates' fees, which the Court may consider reasonable.

SIMPLIFIED ACTS

Local Inquiry for Sections 164, 165, and 166

(1) If a local investigation is needed for the purposes of section 164, 165, or 166, a District Magistrate or Sub-divisional Magistrate can assign any junior Magistrate to carry out the investigation. They can give the junior Magistrate written instructions to guide them and decide who will pay for the investigation costs.

(2) The report made by the assigned person can be used as evidence in the case.

(3) If any party involved in a case under section 164, 165, or 166 has spent money, the Magistrate who makes the final decision can decide who should pay these costs. This could be the party that spent the money or another party involved in the case. The costs can include expenses for witnesses and lawyers' fees, as long as the Court thinks these expenses are reasonable.

Explanation using Example

Example 1:

Scenario: Dispute over Agricultural Land

Ramesh and Suresh are neighbors in a village in Maharashtra. They have a dispute over a piece of agricultural land that both claim to own. The dispute has led to frequent quarrels and disturbances in the village.

Application of Section 167:

Local Inquiry Initiation: The District Magistrate decides that a local inquiry is necessary to resolve the dispute under Section 164.

Delegation: The District Magistrate deposes a Sub-divisional Magistrate to conduct the inquiry and provides written instructions on how to proceed.

Inquiry Process: The Sub-divisional Magistrate visits the village, inspects the land, and gathers evidence from local witnesses.

Report Submission: The Sub-divisional Magistrate submits a detailed report to the District Magistrate.

Evidence: The report is read as evidence in the case.

Cost Allocation: The District Magistrate decides that the costs incurred during the inquiry, including witness expenses and advocate fees, will be shared equally by Ramesh and Suresh.

Example 2:

Scenario: Dispute over Residential Property

Anita and Sunita, two sisters living in Delhi, are in a legal battle over the ownership of their deceased parents' house. The dispute has caused tension in the neighborhood.

Application of Section 167:

Local Inquiry Initiation: The Sub-divisional Magistrate determines that a local inquiry is necessary for the purposes of Section 165 to ascertain the rightful owner.

Delegation: The Sub-divisional Magistrate deposes a local Magistrate to conduct the inquiry and provides specific written instructions on the aspects to be investigated.

Inquiry Process: The local Magistrate visits the property, interviews neighbors, and reviews documents related to the ownership of the house.

Report Submission: The local Magistrate compiles a report based on the findings and submits it to the Sub-divisional Magistrate.

Evidence: The report is read as evidence in the court proceedings.

Cost Allocation: The Sub-divisional Magistrate decides that Anita will bear 60% of the costs incurred during the inquiry, while Sunita will bear 40%, including expenses for witnesses and advocate fees.

Example 3:

Scenario: Dispute over Commercial Property

A dispute arises between two business partners, Raj and Vikram, over the ownership of a commercial property in Bangalore. The disagreement has led to disruptions in the local market area.

Application of Section 167:

Local Inquiry Initiation: The District Magistrate decides that a local inquiry is necessary under Section 166 to resolve the ownership issue.

Delegation: The District Magistrate deposes a subordinate Magistrate to conduct the inquiry and provides detailed written instructions.

Inquiry Process: The subordinate Magistrate visits the commercial property, collects evidence from local shop owners, and reviews business records.

Report Submission: The subordinate Magistrate prepares a comprehensive report and submits it to the District Magistrate.

Evidence: The report is read as evidence in the legal proceedings.

Cost Allocation: The District Magistrate directs that Raj will pay 70% of the costs incurred during the inquiry, while Vikram will pay 30%, including expenses for witnesses and advocate fees.

Example 4:

Scenario: Dispute over Community Land

A conflict arises in a village in Uttar Pradesh over a piece of land that is used for community events. Different groups in the village claim ownership, leading to frequent clashes.

Application of Section 167:

Local Inquiry Initiation: The Sub-divisional Magistrate decides that a local inquiry is necessary under Section 164 to determine the rightful ownership of the community land.

Delegation: The Sub-divisional Magistrate deposes a local Magistrate to conduct the inquiry and provides written instructions on the investigation process.

Inquiry Process: The local Magistrate visits the village, gathers evidence from community members, and reviews historical records of the land.

Report Submission: The local Magistrate submits a detailed report to the Sub-divisional Magistrate.

Evidence: The report is read as evidence in the case.

Cost Allocation: The Sub-divisional Magistrate decides that the costs incurred during the inquiry will be shared equally by the conflicting groups, including expenses for witnesses and advocate fees.

CHAPTER XII: PREVENTIVE ACTION OF THE POLICE

Section 168: Police to prevent cognizable offences.

Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

SIMPLIFIED ACTS

Every police officer can step in to stop any serious crime from happening.

Every police officer must do their best to prevent any serious crime.

Explanation using Example

Example 1:

Scenario: A police officer is patrolling a neighborhood late at night and notices a group of individuals attempting to break into a closed shop.

Application of the Act:

The police officer, under Section 168 of The Bharatiya Nagarik Suraksha Sanhita 2023, has the authority to intervene immediately.

The officer approaches the group, identifies himself, and orders them to stop their actions.

The officer then detains the individuals and calls for backup to ensure the situation is under control.

By doing so, the officer prevents the commission of a cognizable offence (attempted burglary).

Example 2:

Scenario: During a festival, a police officer observes a person in a crowded market acting suspiciously and trying to pickpocket from a passerby.

Application of the Act:

The police officer, as per Section 168, is obligated to prevent the crime to the best of his ability.

The officer quickly intervenes by apprehending the suspect before the theft can occur.

The officer then takes the suspect to the police station for further questioning and legal action.

This action prevents the commission of a cognizable offence (theft) and protects the public.

Example 3:

Scenario: A police officer receives a tip-off about a planned illegal gathering that could potentially lead to a riot.

Application of the Act:

The officer, under the authority of Section 168, takes immediate steps to prevent the gathering.

The officer coordinates with other police units to increase patrols in the area and sets up checkpoints to deter the gathering.

The officer also engages with community leaders to dissuade people from participating in the illegal activity.

These preventive measures help in averting a potential cognizable offence (rioting).

Example 4:

Scenario: A police officer on duty at a railway station notices a person trying to tamper with the railway tracks.

Application of the Act:

The officer, empowered by Section 168, acts swiftly to stop the individual.

The officer detains the person and secures the area to prevent any further tampering.

The officer then informs the railway authorities and ensures that the tracks are inspected for safety.

This intervention prevents a cognizable offence (sabotage) and ensures public safety.

Example 5:

Scenario: A police officer is informed about a group of people planning to engage in illegal mining activities in a remote area.

Application of the Act:

The officer, as per Section 168, organizes a team to conduct a surprise raid on the location.

The team arrives at the site and apprehends the individuals involved before they can start the illegal mining.

The officer also seizes the equipment and materials intended for the illegal activity.

This proactive approach prevents the commission of a cognizable offence (illegal mining).

Section 169: Information of design to commit cognizable offences.

Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

SIMPLIFIED ACTS

If a police officer learns about a plan to commit a serious crime, they must tell their superior officer and any other officer responsible for stopping or dealing with such crimes.

Explanation using Example

Example 1:

Scenario: A local shopkeeper, Mr. Sharma, overhears a conversation between two individuals planning to rob a nearby jewelry store. He immediately informs the local police station.

Application of the Act:

The police officer at the local station, Officer Singh, receives the information from Mr. Sharma.

Officer Singh then communicates this information to his superior, Inspector Verma.

Inspector Verma, whose duty it is to prevent such crimes, coordinates with other officers to increase patrols around the jewelry store and sets up surveillance to prevent the robbery.

Example 2:

Scenario: A college student, Priya, notices suspicious activity in her neighborhood and hears rumors about a planned kidnapping. She reports this to the nearest police station.

Application of the Act:

The police officer on duty, Officer Kumar, takes Priya's report seriously and records the information.

Officer Kumar then informs his superior, Sub-Inspector Mehta, about the potential kidnapping plot.

Sub-Inspector Mehta, responsible for preventing such crimes, alerts the anti-kidnapping unit and arranges for undercover officers to monitor the area, thereby preventing the crime from taking place.

Section 170: Arrest to prevent commission of cognizable offences.

(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Sanhita or of any other law for the time being in force.

SIMPLIFIED ACTS

(1) If a police officer knows that someone is planning to commit a serious crime, they can arrest that person without needing permission from a judge and without a warrant, if the officer believes that this is the only way to stop the crime from happening.

(2) Anyone arrested under the first rule cannot be kept in custody for more than 24 hours unless there is another law that allows or requires them to be kept longer.

Explanation using Example

Example 1:

Ravi, a police officer in Mumbai, receives credible information from a reliable informant that a group of individuals is planning to rob a local bank the next day. Ravi knows that robbery is a cognizable offence, meaning it is a serious crime for which the police can arrest without a warrant. Given the urgency and the potential harm, Ravi decides to arrest the individuals involved in the plan to prevent the robbery from taking place. He does so without waiting for a Magistrate's order or obtaining a warrant, as he believes that the crime cannot be prevented otherwise. The individuals are taken into custody, and Ravi ensures that they are not detained for more than twenty-four hours unless further detention is authorized by law.

Example 2:

In Delhi, Officer Priya learns through surveillance that a known criminal, Rajesh, is planning to carry out an assault on a political figure during a public rally. Assault is a cognizable offence, and Priya understands the gravity of the situation. To prevent the assault and ensure public safety, Priya arrests Rajesh immediately without a warrant or Magistrate's order. Rajesh is detained, and Priya ensures that his detention does not exceed twenty-four hours unless further detention is legally justified under other provisions of the law.

Section 171: Prevention of injury to public property.

A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark, buoy or other mark used for navigation.

SIMPLIFIED ACTS

A police officer can step in on their own to stop any damage they see happening to public property, whether it can be moved or not.

They can also stop anyone from damaging or removing public landmarks, buoys, or other markers used for navigation.

Explanation using Example

Example 1:

Ravi, a police officer, is patrolling a public park in Mumbai. He notices a group of individuals attempting to vandalize a statue in the park by spray-painting it and trying to break parts of it. Under Section 171 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi has the authority to immediately intervene and stop the individuals from causing any further damage to the statue, which is public property.

Example 2:

During a routine patrol near the coastline in Chennai, Officer Priya observes a fisherman trying to remove a buoy that is used for navigation by local boats. Recognizing that the buoy is a public landmark essential for safe navigation, Priya steps in to prevent the fisherman from removing or damaging the buoy. Her actions are in accordance with Section 171 of The Bharatiya Nagarik Suraksha Sanhita 2023, which empowers her to prevent any injury to public property or landmarks.

Section 172: Persons bound to conform to lawful directions of police.

(1) All persons shall be bound to conform to the lawful directions of a police officer given in fulfilment of any of his duty under this Chapter.

(2) A police officer may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction given by him under sub-section (1) and may either take such person before a Magistrate or, in petty cases, release him as soon as possible within a period of twenty-four hours.

SIMPLIFIED ACTS

(1) Everyone must follow the lawful instructions given by a police officer when they are doing their job under this Chapter.

(2) If someone resists, refuses, ignores, or disregards the police officer's instructions, the officer can detain or remove that person. The officer can either take the person to a Magistrate or, in minor cases, release them within twenty-four hours.

Explanation using Example

Example 1:

Ravi is attending a large public gathering in Mumbai. The police have set up barricades and are directing the crowd to follow a specific route to ensure safety and order. Ravi decides to ignore the police instructions and tries to take a shortcut through a restricted area. A police officer stops him and instructs him to follow the designated route. Ravi continues to resist and argues with the officer. Under Section 172 of The Bharatiya Nagarik Suraksha Sanhita 2023, the police officer has the authority to detain Ravi for not conforming to lawful

directions. The officer can either take Ravi before a Magistrate or release him within 24 hours if it is considered a petty case.

Example 2:

Priya is driving her car in Delhi when she encounters a police checkpoint. The police are conducting a routine check and instruct all vehicles to stop for inspection. Priya, in a hurry, decides to ignore the police signal and speeds past the checkpoint. A police officer chases her down and stops her vehicle. The officer explains that she must comply with the lawful direction to stop for inspection. Priya refuses to cooperate and continues to argue. According to Section 172, the police officer can detain Priya for not following the lawful direction and either take her before a Magistrate or release her within 24 hours if it is a minor offense.

CHAPTER XIII: INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

Section 173: Information in cognizable cases.

Legal Provisions

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

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

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

Provided that if the information is given by the woman against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that -

(a) in the event that the person against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya

Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

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

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence, -

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

(4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate.

SIMPLIFIED ACTS

Legal Provisions

(1) If you know about a serious crime (called a cognizable offence), you can report it to the police in person or electronically, no matter where it happened. If you report it:

(i) In person, the police officer will write it down, read it back to you, and you will sign it.

(ii) Electronically, you need to sign it within three days, and the police will record it in a special book.

If a woman reports a crime against her under certain sections of the Bharatiya Nyaya Sanhita, 2023, a woman police officer must record her statement.

Additionally:

- (a) If the victim is mentally or physically disabled, the police will come to their home or a place they choose, with an interpreter or special educator if needed.
- (b) The recording of the statement will be videotaped.
- (c) The police will get the victim's statement recorded by a Magistrate as soon as possible.
- (2) You will get a free copy of the recorded information immediately.
- (3) If the crime is serious (punishable for three to seven years), the police can:
 - (i) With permission from a senior officer, do a preliminary check within 14 days to see if there is enough evidence to proceed.
 - (ii) Start an investigation if there is enough evidence.
- (4) If the police refuse to record your information, you can write and send it by post to the Superintendent of Police. If the Superintendent believes a serious crime has been committed, they will investigate or order an investigation. If this doesn't work, you can apply to a Magistrate.

Explanation using Example

Example 1:

Scenario: A woman named Priya is walking home from work when she is harassed by a group of men. She manages to escape and wants to report the incident to the police.

Application of the Act:

Priya goes to the nearest police station and informs the officer in charge about the harassment (a cognizable offence).

Since the information is given orally, the officer reduces it to writing, reads it back to Priya, and asks her to sign it.

As the offence involves harassment (covered under sections 64 to 79 of the Bharatiya Nyaya Sanhita, 2023), a woman police officer is called to record Priya's statement.

The recording of Priya's statement is videographed.

Priya is given a copy of the recorded information free of cost.

The police officer proceeds with the investigation after obtaining necessary permissions, if required.

Example 2:

Scenario: Raj, a physically disabled man, is a victim of a burglary at his home. He wants to report the crime but finds it difficult to visit the police station.

Application of the Act:

Raj calls the police station and informs them about the burglary (a cognizable offence).

A police officer visits Raj's residence to record his statement, as Raj is physically disabled.

An interpreter is present to assist Raj in communicating his statement clearly.

The officer videographs the recording of Raj's statement.

Raj is given a copy of the recorded information free of cost.

The police officer gets Raj's statement recorded by a Magistrate as soon as possible.

The police officer, with prior permission from a Deputy Superintendent of Police, conducts a preliminary enquiry to ascertain if there is a prima facie case for proceeding with the investigation.

Example 3:

Scenario: An individual named Anil witnesses a hit-and-run accident and wants to report it to the police.

Application of the Act:

Anil sends an email to the police station detailing the hit-and-run accident (a cognizable offence).

The officer in charge takes the email on record and asks Anil to visit the police station within three days to sign the report.

Anil visits the police station, signs the report, and the substance of the information is entered into the police records.

Anil is given a copy of the recorded information free of cost.

The police officer proceeds with the investigation after obtaining necessary permissions, if required.

Example 4:

Scenario: A person named Sunita tries to report a case of domestic violence to the police, but the officer in charge refuses to record her information.

Application of the Act:

Sunita writes down the details of the domestic violence incident and sends it by post to the Superintendent of Police.

The Superintendent of Police reviews the information and, if satisfied that it discloses a cognizable offence, directs an investigation to be made by a subordinate police officer.

The subordinate police officer has all the powers of an officer in charge of the police station in relation to the offence.

If the Superintendent of Police does not take action, Sunita can make an application to the Magistrate for further steps.

Example 5:

Scenario: A businessman named Ramesh reports a case of fraud involving a significant amount of money to the police.

Application of the Act:

Ramesh goes to the police station and reports the fraud (a cognizable offence punishable for three years or more but less than seven years).

The officer in charge, with prior permission from a Deputy Superintendent of Police, conducts a preliminary enquiry within fourteen days to ascertain if there is a prima facie case.

If a prima facie case is established, the officer proceeds with the investigation.

Ramesh is given a copy of the recorded information free of cost.

Section 174: 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 by rules prescribe in this behalf, and, -

(i) refer the informant to the Magistrate;

(ii) forward the daily diary report of all such cases fortnightly to the Magistrate.

(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.

SIMPLIFIED ACTS

(1) When someone tells the police about a minor crime (non-cognizable offence) that happened in their area:

(i) The police will write down the details in a special book.

(ii) The police will tell the person to go to the Magistrate (a type of judge).

(iii) The police will send a report of all such minor crimes to the Magistrate every two weeks.

(2) The police cannot investigate a minor crime without getting permission from a Magistrate who has the authority to handle such cases.

(3) If the police get permission from the Magistrate, they can investigate the minor crime just like they would a major crime (cognizable offence), except they cannot arrest anyone without a warrant.

(4) If a case involves both major and minor crimes, it will be treated as a major crime, even if some of the crimes are minor.

Explanation using Example

Example 1:

Scenario: Rajesh, a shop owner in Mumbai, finds that his neighbor, Suresh, has been spreading false rumors about his business, causing him financial loss. Rajesh goes to the local police station to file a complaint.

Application of Section 174:

Information Entry: The officer in charge of the police station listens to Rajesh's complaint and determines that the offense of defamation (spreading false rumors) is a non-cognizable offense.

Record Keeping: The officer enters the substance of Rajesh's complaint into a book as prescribed by the State Government rules.

Referral to Magistrate: The officer informs Rajesh that he needs to approach the Magistrate for further action.

Daily Diary Report: The officer ensures that this case is included in the daily diary report, which will be forwarded to the Magistrate fortnightly.

Outcome: Rajesh is referred to the Magistrate, who will decide whether to order an investigation into the non-cognizable offense.

Example 2:

Scenario: Priya, a resident of Delhi, reports to the police that her neighbor, Anil, has been playing loud music late at night, disturbing the peace. She also mentions that Anil threatened her when she asked him to lower the volume.

Application of Section 174:

Information Entry: The officer in charge of the police station determines that playing loud music is a non-cognizable offense, but the threat made by Anil is a cognizable offense.

Record Keeping: The officer enters the details of both the loud music complaint and the threat into the prescribed book.

Investigation: Since the case involves both a non-cognizable offense (loud music) and a cognizable offense (threat), the entire case is treated as a cognizable case.

Police Action: The police officer can investigate the case without needing a Magistrate's order because it includes a cognizable offense. However, the officer cannot arrest Anil for the non-cognizable offense without a warrant.

Outcome: The police begin an investigation into the threat and the loud music, treating the case as a cognizable offense due to the inclusion of the threat.

Section 175: Police officer's power to investigate cognizable case.

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

Provided that considering the nature and gravity of the offence, the Superintendent of Police may require the Deputy Superintendent of Police to investigate the case.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

(4) Any Magistrate empowered under section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to -

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

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

SIMPLIFIED ACTS

(1) A police officer in charge of a police station can investigate certain serious crimes without needing permission from a judge. These are crimes that a local court would normally handle:

However, if the crime is very serious, the Superintendent of Police can ask the Deputy Superintendent of Police to take over the investigation.

(2) No one can question the actions of a police officer during such an investigation just because they think the officer wasn't allowed to investigate the case.

(3) A judge who has the power under section 210 can order an investigation after looking at an application supported by a sworn statement (affidavit) made under section 173(4). The judge can also make any inquiries they think are necessary and listen to what the police officer has to say before making the order.

(4) A judge with the power under section 210 can also order an investigation if they receive a complaint against a public servant (like a government employee) related to their official duties. This is subject to:

(a) Getting a report with the facts and details of the incident from the officer who is higher in rank than the public servant; and

(b) Considering the public servant's explanation of what happened and why it happened.

Explanation using Example

Example 1:

Scenario: A Theft in a Local Market

Ravi, a shopkeeper in a local market in Delhi, reports a theft at his shop to the local police station. The officer in charge, Inspector Sharma, receives the complaint and decides to investigate the case immediately without waiting for a Magistrate's order, as theft is a cognizable offense.

Application of Section 175:

Inspector Sharma, being the officer in charge, has the authority to investigate the theft directly.

Considering the nature of the theft, if the Superintendent of Police (SP) deems it necessary, he may instruct the Deputy Superintendent of Police (DSP) to take over the investigation due to the gravity of the case.

Any actions taken by Inspector Sharma during the investigation cannot be questioned on the grounds that he was not empowered to investigate the case.

Example 2:

Scenario: Allegation of Corruption Against a Public Servant

An NGO files a complaint against Mr. Verma, a government officer, alleging corruption during the execution of a public project. The complaint is submitted to the local Magistrate.

Application of Section 175:

The Magistrate, empowered under section 210, reviews the complaint and the affidavit provided by the NGO.

The Magistrate orders an investigation into the allegations after considering the facts and circumstances presented by the police officer.

The Magistrate also requires a report from Mr. Verma's superior officer detailing the incident.

Mr. Verma is given an opportunity to present his side of the story, explaining the situation that led to the alleged incident.

Based on the information and assertions from both sides, the Magistrate decides whether to proceed with the investigation.

Example 3:

Scenario: Assault in a Residential Area

A resident of a housing society in Mumbai reports an assault incident to the local police station. Sub-Inspector Mehta, the officer in charge, starts the investigation immediately as assault is a cognizable offense.

Application of Section 175:

Sub-Inspector Mehta has the authority to investigate the assault without needing a Magistrate's order.

If the SP considers the assault to be of a serious nature, he may direct the DSP to handle the investigation.

Any procedural actions taken by Sub-Inspector Mehta during the investigation cannot be challenged on the basis that he was not authorized to investigate the case.

Example 4:

Scenario: Complaint Against a Police Officer

A citizen files a complaint against a police officer, alleging misconduct during a routine check. The complaint is submitted to the local Magistrate.

Application of Section 175:

The Magistrate, empowered under section 210, examines the complaint and the supporting affidavit.

The Magistrate orders an investigation into the alleged misconduct after considering the police officer's report on the incident.

The police officer involved is allowed to present his explanation regarding the situation that led to the complaint.

The Magistrate, after reviewing all the information, decides whether to proceed with the investigation.

Section 176: Procedure for investigation.

Section (1)

If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 175 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that -

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality and such statement may also be recorded through any audio-video electronic means including mobile phone.

Section (2)

In each of the cases mentioned in clauses (a) and (b) of the first proviso to sub-section (1), the officer in charge of the police station shall state in his report the reasons for not fully complying with the requirements of that sub-section by him, and, forward the daily diary report fortnightly to the Magistrate and in the case mentioned in 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 rules made by the State Government.

Section (3)

On receipt of every information relating to the commission of an offence which is made punishable for seven years or more, the officer in charge of a police station shall, from such date, as may be notified within a period of five years by the State Government in this regard, cause the forensic expert to visit the crime scene to collect forensic evidence in the offence and also cause videography of the process on mobile phone or any other electronic device:

Provided that where forensic facility is not available in respect of any such offence, the State Government shall, until the facility in respect of that matter is developed or made in the State, notify the utilisation of such facility of any other State.

SIMPLIFIED ACTS

Section (1)

If a police officer in charge of a police station gets information or has reason to believe that a crime has been committed, which he is allowed to investigate under section 175, he must immediately send a report to a Magistrate who can take action based on a police report. The officer must then go to the crime scene himself or send another officer (who must be of a certain rank as decided by the State Government) to investigate the facts and

circumstances of the case. If needed, they should also take steps to find and arrest the person who committed the crime.

However:

(a) If the information about the crime names a specific person and the crime is not serious, the officer in charge does not need to go to the scene or send another officer to investigate.

(b) If the officer in charge believes there is not enough reason to investigate, he should not investigate the case.

Additionally, for rape cases, the victim's statement should be recorded at her home or a place she chooses, preferably by a woman police officer, and in the presence of her parents, guardian, close relatives, or a local social worker. This statement can also be recorded using audio or video means, including a mobile phone.

Section (2)

In the situations mentioned in points (a) and (b) of the first section, the officer in charge must explain in his report why he did not fully follow the requirements of that section. He must also send a report every two weeks to the Magistrate. In the situation mentioned in point (b), the officer must immediately inform the person who reported the crime, in a way that follows the rules set by the State Government.

Section (3)

When a police officer receives information about a crime that is punishable by seven years or more in prison, he must, from a date set by the State Government within five years, ensure that a forensic expert visits the crime scene to collect forensic evidence. The process should also be recorded on a mobile phone or other electronic device.

If forensic facilities are not available for such a crime, the State Government must notify the use of forensic facilities from another State until the necessary facilities are developed or provided in the State.

Explanation using Example

Example 1:

Scenario: A theft has been reported in a local market.

Details:

The officer in charge of the police station receives information about a theft in a local market.

The officer suspects the commission of an offence which he is empowered to investigate under Section 175.

The officer sends a report to the Magistrate empowered to take cognizance of such offence.

The officer proceeds to the market to investigate the facts and circumstances of the case.

During the investigation, the officer discovers evidence and identifies the suspect.

The officer takes measures to arrest the suspect.

Application of Section 176:

The officer follows the procedure outlined in Section 176(1) by sending a report to the Magistrate and proceeding to the spot to investigate.

If the theft was reported against a specific person and was not of a serious nature, the officer might choose not to proceed in person but instead send a subordinate officer.

The officer records the reasons for not fully complying with the requirements in his report as per Section 176(2).

Example 2:

Scenario: A case of rape has been reported.

Details:

The officer in charge of the police station receives information about a rape case.

The officer sends a report to the Magistrate empowered to take cognizance of such offence.

The officer ensures that the statement of the victim is recorded at the victim's residence or a place of her choice.

The statement is recorded by a woman police officer in the presence of the victim's parents, guardian, or a social worker.

The statement is also recorded through audio-video electronic means, such as a mobile phone.

Application of Section 176:

The officer follows the procedure outlined in Section 176(1) for investigating the offence.

The officer ensures that the victim's statement is recorded in a sensitive manner as per the second proviso to Section 176(1).

The officer includes the reasons for any deviations in his report and forwards the daily diary report to the Magistrate as per Section 176(2).

Example 3:

Scenario: A murder case punishable with imprisonment for seven years or more.

Details:

The officer in charge of the police station receives information about a murder.

The officer sends a report to the Magistrate empowered to take cognizance of such offence.

The officer ensures that a forensic expert visits the crime scene to collect forensic evidence.

The officer ensures that the process is videographed using a mobile phone or other electronic device.

Application of Section 176:

The officer follows the procedure outlined in Section 176(1) for investigating the offence.

The officer ensures compliance with Section 176(3) by involving a forensic expert and videographing the process.

If forensic facilities are not available, the officer follows the State Government's notification to utilize facilities from another State as per the proviso to Section 176(3).

Section 177: Report how submitted.

(1) Every report sent to a Magistrate under section 176 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

SIMPLIFIED ACTS

(1) If the State Government decides, every report sent to a Magistrate under section 176 must be submitted through a higher-ranking police officer. The State Government will choose this officer through a general or special order.

(2) This higher-ranking police officer can give any instructions they think are necessary to the officer in charge of the police station. After writing these instructions on the report, the higher-ranking officer must quickly send the report to the Magistrate.

Explanation using Example

Example 1:

Scenario: A theft has occurred in a local market in Mumbai, and the police have completed their investigation.

Police Investigation: The police at the local station investigate the theft and prepare a report detailing their findings.

Report Submission: According to Section 177, the report must be sent to a Magistrate. The State Government of Maharashtra has issued a general order that all such reports must first be reviewed by the Deputy Commissioner of Police (DCP).

Superior Officer Review: The investigating officer submits the report to the DCP. The DCP reviews the report and provides additional instructions, such as verifying certain facts or collecting more evidence.

Forwarding to Magistrate: After recording his instructions on the report, the DCP forwards the report to the Magistrate without delay.

Magistrate's Action: The Magistrate receives the report and takes appropriate judicial action based on the findings and instructions provided.

Example 2:

Scenario: A road accident resulting in serious injuries occurs in Delhi, and the police are required to submit a report to the Magistrate.

Police Investigation: The police at the local station investigate the accident, gather evidence, and prepare a detailed report.

Report Submission: As per Section 177, the report must be sent to a Magistrate. The State Government of Delhi has issued a special order that all such reports must be reviewed by the Assistant Commissioner of Police (ACP).

Superior Officer Review: The investigating officer submits the report to the ACP. The ACP reviews the report and may instruct the officer to include additional witness statements or medical reports.

Forwarding to Magistrate: After recording his instructions on the report, the ACP forwards the report to the Magistrate without delay.

Magistrate's Action: The Magistrate receives the report and decides on the next steps, which could include summoning the involved parties or ordering further investigation.

Example 3:

Scenario: A case of domestic violence is reported in a small town in Kerala, and the police need to submit their findings to the Magistrate.

Police Investigation: The local police investigate the domestic violence complaint, interview the victim and witnesses, and prepare a report.

Report Submission: According to Section 177, the report must be sent to a Magistrate. The State Government of Kerala has issued a general order that all such reports must be reviewed by the Circle Inspector (CI).

Superior Officer Review: The investigating officer submits the report to the CI. The CI reviews the report and may instruct the officer to gather additional evidence or clarify certain points.

Forwarding to Magistrate: After recording his instructions on the report, the CI forwards the report to the Magistrate without delay.

Magistrate's Action: The Magistrate receives the report and takes appropriate judicial action, such as issuing protection orders or initiating legal proceedings against the accused.

Example 4:

Scenario: A cybercrime involving online fraud is reported in Bangalore, and the police need to submit their investigation report to the Magistrate.

Police Investigation: The cybercrime unit investigates the online fraud, collects digital evidence, and prepares a detailed report.

Report Submission: As per Section 177, the report must be sent to a Magistrate. The State Government of Karnataka has issued a special order that all such reports must be reviewed by the Superintendent of Police (SP) in charge of cybercrimes.

Superior Officer Review: The investigating officer submits the report to the SP. The SP reviews the report and may instruct the officer to include additional technical details or consult with cyber experts.

Forwarding to Magistrate: After recording his instructions on the report, the SP forwards the report to the Magistrate without delay.

Magistrate's Action: The Magistrate receives the report and decides on the next steps, which could include issuing warrants or ordering further investigation.

Section 178: Power to hold investigation or preliminary inquiry.

The Magistrate, on receiving a report under section 176, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Sanhita.

SIMPLIFIED ACTS

When a Magistrate gets a report under section 176, they can: a. Order an investigation, or b. If they prefer, start dealing with the case right away, or c. Assign another Magistrate under their authority to start a preliminary inquiry or handle the case as described in this law.

Explanation using Example

Example 1:

Scenario: A local shopkeeper, Mr. Sharma, reports to the police that his shop was broken into and goods worth Rs. 50,000 were stolen. The police register the case and conduct an initial investigation. They then submit a report under Section 176 to the Magistrate.

Application of Section 178: The Magistrate, upon receiving the report, decides that the case requires further investigation. He directs the police to conduct a more detailed investigation to gather additional evidence and identify the culprits. Alternatively, if the Magistrate believes the case is straightforward, he may choose to conduct a preliminary inquiry himself or assign a subordinate Magistrate to do so. This preliminary inquiry could involve questioning witnesses, reviewing evidence, and determining whether there is enough basis to proceed with a trial.

Example 2:

Scenario: Ms. Gupta files a complaint with the police alleging that her neighbor, Mr. Verma, has been harassing her and making threats. The police conduct a preliminary investigation and submit their findings to the Magistrate under Section 176.

Application of Section 178: The Magistrate, after reviewing the police report, decides that the matter needs a preliminary inquiry to ascertain the severity of the allegations and the credibility of the evidence. He assigns a subordinate Magistrate to conduct this inquiry. The subordinate Magistrate interviews Ms. Gupta, Mr. Verma, and other witnesses, and reviews any available evidence such as messages or recordings. Based on the findings of this preliminary inquiry, the Magistrate will decide whether to proceed with formal charges against Mr. Verma or to dismiss the case if the evidence is insufficient.

Section 179: Police officer's power to require attendance of witnesses.

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

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

Provided further that if such person is willing to attend at the police station, such person may be permitted so to do.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

SIMPLIFIED ACTS

(1) A police officer investigating a case can ask, in writing, for anyone who might know something about the case to come and talk to them. This person should live within the area of the police officer's station or a nearby station. The person must come when asked:

However, no boy under 15 years old, no man over 60 years old, no woman, no person with a mental or physical disability, and no person who is very sick has to go anywhere other than their own home to talk to the police.

If any of these people want to go to the police station, they can choose to do so.

(2) The State Government can make rules so that the police officer has to pay for any reasonable travel expenses for people who have to go somewhere other than their home to talk to the police.

Explanation using Example

Example 1:

Scenario: A robbery has taken place in a neighborhood in Mumbai, and the police are investigating the case.

Application of Section 179:

The investigating police officer receives information that Mr. Sharma, who lives in the same neighborhood, might have seen the robbers fleeing the scene.

The officer issues a written order requiring Mr. Sharma to come to the police station for questioning.

Mr. Sharma is 45 years old and in good health, so he is required to attend the police station as per the order.

Mr. Sharma complies and provides his statement, which helps the police in their investigation.

Example 2:

Scenario: A hit-and-run accident occurs in Delhi, and the police are trying to gather information from witnesses.

Application of Section 179:

The police officer learns that Mrs. Gupta, who lives in the adjoining neighborhood, witnessed the accident.

The officer issues a written order for Mrs. Gupta to attend the police station for questioning.

Mrs. Gupta is 65 years old, so according to the act, she cannot be required to attend the police station.

Instead, the police officer visits Mrs. Gupta's residence to take her statement.

Mrs. Gupta provides valuable information about the vehicle involved in the accident, aiding the investigation.

Example 3:

Scenario: A burglary occurs in a small town in Kerala, and the police are investigating the case.

Application of Section 179:

The investigating officer receives information that a 14-year-old boy, Raju, might have seen the burglars.

The officer issues a written order for Raju to attend the police station for questioning.

Since Raju is under 15 years old, he cannot be required to attend the police station.

The officer visits Raju's home to take his statement.

Raju provides a description of the burglars, which helps the police in their investigation.

Example 4:

Scenario: A case of fraud is being investigated in Bangalore, and the police need to question several witnesses.

Application of Section 179:

The police officer identifies Ms. Priya, a 30-year-old woman, as a potential witness who has information about the fraud.

The officer issues a written order for Ms. Priya to attend the police station for questioning.

Ms. Priya is willing to attend the police station, so she goes there and provides her statement.

Her information helps the police to understand the details of the fraud and identify the suspects.

Example 5:

Scenario: A fire breaks out in a residential building in Chennai, and the police are investigating the cause.

Application of Section 179:

The police officer learns that Mr. Kumar, a 70-year-old man, might have information about the fire.

The officer issues a written order for Mr. Kumar to attend the police station for questioning.

Since Mr. Kumar is above 60 years old, he cannot be required to attend the police station.

The officer visits Mr. Kumar's residence to take his statement.

Mr. Kumar provides crucial information about the possible cause of the fire, aiding the investigation.

Example 6:

Scenario: A case of vandalism occurs in a park in Hyderabad, and the police are investigating the incident.

Application of Section 179:

The police officer receives information that Mr. Ali, who lives in the adjoining area, witnessed the vandalism.

The officer issues a written order for Mr. Ali to attend the police station for questioning.

Mr. Ali is 50 years old and in good health, so he is required to attend the police station as per the order.

Mr. Ali complies and provides his statement, which helps the police in their investigation.

Section 180: Examination of witnesses by police.

Investigation by Police Officer

(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in

this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(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:

Provided that statement made under this sub-section may also be recorded by audio-video electronic means:

Provided further that the statement of a woman against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, shall be recorded, by a woman police officer or any woman officer.

SIMPLIFIED ACTS

Investigation by Police Officer

(1) Any police officer investigating a case under this Chapter, or any police officer of a rank specified by the State Government, can ask questions to anyone who might know something about the case.

(2) The person being questioned must answer all questions truthfully, except for questions that might incriminate them or lead to a penalty or loss.

(3) The police officer can write down any statements made during the questioning. Each person's statement must be recorded separately and accurately:

Statements can also be recorded using audio or video.

If the person being questioned is a woman and the case involves certain serious offenses listed in the Bharatiya Nyaya Sanhita, 2023, her statement must be recorded by a woman police officer or any woman officer.

Explanation using Example

Example 1:

Scenario: A burglary has occurred in a residential area in Mumbai. The police are investigating the case.

Application of Section 180:

Investigation Initiation: A police officer of the rank of Sub-Inspector, as prescribed by the State Government, begins the investigation.

Examination of Witnesses: The officer identifies a neighbor who might have seen suspicious activity around the time of the burglary. The officer orally questions the neighbor about what they saw.

Obligation to Answer: The neighbor is legally bound to answer all questions truthfully, except those that might incriminate them.

Recording Statements: The officer writes down the neighbor's statement. Additionally, the officer uses a body camera to record the interview for accuracy and transparency.

Example 2:

Scenario: A woman reports a case of domestic violence in Delhi. The police are called to investigate.

Application of Section 180:

Investigation Initiation: A police officer of the rank of Inspector, as prescribed by the State Government, is assigned to the case.

Examination of Witnesses: The officer needs to question the woman about the incident. Since the case involves allegations under sections related to domestic violence (e.g., Section 75 of the Bharatiya Nyaya Sanhita, 2023), the statement must be recorded by a woman police officer.

Obligation to Answer: The woman is required to answer all questions truthfully, except those that might incriminate her.

Recording Statements: The woman police officer records the woman's statement in writing and also uses an audio-video recording device to ensure the statement is accurately captured.

Example 3:

Scenario: A hit-and-run accident occurs in Bangalore, and the police are investigating to find the culprit.

Application of Section 180:

Investigation Initiation: A police officer of the rank of Assistant Sub-Inspector, as prescribed by the State Government, starts the investigation.

Examination of Witnesses: The officer identifies a shopkeeper who might have seen the vehicle involved in the accident. The officer questions the shopkeeper about the vehicle's description and the direction it went.

Obligation to Answer: The shopkeeper is legally required to answer all questions truthfully, except those that might incriminate him.

Recording Statements: The officer writes down the shopkeeper's statement and also records the interview using a mobile phone to ensure accuracy.

Example 4:

Scenario: A case of cyber fraud is reported in Hyderabad, and the police are investigating the incident.

Application of Section 180:

Investigation Initiation: A police officer of the rank of Deputy Superintendent of Police, as prescribed by the State Government, is assigned to the case.

Examination of Witnesses: The officer needs to question an IT professional who might have information about the fraudulent transactions. The officer questions the IT professional about the technical details of the transactions.

Obligation to Answer: The IT professional is required to answer all questions truthfully, except those that might incriminate him.

Recording Statements: The officer writes down the IT professional's statement and also uses a laptop to record the interview via video conferencing for accuracy and transparency.

Section 181: Statements to police and use thereof.

(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 148 of the Bharatiya Sakshya Adhiniyam, 2023; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (a) of section 26 of the Bharatiya Sakshya Adhiniyam, 2023; or to affect the provisions of the proviso to sub-section (2) of section 23 of that Adhiniyam.

Explanation. - An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

SIMPLIFIED ACTS

(1) If someone makes a statement to a police officer during an investigation, and it is written down, the person should not sign it. This written statement or any record of it, whether in a police diary or elsewhere, cannot be used for any purpose in any inquiry or trial related to the crime being investigated at the time the statement was made, except as mentioned below:

However, if a witness for the prosecution has their statement written down, any part of that statement can be used by the accused, and with the court's permission, by the prosecution, to challenge the witness's testimony as per section 148 of the Bharatiya Sakshya Adhiniyam, 2023. If any part of the statement is used in this way, it can also be used to clarify any points brought up during the witness's cross-examination.

(2) This rule does not apply to statements covered under clause (a) of section 26 of the Bharatiya Sakshya Adhiniyam, 2023, or affect the provisions of the proviso to sub-section (2) of section 23 of that Adhiniyam.

Explanation. - If a statement mentioned in sub-section (1) leaves out a fact or detail that seems important and relevant, this omission can be considered a contradiction. Whether an omission is a contradiction depends on the context and is a matter of fact.

Explanation using Example

Example 1:

Rajesh is a shopkeeper in Mumbai. One day, his shop is robbed, and he calls the police. During the investigation, Rajesh gives a detailed statement to the police officer about the incident. The police officer writes down Rajesh's statement in his diary. Later, during the trial, the defense lawyer tries to use Rajesh's written statement to prove inconsistencies in his testimony. According to Section 181 of the Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh's written statement to the police cannot be used directly in the trial unless it is used to contradict his testimony as per the provisions of the Bharatiya Sakshya Adhiniyam, 2023. The court allows the defense to use the written statement to highlight contradictions, but only in the manner prescribed by law.

Example 2:

Priya is a witness to a hit-and-run accident in Delhi. She provides a statement to the police during their investigation. The police officer records her statement in writing but does not

ask her to sign it. During the trial, the prosecution calls Priya as a witness. The defense lawyer points out that Priya's statement to the police is different from her testimony in court. The defense lawyer seeks permission from the court to use Priya's written statement to contradict her testimony. The court permits this under Section 181, allowing the defense to use the written statement to challenge Priya's credibility. The prosecution is also allowed to use the statement to clarify any contradictions during re-examination.

Example 3:

Amit is accused of theft, and during the police investigation, his friend Suresh gives a statement to the police officer. The statement is recorded in the police diary. During Amit's trial, Suresh is called as a witness by the prosecution. Amit's lawyer wants to use Suresh's statement to the police to show that Suresh's testimony in court is inconsistent with what he told the police. According to Section 181, the lawyer can use Suresh's statement to contradict him, but only if it is done in accordance with the Bharatiya Sakshya Adhiniyam, 2023. The court allows this, and the lawyer uses the statement to highlight the inconsistencies in Suresh's testimony.

Example 4:

During a murder investigation in Bangalore, the police take a statement from a key witness, Anjali. The statement is written down but not signed by Anjali. At the trial, Anjali's testimony differs from her initial statement to the police. The defense seeks to use the written statement to challenge Anjali's credibility. The court, following Section 181, allows the defense to use the statement to contradict Anjali, provided it is done as per the rules laid out in the Bharatiya Sakshya Adhiniyam, 2023. The prosecution is also given the opportunity to use the statement to explain any discrepancies during re-examination.

Example 5:

In a case of fraud in Kolkata, the police record a statement from a suspect, Ravi, during their investigation. The statement is not signed by Ravi. During the trial, the prosecution tries to use Ravi's statement to the police as evidence against him. However, under Section 181, such a statement cannot be used directly as evidence in the trial. The court disallows the prosecution from using the statement, ensuring that Ravi's rights are protected as per the legal provisions.

Section 182: No inducement to be offered.

(1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 22 of the Bharatiya Sakshya Adhiniyam, 2023.

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 183.

SIMPLIFIED ACTS

(1) No police officer or person in authority is allowed to offer or make, or cause to be offered or made, any kind of incentive, threat, or promise as described in section 22 of the Bharatiya Sakshya Adhiniyam, 2023.

(2) However, no police officer or person in authority should stop anyone from making a statement during an investigation under this Chapter if they want to do so voluntarily:

Provided that this rule does not change the rules mentioned in sub-section (4) of section 183.

Explanation using Example

Example 1:

Ravi is a shopkeeper in Mumbai. One day, his shop is robbed, and he reports the incident to the local police station. During the investigation, the police suspect a local youth named Arjun. To get a confession from Arjun, a police officer tells him, "If you confess to the robbery, we will let you go with just a warning." This is a clear violation of Section 182 of The Bharatiya Nagarik Suraksha Sanhita 2023, as the police officer is offering an inducement to Arjun to confess.

Example 2:

Priya witnesses a hit-and-run accident in Delhi. She is called to the police station to give her statement. During the investigation, the police officer tells her, "If you don't testify against the driver, we will make sure you face legal trouble." This is a violation of Section 182 because the police officer is using a threat to influence Priya's statement.

Example 3:

During an investigation of a financial fraud case in Bangalore, the police suspect a man named Suresh. The investigating officer tells Suresh, "If you help us by providing information about your accomplices, we will reduce your charges." This is an inducement and is prohibited under Section 182 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 4:

In a case of domestic violence in Chennai, the victim, Meena, is hesitant to give a statement. The police officer reassures her, saying, "You can speak freely; we are here to help you, and no one will force you to say anything against your will." This is in compliance with Section 182, as the officer is not offering any inducement, threat, or promise but is allowing Meena to make a statement of her own free will.

Section 183: Recording of confessions and statements.

(1) Any Magistrate of the District in which the information about commission of any offence has been registered, may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards but before the commencement of the inquiry or trial:

Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 316 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)
Magistrate."

A.

B.

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) (a) In cases punishable under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023, the Magistrate shall record the statement of the person against whom such offence has been committed in the manner specified in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that such statement shall, as far as practicable, be recorded by a woman Magistrate and in her absence by a male Magistrate in the presence of a woman:

Provided further that in cases relating to the offences punishable with imprisonment for ten years or more or with imprisonment for life or with death, the Magistrate shall record the statement of the witness brought before him by the police officer:

Provided also that if the person making the statement is temporarily or permanently, mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided also that if the person making the statement is temporarily or permanently, mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be recorded through audio-video electronic means preferably by mobile phone;

(b) a statement recorded under clause (a) of a person, who is temporarily or permanently, mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 142 of the Bharatiya Sakshya Adhiniyam, 2023 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

(7) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

SIMPLIFIED ACTS

(1) Any Magistrate in the district where a crime has been reported can record any confession or statement made to them during an investigation, even if they are not in charge of the case. This can be done at any time before the trial starts:

Confessions or statements can also be recorded using audio-video means in the presence of the accused person's lawyer.

A police officer who has been given the powers of a Magistrate cannot record confessions.

(2) Before recording a confession, the Magistrate must tell the person that they do not have to confess and that if they do, it can be used as evidence against them. The Magistrate must believe the confession is being made voluntarily before recording it.

(3) If the person says they do not want to confess before the confession is recorded, the Magistrate cannot keep them in police custody.

(4) The confession must be recorded in a specific way and signed by the person making it. The Magistrate must add a note at the end saying:

"I have explained to (name) that they do not have to confess and that if they do, it can be used as evidence against them. I believe this confession was made voluntarily. It was taken in my presence, read over to the person, and they confirmed it is correct and complete.

(Signed)
Magistrate."

A.

B.

(5) Any statement (other than a confession) made under this section should be recorded in a way that fits the situation best, as decided by the Magistrate. The Magistrate can also administer an oath to the person making the statement.

(6) (a) For certain serious crimes listed in the Bharatiya Nyaya Sanhita, 2023, the Magistrate must record the statement of the victim as soon as the crime is reported to the police:

Preferably, a woman Magistrate should record the statement, or if not available, a male Magistrate in the presence of a woman.

For very serious crimes (punishable by ten years or more, life imprisonment, or death), the Magistrate must record the statement of the witness brought by the police.

If the person making the statement is mentally or physically disabled, the Magistrate must use an interpreter or special educator to help record the statement.

If the person is disabled, the statement should be recorded using audio-video means, preferably by mobile phone.

(b) A statement recorded from a disabled person will be treated as their main testimony, so they can be cross-examined on it without needing to record it again during the trial.

(7) The Magistrate who records a confession or statement must send it to the Magistrate who will handle the case.

Explanation using Example

Example 1:

Scenario: A theft has occurred in a small village in Maharashtra. The police have arrested a suspect, Ramesh, and during the investigation, Ramesh confesses to the crime.

Application of Section 183:

Recording the Confession: The police take Ramesh to the nearest Magistrate in the district. The Magistrate, even though he may not have jurisdiction over the case, records Ramesh's confession.

Voluntariness Check: Before recording, the Magistrate explains to Ramesh that he is not obligated to confess and that his confession can be used as evidence against him. The Magistrate ensures that Ramesh is making the confession voluntarily.

Audio-Video Recording: Ramesh's confession is recorded using audio-video electronic means in the presence of his advocate.

Documentation: The confession is documented as per the legal requirements, and Ramesh signs the confession. The Magistrate adds a memorandum confirming that the confession was made voluntarily and was read back to Ramesh for accuracy.

Forwarding the Confession: The recorded confession is then forwarded to the Magistrate who will be handling the trial.

Example 2:

Scenario: A woman, Priya, is a victim of domestic violence in Delhi. She reports the incident to the police, and the police bring her to a Magistrate to record her statement.

Application of Section 183:

Recording the Statement: The police bring Priya to a woman Magistrate, as far as practicable, to record her statement. If a woman Magistrate is not available, a male Magistrate records the statement in the presence of a woman.

Special Circumstances: Priya is temporarily disabled due to injuries from the violence. The Magistrate uses the assistance of a special educator to help Priya communicate her statement.

Audio-Video Recording: Priya's statement is recorded through audio-video electronic means, preferably using a mobile phone.

Documentation: The statement is documented in a manner best suited to the circumstances, and the Magistrate administers an oath to Priya before recording her statement.

Forwarding the Statement: The recorded statement is forwarded to the Magistrate who will be handling the trial.

Example 3:

Scenario: A mentally disabled person, Anil, witnesses a murder in Uttar Pradesh. The police need to record his statement as part of the investigation.

Application of Section 183:

Recording the Statement: The police bring Anil to a Magistrate to record his statement. Given Anil's mental disability, the Magistrate takes the assistance of an interpreter.

Audio-Video Recording: Anil's statement is recorded through audio-video electronic means with the help of the interpreter.

Documentation: The statement is documented as per the legal requirements, and the Magistrate ensures that Anil's statement is accurately recorded with the interpreter's assistance.

Use in Trial: Anil's recorded statement is considered as his examination-in-chief, meaning it can be used directly in the trial, and Anil can be cross-examined based on this statement without needing to record it again during the trial.

Forwarding the Statement: The recorded statement is forwarded to the Magistrate who will be handling the trial.

Example 4:

Scenario: A case of cyber fraud is reported in Bangalore. The police arrest the suspect, Suresh, and during the investigation, Suresh makes a statement denying the charges.

Application of Section 183:

Recording the Statement: The police take Suresh to the nearest Magistrate in the district. The Magistrate records Suresh's statement, even though it is not a confession.

Voluntariness Check: The Magistrate ensures that Suresh is making the statement voluntarily and administers an oath to Suresh before recording his statement.

Documentation: The statement is documented in a manner best suited to the circumstances, and Suresh signs the statement.

Forwarding the Statement: The recorded statement is forwarded to the Magistrate who will be handling the trial.

Section 184: Medical examination of victim of rape.

(1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is

alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:

- (i) the name and address of the woman and of the person by whom she was brought;
- (ii) the age of the woman;
- (iii) the description of material taken from the person of the woman for DNA profiling;
- (iv) marks of injury, if any, on the person of the woman;
- (v) general mental condition of the woman; and
- (vi) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, within a period of seven days forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 193 as part of the documents referred to in clause (a) of sub-section (6) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

Explanation: For the purposes of this section, "examination" and "registered medical practitioner" shall have the same meanings as respectively assigned to them in section 51.

SIMPLIFIED ACTS

(1) If a woman is involved in a rape case or an attempted rape case that is being investigated, and it is necessary to have her examined by a medical expert, the examination must be done by a registered doctor working in a government or local authority hospital. If

such a doctor is not available, any other registered doctor can do the examination. This can only happen with the woman's consent or the consent of someone authorized to give consent on her behalf. The woman must be taken to the doctor within 24 hours of the authorities being informed about the crime.

(2) The doctor who examines the woman must quickly prepare a report that includes the following details:

(i) The name and address of the woman and the person who brought her.

(ii) The woman's age.

(iii) A description of any material taken from the woman for DNA testing.

(iv) Any injuries on the woman.

(v) The woman's general mental state.

(vi) Other important details.

(3) The report must clearly explain the reasons for each conclusion the doctor makes.

(4) The report must specifically mention that the woman's consent, or the consent of someone authorized to give consent on her behalf, was obtained for the examination.

(5) The exact start and end times of the examination must be recorded in the report.

(6) The doctor must send the report to the investigating officer within seven days. The investigating officer will then send it to the Magistrate as part of the required documents.

(7) This section does not allow any examination to be done without the woman's consent or the consent of someone authorized to give consent on her behalf.

Explanation: In this section, "examination" and "registered medical practitioner" have the same meanings as in section 51.

Explanation using Example

Example 1:

Scenario: A woman named Priya reports to the police that she has been raped. The police receive the information at 10:00 AM on a Monday.

Police Action: The investigating officer, upon receiving the report, informs Priya that she needs to undergo a medical examination as part of the investigation.

Consent: Priya consents to the medical examination.

Medical Examination: The police take Priya to a government hospital where a registered medical practitioner is available. They reach the hospital by 11:30 AM.

Examination Details:

The registered medical practitioner examines Priya and records her name, age, and address.

The practitioner takes material from Priya's person for DNA profiling.

Any injuries on Priya's body are documented.

The practitioner assesses Priya's general mental condition and records any relevant observations.

Other material particulars are noted in reasonable detail.

Report Preparation: The medical practitioner prepares a detailed report, explaining the reasons for each conclusion.

Consent Documentation: The report specifically records that Priya's consent for the examination was obtained.

Time Notation: The exact time the examination started and ended is noted in the report.

Report Submission: Within seven days, the medical practitioner forwards the report to the investigating officer, who then forwards it to the Magistrate as part of the required documents.

Example 2:

Scenario: A minor girl named Anjali is brought to the police station by her guardian, who reports an attempted rape.

Police Action: The investigating officer, upon receiving the information, informs Anjali's guardian that Anjali needs to undergo a medical examination.

Consent: Anjali's guardian provides consent for the medical examination on her behalf.

Medical Examination: The police take Anjali to the nearest local authority-run hospital since it is closer and has registered medical practitioners available.

Examination Details:

The registered medical practitioner examines Anjali and records her name, age, and address along with the details of her guardian who brought her.

The practitioner takes material from Anjali's person for DNA profiling.

Any visible injuries on Anjali's body are documented.

The practitioner assesses Anjali's general mental condition and records relevant observations.

Other material particulars are noted in reasonable detail.

Report Preparation: The medical practitioner prepares a detailed report, explaining the reasons for each conclusion.

Consent Documentation: The report specifically records that the guardian's consent for the examination was obtained.

Time Notation: The exact time the examination started and ended is noted in the report.

Report Submission: Within seven days, the medical practitioner forwards the report to the investigating officer, who then forwards it to the Magistrate as part of the required documents.

Example 3:

Scenario: A woman named Seema alleges an attempted rape and informs the police late at night, around 11:00 PM.

Police Action: The investigating officer, upon receiving the report, informs Seema that she needs to undergo a medical examination and seeks her consent.

Consent: Seema consents to the medical examination.

Medical Examination: Since it is late night and government hospitals are not accessible, Seema is taken to a nearby private hospital where a registered medical practitioner is available.

Examination Details:

The registered medical practitioner examines Seema and records her name, age, and address.

The practitioner takes material from Seema's person for DNA profiling.

Any visible injuries on Seema's body are documented.

The practitioner assesses Seema's general mental condition and records relevant observations.

Other material particulars are noted in reasonable detail.

Report Preparation: The medical practitioner prepares a detailed report, explaining the reasons for each conclusion.

Consent Documentation: The report specifically records that Seema's consent for the examination was obtained.

Time Notation: The exact time the examination started and ended is noted in the report.

Report Submission: Within seven days, the medical practitioner forwards the report to the investigating officer, who then forwards it to the Magistrate as part of the required documents.

Section 185: Search by police officer.

Search and Seizure

(1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief in the case-diary and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person:

Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Sanhita as to search-warrants and the general provisions as to searches contained in section 103 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith, but not later than forty-eight hours, be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

SIMPLIFIED ACTS

Search and Seizure

(1) If a police officer in charge of a police station or investigating a crime believes that something important for the investigation is in a certain place within their area, and they think they can't get it quickly in any other way, they can search that place. They must write down why they believe this and what they are looking for before doing the search.

(2) The police officer should try to do the search themselves if possible:

Provided that the search should be recorded using audio or video, preferably with a mobile phone.

(3) If the officer can't do the search themselves and there is no one else qualified to do it, they can ask another officer to do it. They must write down why they can't do it themselves and give the other officer a written order specifying the place to be searched and what to look for. The other officer can then carry out the search.

(4) The rules about search warrants and general search procedures in section 103 of this law also apply to searches done under this section.

(5) Copies of the records made under points (1) or (3) must be sent to the nearest Magistrate who can handle the case within 48 hours. The owner or person living in the place that was searched can ask for a free copy of these records from the Magistrate.

Explanation using Example

Example 1:

Scenario: A police officer receives a tip-off about illegal weapons being stored in a warehouse within his jurisdiction.

Reasonable Grounds: The officer in charge of the police station believes that the weapons are necessary for the investigation of a crime he is authorized to investigate.

Recording Grounds: He records his belief and the specific details of the weapons in the case-diary.

Search Authorization: The officer decides that the weapons cannot be obtained without undue delay and prepares to conduct the search.

Conducting the Search: The officer conducts the search in person and records the search through his mobile phone's audio-video capabilities.

Reporting: Within 48 hours, the officer sends copies of the records to the nearest Magistrate and provides a copy to the warehouse owner upon request.

Example 2:

Scenario: A police officer investigating a burglary believes that stolen jewelry is hidden in a suspect's house.

Reasonable Grounds: The officer has reasonable grounds to believe that the stolen jewelry is in the suspect's house and is necessary for the investigation.

Recording Grounds: He documents his belief and the details of the jewelry in the case-diary.

Delegating the Search: The officer is unable to conduct the search personally due to an urgent meeting. He records his reasons in writing and delegates the task to a subordinate officer.

Search Authorization: The officer provides a written order to the subordinate, specifying the house to be searched and the jewelry to be found.

Conducting the Search: The subordinate officer conducts the search and records it using a mobile phone.

Reporting: Copies of the records are sent to the nearest Magistrate within 48 hours, and the suspect is provided with a copy upon request.

Example 3:

Scenario: A police officer suspects that counterfeit currency is being printed in a printing press within his jurisdiction.

Reasonable Grounds: The officer believes that the counterfeit currency is crucial for the investigation of a financial fraud case.

Recording Grounds: He records his belief and the details of the counterfeit currency in the case-diary.

Search Authorization: The officer decides that the counterfeit currency cannot be obtained without undue delay and prepares to conduct the search.

Conducting the Search: The officer conducts the search in person and records the search through his mobile phone's audio-video capabilities.

Reporting: Within 48 hours, the officer sends copies of the records to the nearest Magistrate and provides a copy to the printing press owner upon request.

Section 186: When officer in charge of police station may require another to issue search-warrant.

Police Search Procedures

(1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 185, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 185, as if such place were within the limits of his own police station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of section 185.

(5) The owner or occupier of the place searched shall, on application, be furnished free of cost with a copy of any record sent to the Magistrate under sub-section (4).

SIMPLIFIED ACTS

Police Search Procedures

(1) A police officer in charge of a police station, or a police officer ranked as a sub-inspector or higher, can ask the officer in charge of another police station (whether in the same area or a different one) to conduct a search in any place. This can be done if the first officer could have conducted the search within their own station's area.

(2) The officer who is asked to conduct the search must follow the rules in section 185 and send any items found to the officer who requested the search.

(3) If there is a reason to believe that waiting to ask another police station to conduct the search might result in evidence being hidden or destroyed, the officer in charge of a police station or the investigating officer can search any place in another police station's area. They must follow the rules in section 185 as if the place was within their own station's area.

(4) Any officer conducting a search under the urgent conditions described in (3) must immediately inform the officer in charge of the police station where the search took place. They must also send a copy of the search list (if any) prepared under section 103 and copies of the records mentioned in section 185 to the nearest Magistrate who can handle the case.

(5) The owner or person living in the place that was searched can request and receive a free copy of any record sent to the Magistrate under section (4).

Explanation using Example

Example 1:

Scenario: A police officer in charge of a police station in Mumbai receives credible information that stolen goods from a recent burglary are hidden in a warehouse located in Pune.

Application of Section 186:

The Mumbai police officer, who is not below the rank of sub-inspector, can request the officer in charge of the Pune police station to conduct a search of the specified warehouse.

The Pune police officer, upon receiving the request, will follow the procedures outlined in Section 185 to conduct the search.

If the stolen goods are found, the Pune police officer will forward them to the Mumbai police officer who requested the search.

Example 2:

Scenario: A police officer in charge of a police station in Delhi is investigating a case of illegal drug trafficking. The officer receives a tip that the drugs are being stored in a house located in Gurgaon.

Application of Section 186:

The Delhi police officer can request the officer in charge of the Gurgaon police station to conduct a search of the house.

The Gurgaon police officer will proceed according to the provisions of Section 185 and conduct the search.

If drugs are found, they will be forwarded to the Delhi police officer who initiated the request.

Example 3:

Scenario: A police officer in charge of a police station in Bangalore is investigating a case of cybercrime. The officer learns that crucial evidence is stored in a computer located in a cyber café in Hyderabad. The officer believes that any delay in conducting the search might result in the evidence being destroyed.

Application of Section 186:

The Bangalore police officer can immediately proceed to Hyderabad and conduct the search without waiting for the Hyderabad police officer to act.

The Bangalore officer will follow the provisions of Section 185 as if the cyber café were within the limits of his own police station.

After conducting the search, the Bangalore officer will send a notice of the search to the officer in charge of the Hyderabad police station and provide a copy of the list of items seized.

The Bangalore officer will also send copies of the search records to the nearest Magistrate empowered to take cognizance of the offence.

The owner of the cyber café will be furnished with a copy of the search records free of cost upon request.

Example 4:

Scenario: A police officer in charge of a police station in Chennai is investigating a case of counterfeit currency. The officer receives information that the counterfeit notes are being printed in a factory located in Coimbatore.

Application of Section 186:

The Chennai police officer can request the officer in charge of the Coimbatore police station to conduct a search of the factory.

The Coimbatore police officer will follow the procedures outlined in Section 185 to conduct the search.

If counterfeit currency is found, it will be forwarded to the Chennai police officer who requested the search.

The owner of the factory will be provided with a copy of the search records free of cost upon request.

Section 187: Procedure when investigation can not be completed in twenty-four hours.

Section

(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate.

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

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

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more;

(ii) sixty days, where the investigation relates to any other offence,

and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.

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

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

Explanation I. - For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in sub-section (3), the accused shall be detained in custody so long as he does not furnish bail.

Explanation II. - If any question arises whether an accused person was produced before the Magistrate as required under sub-section (4), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the audio-video electronic means, as the case may be:

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

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

(6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (3):

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

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

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

(9) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(10) Where any order stopping further investigation into an offence has been made under sub-section (9), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (9) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

SIMPLIFIED ACTS

Section

(1) If someone is arrested and kept in custody, and the investigation can't be finished within 24 hours as required by section 58, and there are good reasons to believe the accusation is true, the police officer in charge must immediately send a copy of the case diary to the nearest Magistrate and also send the accused person to that Magistrate.

(2) The Magistrate who receives the accused can decide to keep the accused in custody for up to 15 days at a time, considering if the person has not been released on bail or if their bail has been canceled. If the Magistrate doesn't have the authority to try the case and thinks further detention is unnecessary, they can send the accused to a Magistrate who has the authority.

(3) The Magistrate can extend the detention beyond 15 days if there are good reasons, but not for more than:

(i) 90 days for serious crimes like those punishable by death, life imprisonment, or imprisonment for 10 years or more;

(ii) 60 days for other crimes.

After these periods (90 or 60 days), the accused must be released on bail if they can provide it. Anyone released on bail under this rule is considered released under Chapter XXXV.

(4) The Magistrate cannot authorize police custody unless the accused is brought before them in person the first time and every time after that while in police custody. However, the Magistrate can extend judicial custody if the accused is presented in person or via audio-video means.

(5) A second-class Magistrate, unless specially empowered by the High Court, cannot authorize police custody.

Explanation I. Even if the specified period in sub-section (3) ends, the accused will stay in custody until they provide bail.

Explanation II. If there's a question about whether the accused was brought before the Magistrate as required, it can be proven by the accused's signature on the detention order or a certified order by the Magistrate showing the accused was presented via audio-video means.

Provided that if the accused is a woman under 18, she should be kept in a remand home or recognized social institution.

Provided further that no one should be detained anywhere other than a police station, prison, or a place declared as a prison by the government.

(6) If a Magistrate is not available, the police officer in charge can send the case diary and the accused to the nearest Executive Magistrate, who can authorize detention for up to 7 days. After this period, the accused must be released on bail unless a competent Magistrate orders further detention. The time spent in custody under the Executive Magistrate's order counts towards the total detention period specified in sub-section (3).

Provided that before the 7-day period ends, the Executive Magistrate must send the case records to the nearest Judicial Magistrate.

(7) A Magistrate who authorizes police custody must record their reasons for doing so.

(8) Any Magistrate other than the Chief Judicial Magistrate who makes such an order must send a copy of the order and the reasons for it to the Chief Judicial Magistrate.

(9) If an investigation for a case that a Magistrate can try as a summons-case isn't finished within six months from the arrest date, the Magistrate must stop the investigation unless the investigating officer convinces the Magistrate that continuing the investigation is necessary for special reasons and justice.

(10) If an order to stop the investigation is made under sub-section (9), the Sessions Judge can cancel that order and direct further investigation if they believe it's necessary, with specific directions regarding bail and other matters.

Explanation using Example

Example 1:

Scenario: Rajesh is arrested on suspicion of committing a serious crime, such as murder, which is punishable by death or life imprisonment.

Initial Arrest and Detention: Rajesh is arrested and taken into police custody. The police begin their investigation but realize that they cannot complete it within the 24-hour period mandated by Section 58.

Police Action: The officer in charge, who is at least of sub-inspector rank, sends a copy of the case diary to the nearest Magistrate and forwards Rajesh to the Magistrate.

Magistrate's Decision: The Magistrate, after considering the case, decides that Rajesh should be detained further. The Magistrate authorizes Rajesh's detention for up to 15 days.

Extended Detention: As the investigation continues, the Magistrate finds sufficient grounds to extend Rajesh's detention beyond the initial 15 days. Since the crime is punishable by death or life imprisonment, the Magistrate can authorize detention for up to 90 days in total.

Bail Consideration: If the investigation is not completed within 90 days, Rajesh must be released on bail if he can furnish the required bail amount.

Example 2:

Scenario: Priya is arrested for a less severe crime, such as theft, which is punishable by imprisonment for less than ten years.

Initial Arrest and Detention: Priya is arrested and taken into police custody. The police begin their investigation but realize that they cannot complete it within the 24-hour period mandated by Section 58.

Police Action: The officer in charge, who is at least of sub-inspector rank, sends a copy of the case diary to the nearest Magistrate and forwards Priya to the Magistrate.

Magistrate's Decision: The Magistrate, after considering the case, decides that Priya should be detained further. The Magistrate authorizes Priya's detention for up to 15 days.

Extended Detention: As the investigation continues, the Magistrate finds sufficient grounds to extend Priya's detention beyond the initial 15 days. Since the crime is punishable by imprisonment for less than ten years, the Magistrate can authorize detention for up to 60 days in total.

Bail Consideration: If the investigation is not completed within 60 days, Priya must be released on bail if she can furnish the required bail amount.

Example 3:

Scenario: Arjun is arrested for a crime, and the nearest Judicial Magistrate is unavailable.

Initial Arrest and Detention: Arjun is arrested and taken into police custody. The police begin their investigation but realize that they cannot complete it within the 24-hour period mandated by Section 58.

Police Action: The officer in charge, who is at least of sub-inspector rank, sends a copy of the case diary to the nearest Executive Magistrate and forwards Arjun to the Executive Magistrate.

Executive Magistrate's Decision: The Executive Magistrate, after reviewing the case, authorizes Arjun's detention for up to 7 days.

Further Action: Before the 7-day period expires, the Executive Magistrate transmits the case records to the nearest Judicial Magistrate, who then decides on further detention or release on bail.

Example 4:

Scenario: Meera, a 17-year-old girl, is arrested for a crime.

Initial Arrest and Detention: Meera is arrested and taken into police custody. The police begin their investigation but realize that they cannot complete it within the 24-hour period mandated by Section 58.

Police Action: The officer in charge, who is at least of sub-inspector rank, sends a copy of the case diary to the nearest Magistrate and forwards Meera to the Magistrate.

Magistrate's Decision: The Magistrate, after considering the case, decides that Meera should be detained further. However, since Meera is under 18, the Magistrate orders that she be detained in a remand home or a recognized social institution instead of police custody.

Extended Detention: The Magistrate can authorize Meera's detention for up to 60 or 90 days, depending on the severity of the crime, following the same rules as for adults.

Example 5:

Scenario: Ravi is arrested for a crime that is triable as a summons-case, and the investigation is prolonged.

Initial Arrest and Detention: Ravi is arrested and taken into police custody. The police begin their investigation but realize that they cannot complete it within the 24-hour period mandated by Section 58.

Police Action: The officer in charge, who is at least of sub-inspector rank, sends a copy of the case diary to the nearest Magistrate and forwards Ravi to the Magistrate.

Magistrate's Decision: The Magistrate authorizes Ravi's detention for up to 15 days and subsequently extends it as needed.

Six-Month Period: If the investigation is not concluded within six months from the date of Ravi's arrest, the Magistrate orders the investigation to stop unless the investigating officer provides special reasons for its continuation.

Sessions Judge's Intervention: If the investigation is stopped, the Sessions Judge can review the case and, if satisfied, order the continuation of the investigation with specific directions regarding bail and other matters.

Section 188: Report of investigation by subordinate police officer.

When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.

SIMPLIFIED ACTS

When a lower-ranking police officer has conducted an investigation under this Chapter, he must report the findings of the investigation to the officer in charge of the police station.

Explanation using Example

Example 1:

Inspector Sharma, the officer in charge of the local police station, receives a complaint about a burglary in a residential area. He assigns Sub-Inspector Ramesh to investigate the case. After conducting a thorough investigation, which includes interviewing witnesses, collecting evidence, and reviewing CCTV footage, Sub-Inspector Ramesh compiles all his findings. According to Section 188 of The Bharatiya Nagarik Suraksha Sanhita 2023, Sub-Inspector Ramesh must now report the results of his investigation to Inspector Sharma. This ensures that the officer in charge is fully informed and can take further necessary actions, such as filing charges or closing the case.

Example 2:

A local business owner reports a case of fraud to the police station. The officer in charge, Inspector Mehta, assigns the case to Assistant Sub-Inspector Priya. ASI Priya investigates the matter by examining financial records, interviewing the business owner and employees, and gathering other relevant information. After completing her investigation, ASI Priya prepares a detailed report of her findings. As per Section 188 of The Bharatiya Nagarik Suraksha Sanhita 2023, she submits this report to Inspector Mehta. This allows Inspector Mehta to review the investigation's outcome and decide on the next steps, such as arresting the suspect or seeking further evidence.

Section 189: 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 or bail bond, 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.

SIMPLIFIED ACTS

If, after investigating a case, the police officer in charge finds that there isn't enough evidence or reason to suspect someone of a crime, the officer should not send that person to a Magistrate.

If the person is in custody, the officer should release them. However, the person must sign a bond or bail bond, promising to appear before a Magistrate if required.

The Magistrate will then decide whether to take further action on the case, such as trying the accused or sending them for trial.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, is accused of theft by his neighbor. The police investigate the matter and find that there is no substantial evidence linking Ravi to the theft. The officer in charge of the police station concludes that there is not enough evidence to justify sending Ravi to a Magistrate. Since Ravi is in custody, the officer releases him after Ravi signs a bond agreeing to appear before a Magistrate if required in the future.

Example 2:

Priya, a college student in Delhi, is accused of vandalizing a public park. The police conduct an investigation and determine that there is no reasonable ground of suspicion against Priya. The officer in charge decides that there is no need to forward Priya to a Magistrate. Priya, who was taken into custody, is released after she executes a bail bond, promising to appear before a Magistrate if and when required for further proceedings.

Section 190: Cases to be sent to Magistrate, when evidence is sufficient.

Investigation and Forwarding of Accused

(1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security

from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed:

Provided that if the accused is not in custody, the police officer shall take security from such person for his appearance before the Magistrate and the Magistrate to whom such report is forwarded shall not refuse to accept the same on the ground that the accused is not taken in custody.

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

SIMPLIFIED ACTS

Investigation and Forwarding of Accused

(1) If, after investigating a case, the police officer in charge finds enough evidence or reasonable grounds to believe someone committed a crime, the officer must send the accused person to a Magistrate (a type of judge) who can officially recognize the crime and start a trial. If the crime is one where the accused can be released on bail and the accused can provide a guarantee (security), the officer will take this guarantee and set a date for the accused to appear before the Magistrate. The accused must keep appearing before the Magistrate as required until told otherwise.

If the accused is not in custody, the police officer will take a guarantee from the accused for their appearance before the Magistrate. The Magistrate cannot refuse this guarantee just because the accused is not in custody.

(2) When the police officer sends the accused to the Magistrate or takes a guarantee for their appearance, the officer must also send any weapon or item related to the case to the Magistrate. The officer will also ask the complainant (the person who reported the crime) and any witnesses to sign a bond (a formal agreement) to appear before the Magistrate and either prosecute or give evidence in the case.

(3) If the bond mentions the Court of the Chief Judicial Magistrate, it includes any court that the Chief Judicial Magistrate may refer the case to for further inquiry or trial. The complainant or witnesses must be given reasonable notice if the case is referred to another court.

(4) The officer who oversees the signing of the bond will give a copy of the bond to one of the people who signed it and then send the original bond along with his report to the Magistrate.

Explanation using Example

Example 1:

Scenario: A Theft Case in Mumbai

Ravi, a resident of Mumbai, reports to the police that his house was broken into and several valuable items were stolen. The police investigate the case and gather sufficient evidence, including fingerprints and CCTV footage, pointing to a suspect named Arjun.

Application of Section 190:

Investigation and Evidence: The police officer in charge of the investigation finds sufficient evidence against Arjun.

Forwarding to Magistrate: The officer forwards Arjun, who is in custody, to the Magistrate empowered to take cognizance of the offence.

Bailable Offence: Since theft is a bailable offence, and Arjun is able to provide security, the police take security from him for his appearance before the Magistrate on a specified date.

Submission of Evidence: The police officer sends the CCTV footage and other evidence to the Magistrate and requires Ravi and other witnesses to execute a bond to appear before the Magistrate and give evidence.

Example 2:

Scenario: A Non-Bailable Offence in Delhi

Priya, a resident of Delhi, is assaulted by her neighbor, Ramesh. She files a complaint with the police, who investigate and find sufficient evidence, including medical reports and witness statements, to charge Ramesh with assault, a non-bailable offence.

Application of Section 190:

Investigation and Evidence: The police officer in charge of the investigation finds sufficient evidence against Ramesh.

Forwarding to Magistrate: The officer forwards Ramesh, who is in custody, to the Magistrate empowered to take cognizance of the offence.

Non-Bailable Offence: Since assault is a non-bailable offence, Ramesh remains in custody and is presented before the Magistrate.

Submission of Evidence: The police officer sends the medical reports, witness statements, and any other relevant evidence to the Magistrate and requires Priya and other witnesses to execute a bond to appear before the Magistrate and give evidence.

Example 3:

Scenario: A Bailable Offence with Accused Not in Custody in Bangalore

Sunil, a resident of Bangalore, is accused of cheating by his business partner, Anil. Anil files a complaint with the police, who investigate and find sufficient evidence, including financial records and witness statements, to charge Sunil with cheating, a bailable offence. However, Sunil is not in custody.

Application of Section 190:

Investigation and Evidence: The police officer in charge of the investigation finds sufficient evidence against Sunil.

Forwarding to Magistrate: The officer takes security from Sunil for his appearance before the Magistrate on a specified date since Sunil is not in custody.

Bailable Offence: Sunil provides the required security and is not taken into custody.

Submission of Evidence: The police officer sends the financial records, witness statements, and any other relevant evidence to the Magistrate and requires Anil and other witnesses to execute a bond to appear before the Magistrate and give evidence.

Acceptance by Magistrate: The Magistrate accepts the security and does not refuse it on the ground that Sunil is not in custody.

Section 191: Complainant and witnesses not to be required to accompany police officer and not to be subject to restraint.

No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that if any complainant or witness refuses to attend or to execute a bond as directed in section 190, the officer in charge of the police station may forward him in

custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

SIMPLIFIED ACTS

No person who is going to court to complain or testify should be forced to go with a police officer, be unnecessarily restrained or inconvenienced, or be required to provide any security for their appearance other than their own promise to appear.

However, if a person refuses to attend court or refuses to promise to appear as required by section 190, the police officer in charge can take them into custody and bring them to the Magistrate. The Magistrate can keep them in custody until they promise to appear or until the case is finished.

Explanation using Example

Example 1:

Ravi is a shopkeeper in Mumbai who witnessed a robbery in his neighborhood. He reported the incident to the local police station. A few days later, the police officer investigating the case asked Ravi to come to the police station to provide more details. Ravi agreed and went to the police station voluntarily.

However, on his way to the police station, the officer did not force Ravi to accompany him or put any restraints on him. Ravi was allowed to travel to the police station on his own. This is in line with Section 191 of The Bharatiya Nagarik Suraksha Sanhita 2023, which ensures that witnesses are not subjected to unnecessary restraint or inconvenience.

Example 2:

Priya is a college student in Delhi who filed a complaint about a theft that occurred in her hostel. The police officer investigating the case asked Priya to come to the court to testify. Priya agreed and went to the court on the scheduled date.

The police officer did not require Priya to accompany him to the court or put any restraints on her. Priya was allowed to go to the court on her own. However, if Priya had refused to attend the court or refused to sign a bond ensuring her appearance, the officer in charge could have forwarded her in custody to the Magistrate. The Magistrate could then detain her until she agreed to sign the bond or until the hearing of the case was completed. This scenario illustrates the provisions of Section 191 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Section 192: Diary of proceedings in investigation.

Investigation Procedures

(1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) The statements of witnesses recorded during the course of investigation under section 180 shall be inserted in the case diary.

(3) The diary referred to in sub-section (1) shall be a volume and duly paginated.

(4) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(5) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 148 or section 164, as the case may be, of the Bharatiya Sakshya Adhiniyam, 2023, shall apply.

SIMPLIFIED ACTS

Investigation Procedures

(1) Every police officer conducting an investigation must keep a daily diary. This diary should include the time they received the information, when they started and finished the investigation, the places they visited, and a summary of what they found out.

(2) Any statements made by witnesses during the investigation must be included in this diary.

(3) The diary should be in a book format with numbered pages.

(4) Any Criminal Court can request to see these police diaries during a case. The court can use the diaries to help with the case, but not as direct evidence.

(5) The accused person or their representatives cannot ask to see these diaries just because the court refers to them. However, if the police officer uses the diary to refresh their memory or if the court uses it to challenge the police officer's statements, then certain legal rules will apply.

Explanation using Example

Example 1:

Scenario: A Theft Investigation in Mumbai

Day 1:

Time Information Received: 10:00 AM

Time Investigation Began: 10:30 AM

Time Investigation Closed: 5:00 PM

Places Visited:

Victim's house in Andheri

Nearby CCTV control room

Circumstances Ascertained:

Victim reported a break-in and theft of jewelry.

CCTV footage showed a suspicious person entering the building around 9:00 AM.

Day 2:

Time Investigation Began: 9:00 AM

Time Investigation Closed: 6:00 PM

Places Visited:

Suspect's residence in Bandra

Local pawn shops

Circumstances Ascertained:

Suspect was not at home.

Pawn shop owner identified the suspect as someone who tried to sell jewelry matching the victim's description.

Witness Statements:

Witness 1: Neighbor who saw the suspect leaving the victim's house.

Witness 2: Pawn shop owner who interacted with the suspect.

Case Diary:

The diary is a bound volume with pages numbered sequentially.

All daily entries and witness statements are recorded in this diary.

Court Proceedings:

During the trial, the Criminal Court requests the case diary to understand the investigation process.

The diary is used to aid the court but not as direct evidence.

The accused and his lawyer are not allowed to see the diary unless it is used by the police officer to refresh his memory or to contradict his statements.

Example 2:

Scenario: A Road Accident Investigation in Delhi

Day 1:

Time Information Received: 8:00 AM

Time Investigation Began: 8:30 AM

Time Investigation Closed: 4:00 PM

Places Visited:

Accident site on Ring Road

Hospital where victims were taken

Circumstances Ascertained:

Two cars collided due to one car jumping a red light.

Eyewitnesses reported seeing the driver of the offending car using a mobile phone.

Day 2:

Time Investigation Began: 9:00 AM

Time Investigation Closed: 5:00 PM

Places Visited:

Offending driver's residence

Traffic control room for signal data

Circumstances Ascertained:

Offending driver admitted to using the phone while driving.

Traffic signal data confirmed the car jumped the red light.

Witness Statements:

Witness 1: Pedestrian who saw the accident.

Witness 2: Passenger in the offending car.

Case Diary:

The diary is a bound volume with pages numbered sequentially.

All daily entries and witness statements are recorded in this diary.

Court Proceedings:

During the trial, the Criminal Court requests the case diary to understand the investigation process.

The diary is used to aid the court but not as direct evidence.

The accused and his lawyer are not allowed to see the diary unless it is used by the police officer to refresh his memory or to contradict his statements.

Section 193: Report of police officer on completion of investigation.

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) The investigation in relation to an offence under sections 64, 65, 66, 67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

(3)

(i) As soon as the investigation is completed, the officer in charge of the police station shall forward, including through electronic communication to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form as the State Government may, by rules provide, stating -

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether the accused has been released on his bond or bail bond;

- (g) whether the accused has been forwarded in custody under section 190;
- (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 64, 65, 66, 67, 68, 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023;
- (i) the sequence of custody in case of electronic device;
- (ii) The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim;
- (iii) The officer shall also communicate, in such manner as the State Government may, by rules, provide, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.
- (4) Where a superior officer of police has been appointed under section 177, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.
- (5) Whenever it appears from a report forwarded under this section that the accused has been released on his bond or bail bond, the Magistrate shall make such order for the discharge of such bond or bail bond or otherwise as he thinks fit.
- (6) When such report is in respect of a case to which section 190 applies, the police officer shall forward to the Magistrate along with the report -
- (a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
- (b) the statements recorded under section 180 of all the persons whom the prosecution proposes to examine as its witnesses.
- (7) If the police officer is of opinion that any part of any such statement is not relevant to the subject matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.
- (8) Subject to the provisions contained in sub-section (7), the police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Magistrate for supply to the accused as required under section

Provided that supply of report and other documents by electronic communication shall be considered as duly served.

(9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (8) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3):

Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may be extended with the permission of the Court.

SIMPLIFIED ACTS

(1) Every investigation under this Chapter should be finished as quickly as possible without unnecessary delays.

(2) Investigations for certain serious crimes listed in the Bharatiya Nyaya Sanhita, 2023, and the Protection of Children from Sexual Offences Act, 2012, must be completed within two months from the date the police officer records the information.

(3)

(i) Once the investigation is done, the police officer in charge must send a report to a Magistrate (a judge) who can take action on the case. This report can be sent electronically and must include:

(a) Names of the people involved;

(b) Details of the information received;

(c) Names of people who know about the case;

(d) Whether a crime seems to have been committed and by whom;

(e) Whether the accused person has been arrested;

(f) Whether the accused has been released on bail;

(g) Whether the accused is in custody under section 190;

(h) Whether a medical examination report of a woman is attached if the case involves certain serious crimes;

(i) The sequence of custody for any electronic device involved.

- (ii) Within ninety days, the police officer must inform the victim or the person who reported the crime about the progress of the investigation, including through electronic means.
- (iii) The officer must also inform the person who first reported the crime about the actions taken, as per the rules set by the State Government.
- (4) If a higher-ranking police officer is appointed under section 177, the report must be submitted through that officer if the State Government directs so. This higher officer can ask the police officer to do more investigation while waiting for the Magistrate's orders.
- (5) If the report shows that the accused has been released on bail, the Magistrate will decide what to do about the bail.
- (6) When the report is for a case under section 190, the police officer must also send the Magistrate:
- (a) All documents or relevant parts of documents that the prosecution will use, except those already sent;
- (b) Statements recorded under section 180 from all people the prosecution plans to call as witnesses.
- (7) If the police officer thinks any part of a statement is not relevant or should not be shown to the accused for justice or public interest reasons, he will mark that part and ask the Magistrate to exclude it from the copies given to the accused, explaining why.
- (8) Following the rules in sub-section (7), the police officer must also submit enough copies of the police report and other documents to the Magistrate for the accused, as required under section 230. Sending these documents electronically is considered properly served.
- (9) This section does not stop further investigation after the initial report is sent to the Magistrate. If the police find more evidence, they must send additional reports to the Magistrate. The same rules from sub-sections (3) to (8) apply to these additional reports. Further investigation during the trial needs the Court's permission and must be completed within ninety days, which can be extended with the Court's permission.

Explanation using Example

Example 1:

Scenario: A case of theft under Section 64 of the Bharatiya Nyaya Sanhita, 2023.

Details:

Date of Information Recorded: 1st January 2023

Police Station: XYZ Police Station, Mumbai

Investigating Officer: Inspector Rajesh Sharma

Process:

Investigation Timeline: Inspector Rajesh Sharma must complete the investigation by 1st March 2023 (within two months).

Completion of Investigation: On 25th February 2023, the investigation is completed.

Report Submission: Inspector Rajesh Sharma forwards the report to the Magistrate via electronic communication. The report includes:

Names of the parties involved.

Nature of the information (theft).

Names of witnesses.

Details of the offence and the accused.

Status of the accused (arrested and released on bail).

Medical examination report (if applicable).

Sequence of custody for any electronic devices involved.

Informing the Victim: The victim, Mr. Anil Kumar, is informed about the progress of the investigation via email on 25th February 2023.

Magistrate's Action: The Magistrate reviews the report and makes an order regarding the discharge of the bail bond.

Example 2:

Scenario: A case of sexual offence under Section 4 of the Protection of Children from Sexual Offences Act, 2012.

Details:

Date of Information Recorded: 15th March 2023

Police Station: ABC Police Station, Delhi

Investigating Officer: Inspector Priya Singh

Process:

Investigation Timeline: Inspector Priya Singh must complete the investigation by 15th May 2023 (within two months).

Completion of Investigation: On 10th May 2023, the investigation is completed.

Report Submission: Inspector Priya Singh forwards the report to the Magistrate via electronic communication. The report includes:

Names of the parties involved.

Nature of the information (sexual offence).

Names of witnesses.

Details of the offence and the accused.

Status of the accused (arrested and in custody).

Medical examination report of the victim.

Sequence of custody for any electronic devices involved.

Informing the Victim: The victim's guardian, Mrs. Sunita Verma, is informed about the progress of the investigation via SMS on 10th May 2023.

Magistrate's Action: The Magistrate reviews the report and makes an order regarding the custody of the accused.

Example 3:

Scenario: A case of cybercrime under Section 66 of the Bharatiya Nyaya Sanhita, 2023.

Details:

Date of Information Recorded: 5th April 2023

Police Station: DEF Police Station, Bangalore

Investigating Officer: Inspector Arjun Rao

Process:

Investigation Timeline: Inspector Arjun Rao must complete the investigation by 5th June 2023 (within two months).

Completion of Investigation: On 30th May 2023, the investigation is completed.

Report Submission: Inspector Arjun Rao forwards the report to the Magistrate via electronic communication. The report includes:

Names of the parties involved.

Nature of the information (cybercrime).

Names of witnesses.

Details of the offence and the accused.

Status of the accused (arrested and released on bail).

Sequence of custody for any electronic devices involved.

Informing the Victim: The victim, Mr. Ravi Shankar, is informed about the progress of the investigation via email on 30th May 2023.

Magistrate's Action: The Magistrate reviews the report and makes an order regarding the discharge of the bail bond.

Example 4:

Scenario: A case of child trafficking under Section 8 of the Protection of Children from Sexual Offences Act, 2012.

Details:

Date of Information Recorded: 20th February 2023

Police Station: GHI Police Station, Kolkata

Investigating Officer: Inspector Meera Nair

Process:

Investigation Timeline: Inspector Meera Nair must complete the investigation by 20th April 2023 (within two months).

Completion of Investigation: On 15th April 2023, the investigation is completed.

Report Submission: Inspector Meera Nair forwards the report to the Magistrate via electronic communication. The report includes:

Names of the parties involved.

Nature of the information (child trafficking).

Names of witnesses.

Details of the offence and the accused.

Status of the accused (arrested and in custody).

Medical examination report of the victim.

Sequence of custody for any electronic devices involved.

Informing the Victim: The victim's guardian, Mr. Rajesh Gupta, is informed about the progress of the investigation via phone call on 15th April 2023.

Magistrate's Action: The Magistrate reviews the report and makes an order regarding the custody of the accused.

Section 194: Police to enquire and report on suicide, etc.

(1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule made by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forwarded to the District Magistrate or the Sub-divisional Magistrate within twenty-four hours.

(3) When -

(i) the case involves suicide by a woman within seven years of her marriage; or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient so to do,

he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical person appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

SIMPLIFIED ACTS

(1) When the officer in charge of a police station or another police officer authorized by the State Government gets information that someone has committed suicide, been killed by another person, an animal, machinery, or an accident, or has died under suspicious circumstances suggesting a crime, he must immediately inform the nearest Executive Magistrate who can conduct inquests. Unless directed otherwise by State Government rules or orders from the District or Sub-divisional Magistrate, the officer must go to the place where the body is. There, in the presence of at least two respectable local residents, he must investigate and write a report on the apparent cause of death, describing any wounds, fractures, bruises, or other injuries found on the body, and stating how or with what weapon or instrument (if any) these injuries seem to have been caused.

(2) The report must be signed by the police officer and the other people present, or by as many of them as agree with it, and sent to the District Magistrate or Sub-divisional Magistrate within twenty-four hours.

(3) In the following situations:

(i) if a woman commits suicide within seven years of her marriage; or

(ii) if a woman dies within seven years of her marriage under suspicious circumstances suggesting a crime; or

(iii) if a woman dies within seven years of her marriage and a relative requests an investigation; or

(iv) if there is any doubt about the cause of death; or

(v) if the police officer thinks it is necessary for any other reason,

the officer must, following State Government rules, send the body for examination to the nearest Civil Surgeon or another qualified medical person appointed by the State Government, if the weather and distance allow it without the body decaying too much during transport.

(4) The following Magistrates can conduct inquests: any District Magistrate, Sub-divisional Magistrate, and any other Executive Magistrate specially authorized by the State Government or the District Magistrate.

Explanation using Example

Example 1:

Rajesh, a 30-year-old man from Mumbai, is found dead in his apartment. The officer in charge of the local police station receives information that Rajesh might have committed suicide. As per Section 194 of the Bharatiya Nagarik Suraksha Sanhita 2023, the officer immediately informs the nearest Executive Magistrate empowered to hold inquests. The officer, along with two respectable inhabitants of the neighborhood, proceeds to Rajesh's apartment, examines the body, and notes the presence of any wounds, fractures, or other marks of injury. The officer draws up a report detailing these findings and forwards it to the District Magistrate within twenty-four hours.

Example 2:

Priya, a young woman who had been married for five years, is found dead under suspicious circumstances in her home in Delhi. The officer in charge of the local police station is informed of her death, which raises reasonable suspicion of an offence being committed by someone. Following Section 194, the officer informs the nearest Executive Magistrate and proceeds to the scene with two respectable neighbors. They document any visible injuries and draw up a report. Considering the death occurred within seven years of Priya's marriage, the officer forwards her body to the nearest Civil Surgeon for a thorough medical examination to determine the cause of death. The officer sends the signed report to the District Magistrate within twenty-four hours.

Example 3:

Sunita, a woman who had been married for six years, dies in an accident involving machinery at her workplace in Bangalore. The local police officer, upon receiving the information, informs the nearest Executive Magistrate and proceeds to the accident site with two respectable individuals from the area. They observe and record any marks of injury on Sunita's body, particularly those caused by the machinery. A detailed report is drawn up, signed by the officer and the witnesses, and sent to the Sub-divisional Magistrate within twenty-four hours. Given the circumstances and the timeframe of her marriage, her body is also sent to a Civil Surgeon for further examination to rule out any foul play.

Example 4:

Arjun, a man from a small village in Rajasthan, is found dead in a field with injuries that suggest an attack by an animal. The police officer receiving this information follows Section 194 by informing the Executive Magistrate and visiting the location with two local residents. They inspect Arjun's body, noting injuries consistent with an animal attack, and prepare a report on the apparent cause of death. The report, signed by the officer and witnesses, is forwarded to the District Magistrate within twenty-four hours. Considering there is no reasonable suspicion of a crime, the body is not sent for further medical examination.

Example 5:

Meera, a woman who had been married for three years, is found dead in her home under circumstances that suggest foul play. Her parents, suspecting that she was murdered, request a thorough investigation. The police officer, adhering to Section 194, informs the nearest Executive Magistrate and proceeds to Meera's home with two respectable locals. They document any signs of injury and prepare a detailed report. Due to the suspicious nature of her death and the family's request, Meera's body is sent to a qualified medical professional for a detailed examination. The report is signed and forwarded to the Sub-divisional Magistrate within twenty-four hours.

Example 6:

Vikram, a factory worker, dies in a workplace accident involving heavy machinery in Chennai. The officer in charge of the police station receives this information and informs the nearest Executive Magistrate. Accompanied by two respected members of the community, the officer inspects the scene and Vikram's body, noting injuries caused by the machinery. A report is prepared and signed, then forwarded to the District Magistrate within twenty-four hours. Since Vikram's death was due to an accident and there is no suspicion of foul play, the body is not sent for further medical examination.

Section 195: Power to summon persons.

Section 194 - Police Officer's Authority

(1) A police officer proceeding under section 194 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture:

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

Provided further that if such person is willing to attend and answer at the police station, such person may be permitted so to do.

(2) If the facts do not disclose a cognizable offence to which section 190 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

SIMPLIFIED ACTS

Section 194 - Police Officer's Authority

(1) A police officer working under section 194 can write an order to call two or more people to help with an investigation. They can also call anyone else who might know something about the case. Everyone who is called must show up and answer all questions truthfully, except for questions that might get them in trouble with the law or cause them to lose money or property.

However, men under 15 years old, men over 60 years old, women, people with mental or physical disabilities, or people who are very sick do not have to go anywhere other than where they live.

If these people are okay with going to the police station and answering questions there, they can choose to do so.

(2) If the investigation does not reveal a serious crime that section 190 covers, the police officer cannot make these people go to a Magistrate's Court.

Explanation using Example

Example 1:

Scenario: A robbery has occurred in a neighborhood, and the police are investigating the case.

Application of Section 195:

The investigating police officer issues a written order summoning Mr. Sharma, a shopkeeper who witnessed the robbery, and Ms. Gupta, a resident who saw the suspects fleeing.

Both Mr. Sharma and Ms. Gupta are required to attend the police station to provide their statements and answer questions about the incident.

Mr. Sharma, being 45 years old, and Ms. Gupta, being 35 years old, are legally bound to attend and answer all questions truthfully, except those that might incriminate them.

Since Mr. Sharma and Ms. Gupta are neither under 15 years old nor over 60, and do not have any disabilities or acute illnesses, they must attend the police station as summoned.

Example 2:

Scenario: A hit-and-run accident occurs, and the police need to gather information from witnesses.

Application of Section 195:

The police officer investigating the accident issues a written order summoning Mr. Verma, a 65-year-old retired teacher who witnessed the accident, and Ms. Rani, a 30-year-old office worker who was also present at the scene.

Mr. Verma, being over 60 years old, is not required to attend the police station. Instead, the police officer visits Mr. Verma's residence to take his statement.

Ms. Rani, being 30 years old, is required to attend the police station to provide her statement and answer questions.

Both Mr. Verma and Ms. Rani are required to answer all questions truthfully, except those that might incriminate them.

If Mr. Verma is willing to attend the police station despite his age, he may do so voluntarily.

Example 3:

Scenario: A case of financial fraud is under investigation, and the police need to question several individuals.

Application of Section 195:

The police officer issues a written order summoning Mr. Khan, a 50-year-old accountant who handled the finances, and Ms. Mehta, a 40-year-old manager who oversaw the transactions.

Both Mr. Khan and Ms. Mehta are required to attend the police station to provide their statements and answer questions about the financial dealings.

Mr. Khan and Ms. Mehta must answer all questions truthfully, except those that might expose them to criminal charges or penalties.

Since neither Mr. Khan nor Ms. Mehta falls under the exempted categories (under 15, over 60, women, disabled, or acutely ill), they must comply with the summons and attend the police station.

Example 4:

Scenario: A case of vandalism at a school, and the police need to gather information from students and staff.

Application of Section 195:

The police officer issues a written order summoning Mr. Singh, a 14-year-old student who witnessed the vandalism, and Ms. Patel, a 35-year-old teacher who was present at the time.

Mr. Singh, being under 15 years old, is not required to attend the police station. Instead, the police officer visits Mr. Singh's residence to take his statement.

Ms. Patel, being 35 years old, is required to attend the police station to provide her statement and answer questions.

Both Mr. Singh and Ms. Patel are required to answer all questions truthfully, except those that might incriminate them.

If Mr. Singh is willing to attend the police station despite his age, he may do so voluntarily.

Section 196: Inquiry by Magistrate into cause of death.

Section 194 - Inquiries into Cause of Death

(1) When the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 194, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 194, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) Where, -

(a) any person dies or disappears; or

(b) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police or in any other custody authorised by the Magistrate or the Court, under this Sanhita in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Magistrate within whose local jurisdiction the offence has been committed.

(3) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter specified according to the circumstances of the case.

(4) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(5) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

(6) The Magistrate or the Executive Magistrate or the police officer holding an inquiry or investigation under sub-section (2) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical person appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.

Explanation: In this section, the expression "relative" means parents, children, brothers, sisters and spouse.

SIMPLIFIED ACTS

Section 194 - Inquiries into Cause of Death

(1) If a death falls under certain serious categories mentioned in another part of the law, the closest Magistrate who is allowed to investigate deaths must do so. In other cases, any authorized Magistrate can investigate the cause of death, either instead of or along with the police investigation. The Magistrate has the same powers as if they were investigating a crime.

(2) If:

(a) someone dies or goes missing; or

(b) a woman claims she was raped,

while in police custody or any other custody authorized by a Magistrate or Court, the Magistrate in the area where the incident happened must also investigate, in addition to the police investigation.

(3) The Magistrate conducting the investigation must record the evidence in a manner suitable to the case.

(4) If the Magistrate thinks it's necessary to examine a buried body to find out the cause of death, they can order the body to be dug up and examined.

(5) When an investigation is to be conducted, the Magistrate should, if possible, inform the deceased person's known relatives and allow them to be present during the investigation.

(6) The Magistrate, Executive Magistrate, or police officer conducting the investigation must, within 24 hours of the person's death, send the body to the nearest Civil Surgeon or other qualified medical person appointed by the State Government for examination, unless there are reasons recorded in writing that make this impossible.

Explanation: In this section, "relative" means parents, children, brothers, sisters, and spouse.

Explanation using Example

Example 1:

A 30-year-old man named Rajesh dies in police custody under suspicious circumstances. His family suspects foul play and demands an inquiry. According to Section 196 of The Bharatiya Nagarik Suraksha Sanhita 2023, the nearest Magistrate empowered to hold inquests is required to conduct an inquiry into the cause of Rajesh's death in addition to

the police investigation. The Magistrate records the evidence, informs Rajesh's relatives about the inquiry, and allows them to be present. The Magistrate also orders the disinterment of Rajesh's body for examination by a qualified medical professional to determine the cause of death.

Example 2:

A woman named Priya alleges that she was raped while in judicial custody. The incident falls under Section 196 of The Bharatiya Nagarik Suraksha Sanhita 2023. The Magistrate within whose jurisdiction the alleged offense occurred must conduct an inquiry alongside the police investigation. The Magistrate records Priya's testimony and other evidence. Priya's relatives are informed and allowed to attend the inquiry. The Magistrate ensures that Priya is examined by a qualified medical professional to collect necessary forensic evidence.

CHAPTER XIV: JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

Section 197: Ordinary place of inquiry and trial.

Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

SIMPLIFIED ACTS

Usually, a crime should be investigated and judged by a court that is located in the area where the crime happened.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, was accused of committing theft in a local market in Pune. According to Section 197 of The Bharatiya Nagarik Suraksha Sanhita 2023, the case should be inquired into and tried by a court in Pune, as the offence was committed within the local jurisdiction of Pune.

Example 2:

Priya, who lives in Delhi, was involved in a road accident in Jaipur, resulting in serious injuries to another person. Under Section 197, the inquiry and trial for this offence should take place in a court in Jaipur, since the incident occurred within the local jurisdiction of Jaipur.

Section 198: Place of inquiry or trial.

- (a) When it is uncertain in which of several local areas an offence was committed;
- (b) Where an offence is committed partly in one local area and partly in another;
- (c) Where an offence is a continuing one, and continues to be committed in more local areas than one;
- (d) Where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

SIMPLIFIED ACTS

- (a) When it's not clear in which of several places a crime happened;
- (b) When a crime happens partly in one place and partly in another;
- (c) When a crime keeps happening over time and takes place in more than one place;
- (d) When a crime involves several actions done in different places,

it can be investigated or tried by a court that has authority over any of those places.

Explanation using Example

Example 1:

Ravi is accused of committing a series of fraudulent transactions. The transactions took place in different cities: Mumbai, Pune, and Nashik. Since it is uncertain in which specific city the main fraudulent act occurred, the case can be tried in any court that has jurisdiction over Mumbai, Pune, or Nashik.

Example 2:

Priya is accused of smuggling goods. She transported the goods from Chennai to Bangalore, passing through multiple districts. Since the offence was committed partly in Chennai and partly in Bangalore, the case can be tried in a court that has jurisdiction over either Chennai or Bangalore.

Example 3:

Arjun is accused of running an illegal gambling operation that operates in Delhi, Noida, and Gurgaon. Since the illegal activity is ongoing and spans multiple local areas, the case can be tried in any court that has jurisdiction over Delhi, Noida, or Gurgaon.

Example 4:

Meera is accused of a cybercrime where she hacked into systems located in Hyderabad, Kolkata, and Jaipur. Since the offence consists of several acts done in different local areas, the case can be tried in any court that has jurisdiction over Hyderabad, Kolkata, or Jaipur.

Section 199: Offence triable where act is done or consequence ensues.

When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

SIMPLIFIED ACTS

If something is considered a crime because of an action that was taken and the result that followed,

The crime can be investigated or tried in a court located in the area where the action happened or where the result occurred.

Explanation using Example

Example 1:

Ravi, a resident of Delhi, sends a threatening email to Suresh, who lives in Mumbai. Suresh, feeling extremely distressed and fearing for his safety, files a complaint with the Mumbai police. According to Section 199 of The Bharatiya Nagarik Suraksha Sanhita 2023, the offence can be tried either in Delhi, where the threatening email was sent, or in Mumbai, where the consequence of distress and fear ensued.

Example 2:

Priya, living in Bangalore, manufactures and sells a batch of adulterated food products. These products are then transported and sold in Hyderabad, where several consumers fall ill after consuming them. Under Section 199 of The Bharatiya Nagarik Suraksha Sanhita 2023, the offence can be inquired into or tried either in Bangalore, where the adulterated food was manufactured, or in Hyderabad, where the harmful consequence of illness occurred.

Section 200: Place of trial where act is an offence by reason of relation to other offence.

When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

SIMPLIFIED ACTS

If an action is considered a crime because it is connected to another action that is also a crime, or would be a crime if the person doing it could be charged with a crime, then:

The first crime can be investigated or tried in a court located in the area where either of the actions took place.

Explanation using Example

Example 1:

Rahul and Sameer are involved in a criminal conspiracy to commit theft. Rahul, who lives in Mumbai, plans the theft, while Sameer, who lives in Pune, executes the theft. The theft is an offence, and the conspiracy to commit theft is also an offence. According to Section 200 of The Bharatiya Nagarik Suraksha Sanhita 2023, the conspiracy (planned in Mumbai) and the theft (executed in Pune) are related offences. Therefore, the court in either Mumbai or Pune can have jurisdiction to try both offences.

Example 2:

Priya, residing in Delhi, forges a document and sends it to Ramesh in Bangalore, who uses the forged document to commit fraud. Forgery and fraud are both offences, and the fraud is committed by reason of the forged document. According to Section 200 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court in either Delhi (where the forgery took place) or Bangalore (where the fraud was committed) can have jurisdiction to try both the forgery and the fraud.

Section 201: Place of trial in case of certain offences.

(1) Any offence of dacoity, or of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any

part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property.

SIMPLIFIED ACTS

(1) If someone commits dacoity (a type of armed robbery), dacoity with murder, is part of a gang of dacoits, or escapes from custody, the case can be investigated or tried by a Court in the area where the crime happened or where the accused person is found.

(2) If someone is kidnapped or abducted, the case can be investigated or tried by a Court in the area where the person was taken, moved, hidden, or kept.

(3) If someone commits theft, extortion, or robbery, the case can be investigated or tried by a Court in the area where the crime happened or where the stolen property was found with the person who committed the crime or with someone who knew or should have known it was stolen.

(4) If someone misuses or breaches trust with property, the case can be investigated or tried by a Court in the area where the crime happened or where any part of the property was received, kept, or was supposed to be returned or accounted for by the accused person.

(5) If a crime involves having stolen property, the case can be investigated or tried by a Court in the area where the crime happened or where the stolen property was found with someone who knew or should have known it was stolen.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of being part of a gang of dacoits that committed a dacoity in Mumbai. After the crime, Ramesh fled to Pune where he was eventually apprehended by the police.

Application of Section 201(1):

The trial for Ramesh can be conducted either in Mumbai, where the dacoity was committed, or in Pune, where Ramesh was found and arrested.

Example 2:

Scenario: Priya was kidnapped from her home in Delhi and later found being held in a house in Gurgaon.

Application of Section 201(2):

The trial for the kidnapping can be conducted either in Delhi, where Priya was kidnapped, or in Gurgaon, where she was detained.

Example 3:

Scenario: A gang of thieves stole a valuable painting from a gallery in Kolkata. The stolen painting was later found in the possession of a buyer in Chennai who claimed he did not know it was stolen.

Application of Section 201(3):

The trial for the theft can be conducted either in Kolkata, where the painting was stolen, or in Chennai, where the stolen painting was found.

Example 4:

Scenario: An employee in a company in Bangalore misappropriated company funds and transferred part of the money to a bank account in Hyderabad.

Application of Section 201(4):

The trial for criminal misappropriation can be conducted either in Bangalore, where the offence was committed, or in Hyderabad, where part of the misappropriated funds were transferred.

Example 5:

Scenario: A stolen car was found in the possession of a person in Jaipur who claimed he bought it from someone in Ahmedabad.

Application of Section 201(5):

The trial for possession of stolen property can be conducted either in Ahmedabad, where the car was stolen, or in Jaipur, where the stolen car was found.

Section 202: Offences committed by means of electronic communications, letters, etc.

(1) Any offence which includes cheating, may, if the deception is practised by means of electronic communications or letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such electronic communications or letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local

jurisdiction the property was delivered by the person deceived or was received by the accused person.

(2) Any offence punishable under section 82 of the Bharatiya Nyaya Sanhita, 2023 may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, or the wife by the first marriage has taken up permanent residence after the commission of the offence.

SIMPLIFIED ACTS

(1) If someone cheats using electronic communications like emails, letters, or text messages, the case can be investigated or tried in any Court where these messages were sent or received. Also, if someone cheats and tricks another person into giving them property, the case can be investigated or tried in a Court where the property was given by the deceived person or received by the accused person.

(2) If someone commits an offence punishable under section 82 of the Bharatiya Nyaya Sanhita, 2023, the case can be investigated or tried in a Court where the offence happened, where the offender last lived with their first spouse, or where the first spouse has permanently moved after the offence.

Explanation using Example

Example 1:

Ravi, residing in Mumbai, receives an email from an unknown sender claiming to be a bank representative. The email instructs Ravi to provide his bank account details to rectify an alleged issue. Trusting the email, Ravi shares his details, and soon after, a significant amount of money is fraudulently withdrawn from his account. The investigation reveals that the email was sent from a cybercafe in Delhi. Under Section 202 of The Bharatiya Nagarik Suraksha Sanhita 2023, the case can be tried either in Mumbai, where Ravi received the email, or in Delhi, where the email was sent.

Example 2:

Priya, living in Chennai, receives a letter from a person pretending to be a government official, asking for a fee to process a fake government grant. Priya sends the money to an address in Kolkata. Later, she realizes she has been cheated. Under Section 202, the case can be tried in Chennai, where Priya received the letter and sent the money, or in Kolkata, where the accused received the money.

Example 3:

Anil, who resides in Bangalore, is deceived by a telecommunication message from a person pretending to be a job recruiter. The message asks Anil to pay a fee for a job application process. Anil transfers the money, but the job offer turns out to be fake. The investigation

finds that the message was sent from Hyderabad. According to Section 202, the case can be tried in Bangalore, where Anil received the message, or in Hyderabad, where the message was sent.

Example 4:

Sunita, who lives in Pune, is tricked by a WhatsApp message from someone pretending to be a friend in need of urgent financial help. Sunita transfers money to the account provided in the message. It is later discovered that the message was sent from a location in Jaipur. Under Section 202, the case can be tried in Pune, where Sunita received the message, or in Jaipur, where the message originated.

Example 5:

Rajesh, residing in Ahmedabad, is cheated by a fraudulent online shopping website based in Lucknow. He orders a product and makes an online payment, but never receives the product. Under Section 202, the case can be tried in Ahmedabad, where Rajesh made the payment and expected delivery, or in Lucknow, where the fraudulent website is based.

Section 203: Offence committed on journey or voyage.

When an offence is committed whilst the person by or against whom, or the thing in respect of which, the offence is committed is in the course of performing a journey or voyage, the offence may be inquired into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage.

SIMPLIFIED ACTS

If a crime happens while a person or thing is traveling, the crime can be investigated or tried by a court in any area that the person or thing traveled through during the journey.

Explanation using Example

Example 1:

Ravi is traveling by train from Mumbai to Delhi. During the journey, while the train is passing through Jaipur, Ravi is assaulted by another passenger, Suresh. According to Section 203 of The Bharatiya Nagarik Suraksha Sanhita 2023, the offence of assault can be inquired into or tried by a court in Jaipur, even though the journey started in Mumbai and was supposed to end in Delhi. This is because the offence occurred while Ravi was on a journey, and Jaipur falls within the local jurisdiction through which the journey passed.

Example 2:

Priya is transporting valuable goods from Chennai to Kolkata by ship. During the voyage, while the ship is near the coast of Visakhapatnam, the goods are stolen. According to Section 203 of The Bharatiya Nagarik Suraksha Sanhita 2023, the theft can be inquired into or tried by a court in Visakhapatnam, even though the voyage started in Chennai and was supposed to end in Kolkata. This is because the offence occurred while the goods were in transit, and Visakhapatnam falls within the local jurisdiction through which the voyage passed.

Section 204: Place of trial for offences triable together.

Where -

(a) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 242, section 243 or section 244; or

(b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 246,

the offences may be inquired into or tried by any Court competent to inquire into or try any of the offences.

SIMPLIFIED ACTS

Where -

(a) a person has committed multiple offences that can be charged and tried together in one trial according to sections 242, 243, or 244; or

(b) multiple people have committed offences that can be charged and tried together according to section 246,

any court that has the authority to handle any of these offences can investigate or try the offences.

Explanation using Example

Example 1:

Scenario: Raj and Simran are involved in a series of thefts in different parts of Mumbai. Raj is accused of stealing a car in Andheri, while Simran is accused of stealing jewelry in Bandra. Both thefts are connected as part of a larger conspiracy to commit thefts across the city.

Application of Section 204: Since the offences committed by Raj and Simran are connected and can be tried together under the provisions of sections 242, 243, or 244, they can be

charged and tried in a single trial. The competent court in Mumbai, which has jurisdiction over either Andheri or Bandra, can inquire into and try both offences together.

Example 2:

Scenario: A group of five individuals, including Arjun, Ravi, Priya, Meera, and Karan, are involved in a bank fraud scheme. Arjun and Ravi are responsible for forging documents, while Priya, Meera, and Karan are responsible for withdrawing the money using the forged documents.

Application of Section 204: Since the offences committed by Arjun, Ravi, Priya, Meera, and Karan are part of the same fraudulent scheme and can be tried together under the provisions of section 246, they can be charged and tried in a single trial. The competent court that has jurisdiction over the area where the bank fraud occurred can inquire into and try all the offences together.

Section 205: Power to order cases to be tried in different sessions divisions.

Notwithstanding anything contained in the preceding provisions of this Chapter, the State Government may direct that any case or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court or the Supreme Court under the Constitution, or under this Sanhita or any other law for the time being in force.

SIMPLIFIED ACTS

Despite what is mentioned earlier in this Chapter, the State Government has the power to decide that any specific case or group of cases that are set for trial in a particular district can be tried in a different sessions division.

However, this decision by the State Government must not go against any previous directions given by the High Court or the Supreme Court under the Constitution, this law, or any other current law.

Explanation using Example

Example 1:

Rajesh is accused of a serious crime in District A. The case is committed for trial in the sessions court of District A. However, due to concerns about local biases and the potential for an unfair trial, the State Government decides to exercise its power under Section 205 of The Bharatiya Nagarik Suraksha Sanhita 2023. The State Government directs that Rajesh's case be transferred to the sessions court in District B, which is in a different sessions division. This decision is made to ensure a fair and impartial trial. The direction is valid as

long as it does not conflict with any previous directions issued by the High Court or the Supreme Court.

Example 2:

A series of fraud cases involving a large financial scam are committed for trial in District X. Given the complexity and the high-profile nature of these cases, the State Government decides that it would be more efficient and secure to have these cases tried in a sessions court in District Y, which has better facilities and resources to handle such cases. The State Government issues a direction under Section 205 of The Bharatiya Nagarik Suraksha Sanhita 2023 to transfer all related fraud cases to District Y. This direction is issued after ensuring that it does not contradict any existing orders from the High Court or the Supreme Court.

Section 206: High Court to decide, in case of doubt, district where inquiry or trial shall take place.

Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided -

- (a) if the Courts are subordinate to the same High Court, by that High Court;
 - (b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced,
- and thereupon all other proceedings in respect of that offence shall be discontinued.

SIMPLIFIED ACTS

If two or more courts are dealing with the same crime and there's a question about which court should handle the case, here's how it will be decided:

- (a) If the courts are under the same High Court, that High Court will decide.
- (b) If the courts are under different High Courts, the High Court where the case was first started will decide.

Once the decision is made, all other court proceedings for that crime will stop.

Explanation using Example

Example 1:

Scenario: Ravi is accused of committing a financial fraud that affects multiple districts in the state of Maharashtra. Both the Pune District Court and the Mumbai District Court have taken cognizance of the offence and have initiated proceedings.

Application of Section 206: Since both courts are subordinate to the Bombay High Court, the Bombay High Court will decide which district court (Pune or Mumbai) should conduct the inquiry or trial. Once the Bombay High Court makes its decision, the proceedings in the other district court will be discontinued.

Example 2:

Scenario: Priya is accused of a cybercrime that has affected individuals in both Karnataka and Tamil Nadu. The Bangalore District Court in Karnataka and the Chennai District Court in Tamil Nadu have both taken cognizance of the offence and have started proceedings.

Application of Section 206: Since the courts are not subordinate to the same High Court (Bangalore District Court is under the Karnataka High Court and Chennai District Court is under the Madras High Court), the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced will decide. If the proceedings were first commenced in Bangalore, the Karnataka High Court will decide which court should conduct the inquiry or trial. Once the decision is made, the proceedings in the other district court will be discontinued.

Section 207: Power to issue summons or warrant for offence committed beyond local jurisdiction.

(1) When a Magistrate of the first class sees reason to believe that any person within his local jurisdiction has committed outside such jurisdiction (whether within or outside India) an offence which can not, under the provisions of sections 197 to 205 (both inclusive), or any other law for the time being in force, be inquired into or tried within such jurisdiction but is under any law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local jurisdiction and compel such person in the manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is not punishable with death or imprisonment for life and such person is ready and willing to give bail to the satisfaction of the Magistrate acting under this section, take a bond or bail bond for his appearance before the Magistrate having such jurisdiction.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section can not satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

SIMPLIFIED ACTS

(1) If a Magistrate of the first class believes that someone within his area has committed a crime outside his area (whether in India or another country), and this crime cannot be investigated or tried in his area according to sections 197 to 205 or any other current law,

but can be tried somewhere in India, the Magistrate can investigate the crime as if it happened in his area. He can make the person come before him and then send the person to the Magistrate who has the authority to handle the case. If the crime is not punishable by death or life imprisonment and the person is willing to provide bail, the Magistrate can take a bond or bail bond to ensure the person appears before the correct Magistrate.

(2) If there are multiple Magistrates with the authority to handle the case and the acting Magistrate is unsure which one should take the case, the matter should be reported to the High Court for a decision.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, is suspected of committing a financial fraud in Dubai. The fraud is discovered when he returns to Mumbai.

Application of Section 207:

A Magistrate of the first class in Mumbai believes Rajesh has committed an offence in Dubai.

Since the offence cannot be tried in Mumbai under sections 197 to 205, but is triable in India under other laws, the Magistrate in Mumbai can take action.

The Magistrate in Mumbai can inquire into the offence as if it had been committed in Mumbai.

The Magistrate can issue a summons or warrant to compel Rajesh to appear before him.

Once Rajesh appears, the Magistrate can send him to the appropriate Magistrate who has jurisdiction over such offences.

If the offence is not punishable with death or life imprisonment, and Rajesh is willing to provide bail, the Magistrate in Mumbai can take a bail bond for his appearance before the appropriate Magistrate.

Example 2:

Scenario: Priya, living in Chennai, is accused of cybercrime that affected a company in Bengaluru. The crime was committed while she was on a trip to Singapore.

Application of Section 207:

A Magistrate of the first class in Chennai has reason to believe that Priya committed the cybercrime while she was in Singapore.

The offence cannot be tried in Chennai under sections 197 to 205, but it is triable in India under the Information Technology Act.

The Magistrate in Chennai can inquire into the offence as if it had been committed in Chennai.

The Magistrate can issue a summons or warrant to compel Priya to appear before him.

Once Priya appears, the Magistrate can send her to the appropriate Magistrate in Bengaluru who has jurisdiction over cybercrimes.

If the offence is not punishable with death or life imprisonment, and Priya is willing to provide bail, the Magistrate in Chennai can take a bail bond for her appearance before the Bengaluru Magistrate.

Example 3:

Scenario: Anil, residing in Delhi, is accused of smuggling goods from Nepal into India. The smuggling was detected in Kolkata.

Application of Section 207:

A Magistrate of the first class in Delhi believes Anil has committed the offence of smuggling goods from Nepal.

The offence cannot be tried in Delhi under sections 197 to 205, but it is triable in India under the Customs Act.

The Magistrate in Delhi can inquire into the offence as if it had been committed in Delhi.

The Magistrate can issue a summons or warrant to compel Anil to appear before him.

Once Anil appears, the Magistrate can send him to the appropriate Magistrate in Kolkata who has jurisdiction over smuggling offences.

If the offence is not punishable with death or life imprisonment, and Anil is willing to provide bail, the Magistrate in Delhi can take a bail bond for his appearance before the Kolkata Magistrate.

Example 4:

Scenario: Meera, a software engineer in Hyderabad, is accused of hacking into a government database in the USA. The hacking was traced back to her when she returned to Hyderabad.

Application of Section 207:

A Magistrate of the first class in Hyderabad believes Meera has committed the offence of hacking into a government database in the USA.

The offence cannot be tried in Hyderabad under sections 197 to 205, but it is triable in India under the Information Technology Act.

The Magistrate in Hyderabad can inquire into the offence as if it had been committed in Hyderabad.

The Magistrate can issue a summons or warrant to compel Meera to appear before him.

Once Meera appears, the Magistrate can send her to the appropriate Magistrate who has jurisdiction over such offences.

If the offence is not punishable with death or life imprisonment, and Meera is willing to provide bail, the Magistrate in Hyderabad can take a bail bond for her appearance before the appropriate Magistrate.

Section 208: Offence committed outside India.

When an offence is committed outside India -

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found or where the offence is registered in India:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

SIMPLIFIED ACTS

When a crime is committed outside India -

(a) by an Indian citizen, whether on the open sea or anywhere else; or

(b) by a person who is not an Indian citizen, on any ship or aircraft registered in India,

they can be treated as if they committed the crime in any place within India where they are found or where the crime is registered in India:

However, despite anything in the earlier sections of this Chapter, no such crime will be investigated or tried in India without the prior approval of the Central Government.

Explanation using Example

Example 1:

Rahul, an Indian citizen, is on a business trip to France. While in France, he gets involved in a physical altercation and seriously injures another person. The French authorities investigate the incident, but Rahul manages to return to India before any legal action is taken against him in France. Under Section 208 of The Bharatiya Nagarik Suraksha Sanhita 2023, Rahul can be prosecuted in India for the offence he committed in France, as if the offence had occurred within India. However, this prosecution can only proceed with the prior sanction of the Central Government.

Example 2:

An American tourist named John is on a cruise ship registered in India, sailing in international waters. During the voyage, John is caught smuggling illegal substances. Although John is not an Indian citizen, the ship is registered in India. According to Section 208 of The Bharatiya Nagarik Suraksha Sanhita 2023, John can be prosecuted in India for the offence committed on the Indian-registered ship, as if the offence had occurred within India. However, this prosecution requires the prior sanction of the Central Government.

Section 209: Receipt of evidence relating to offences committed outside India.

When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 208, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced, either in physical form or in electronic form, before a judicial officer, in or for that territory or before a diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

SIMPLIFIED ACTS

If a crime is said to have happened outside India and is being investigated or tried under section 208:

The Central Government can decide to allow copies of statements or evidence, whether on paper or electronically, that were given to a judge or an Indian diplomatic or consular representative in that foreign place.

These copies can be used as evidence in the court handling the investigation or trial.

This is allowed in cases where the court could normally ask for evidence to be collected about the matters related to those statements or evidence.

Explanation using Example

Example 1:

Scenario: An Indian citizen, Rajesh, is accused of committing fraud while working in a company based in Dubai. The fraud was discovered after Rajesh returned to India.

Application of Section 209:

The Indian authorities begin an inquiry into the fraud under Section 208 of the Bharatiya Nagarik Suraksha Sanhita 2023.

The Central Government directs that the depositions (statements) made by witnesses in Dubai before a judicial officer there, as well as documents (exhibits) produced in the Dubai court, be sent to India.

These depositions and exhibits, whether in physical or electronic form, are received as evidence by the Indian court conducting the inquiry or trial.

This allows the Indian court to consider the evidence collected in Dubai without needing to send a commission to Dubai to gather the evidence again.

Example 2:

Scenario: Priya, an Indian national, is accused of smuggling goods from Nepal into India. The smuggling activities were primarily conducted in Nepal, but the goods were seized in India.

Application of Section 209:

The Indian authorities start an inquiry into the smuggling case under Section 208 of the Bharatiya Nagarik Suraksha Sanhita 2023.

The Central Government decides that the statements made by witnesses in Nepal before a judicial officer, and the documents related to the smuggling case produced in the Nepalese court, should be sent to India.

These statements and documents, whether in physical or electronic form, are accepted as evidence by the Indian court handling the inquiry or trial.

This facilitates the Indian court in using the evidence collected in Nepal to proceed with the case without the need for a separate commission to gather evidence from Nepal.

Example 3:

Scenario: An Indian diplomat, Anil, stationed in the United States, is accused of embezzling funds from the Indian embassy. The alleged embezzlement took place in the U.S., but Anil is now back in India.

Application of Section 209:

The Indian authorities initiate an inquiry into the embezzlement under Section 208 of the Bharatiya Nagarik Suraksha Sanhita 2023.

The Central Government instructs that the depositions made by embassy staff before a diplomatic representative of India in the U.S., and the financial records produced in the U.S., be sent to India.

These depositions and records, whether in physical or electronic form, are accepted as evidence by the Indian court conducting the inquiry or trial.

This enables the Indian court to use the evidence collected in the U.S. to proceed with the case against Anil without needing to send a commission to the U.S. to gather the evidence again.

CHAPTER XV: CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

Section 210: Cognizance of offences by Magistrate.

Chapter Provisions

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence -

(a) upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence;

(b) upon a police report (submitted in any mode including electronic mode) of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

SIMPLIFIED ACTS

Chapter Provisions

(1) According to the rules in this Chapter, any Magistrate of the first class, and any specially authorized Magistrate of the second class, can start legal proceedings for any crime -

(a) if they receive a complaint about the crime, including complaints from people authorized by special laws;

- (b) if they get a police report about the crime, even if it's submitted electronically;
 - (c) if they get information from someone who is not a police officer, or if they know about the crime themselves.
- (2) The Chief Judicial Magistrate can give permission to any second-class Magistrate to start legal proceedings for crimes that they are allowed to investigate or judge.

Explanation using Example

Example 1:

Scenario: A resident of Mumbai, Mr. Sharma, notices that his neighbor, Mr. Verma, has been illegally dumping hazardous waste in a nearby public park. Mr. Sharma decides to take action.

Application of Section 210:

Complaint by Mr. Sharma: Mr. Sharma files a formal complaint with the local Magistrate of the first class, detailing the illegal dumping activities of Mr. Verma. The Magistrate, upon receiving the complaint, takes cognizance of the offence under Section 210(1)(a).

Police Report: Alternatively, Mr. Sharma could have reported the matter to the local police station. The police investigate and submit a report to the Magistrate, who then takes cognizance of the offence under Section 210(1)(b).

Information from a Third Party: If another neighbor, Ms. Gupta, who is not a police officer, informs the Magistrate about the illegal dumping, the Magistrate can take cognizance of the offence under Section 210(1)(c).

Example 2:

Scenario: In a small town in Kerala, a local journalist, Ms. Nair, uncovers a scam where a group of individuals is forging documents to illegally acquire government land. She decides to report this to the authorities.

Application of Section 210:

Complaint by Ms. Nair: Ms. Nair files a detailed complaint with the Magistrate of the first class, explaining the scam and providing evidence. The Magistrate takes cognizance of the offence under Section 210(1)(a).

Police Report: Ms. Nair could also provide her findings to the local police, who then investigate and submit a report to the Magistrate. The Magistrate takes cognizance of the offence under Section 210(1)(b).

Information from Ms. Nair: If Ms. Nair directly informs the Magistrate about the scam without filing a formal complaint, the Magistrate can still take cognizance of the offence under Section 210(1)(c).

Example 3:

Scenario: In a village in Uttar Pradesh, a local farmer, Mr. Singh, discovers that a company is illegally extracting groundwater, causing a severe water shortage in the area. He decides to take legal action.

Application of Section 210:

Complaint by Mr. Singh: Mr. Singh files a complaint with the local Magistrate of the first class, detailing the illegal extraction of groundwater. The Magistrate takes cognizance of the offence under Section 210(1)(a).

Police Report: Mr. Singh reports the matter to the local police, who investigate and submit a report to the Magistrate. The Magistrate takes cognizance of the offence under Section 210(1)(b).

Information from Mr. Singh: If Mr. Singh directly informs the Magistrate about the illegal activities without filing a formal complaint, the Magistrate can take cognizance of the offence under Section 210(1)(c).

Example 4:

Scenario: In a city in Tamil Nadu, a software engineer, Mr. Raj, discovers that a local cyber café is involved in illegal online activities, including hacking and phishing. He decides to report this to the authorities.

Application of Section 210:

Complaint by Mr. Raj: Mr. Raj files a complaint with the Magistrate of the first class, providing details and evidence of the illegal online activities. The Magistrate takes cognizance of the offence under Section 210(1)(a).

Police Report: Mr. Raj reports the matter to the cybercrime division of the local police, who investigate and submit a report to the Magistrate. The Magistrate takes cognizance of the offence under Section 210(1)(b).

Information from Mr. Raj: If Mr. Raj directly informs the Magistrate about the illegal activities without filing a formal complaint, the Magistrate can take cognizance of the offence under Section 210(1)(c).

Example 5:

Scenario: In a town in West Bengal, a school teacher, Ms. Banerjee, learns that a local shop is selling expired and unsafe food products to children. She decides to take action.

Application of Section 210:

Complaint by Ms. Banerjee: Ms. Banerjee files a complaint with the Magistrate of the first class, detailing the sale of expired food products. The Magistrate takes cognizance of the offence under Section 210(1)(a).

Police Report: Ms. Banerjee reports the matter to the local police, who investigate and submit a report to the Magistrate. The Magistrate takes cognizance of the offence under Section 210(1)(b).

Information from Ms. Banerjee: If Ms. Banerjee directly informs the Magistrate about the illegal activities without filing a formal complaint, the Magistrate can take cognizance of the offence under Section 210(1)(c).

Section 211: Transfer on application of accused.

When a Magistrate takes cognizance of an offence under clause (c) of sub-section (1) of section 210, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

SIMPLIFIED ACTS

When a Magistrate starts dealing with a case under clause (c) of sub-section (1) of section 210, the accused person must be told that they have the right to have their case looked into or judged by a different Magistrate.

If the accused person, or any of the accused if there is more than one, does not want the current Magistrate to handle their case, the case must be moved to another Magistrate chosen by the Chief Judicial Magistrate.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is brought before Magistrate A.

Application of Section 211:

Magistrate A takes cognizance of the offence under clause (c) of sub-section (1) of section 210.

Before any evidence is presented, Magistrate A informs Rajesh that he has the right to have his case inquired into or tried by another Magistrate.

Rajesh feels that Magistrate A might be biased due to a previous unrelated case.

Rajesh objects to further proceedings before Magistrate A.

The case is then transferred to Magistrate B, as specified by the Chief Judicial Magistrate.

Example 2:

Scenario: Priya and Anil are co-accused in a case of fraud and are brought before Magistrate X.

Application of Section 211:

Magistrate X takes cognizance of the offence under clause (c) of sub-section (1) of section 210.

Before any evidence is taken, Magistrate X informs Priya and Anil that they are entitled to have their case inquired into or tried by another Magistrate.

Priya believes that Magistrate X has a conflict of interest because he knows one of the witnesses personally.

Priya objects to further proceedings before Magistrate X.

Anil, however, does not object and is willing to proceed with Magistrate X.

Since Priya has objected, the case is transferred to Magistrate Y, as specified by the Chief Judicial Magistrate, for both Priya and Anil.

Example 3:

Scenario: Sunita is accused of causing grievous hurt and is brought before Magistrate M.

Application of Section 211:

Magistrate M takes cognizance of the offence under clause (c) of sub-section (1) of section 210.

Before any evidence is taken, Magistrate M informs Sunita that she is entitled to have her case inquired into or tried by another Magistrate.

Sunita does not have any objections and is comfortable with Magistrate M handling her case.

Since Sunita does not object, the case proceeds with Magistrate M taking evidence and conducting the trial.

Example 4:

Scenario: A group of five individuals, including Ravi, are accused of rioting and are brought before Magistrate Z.

Application of Section 211:

Magistrate Z takes cognizance of the offence under clause (c) of sub-section (1) of section 210.

Before any evidence is taken, Magistrate Z informs all five accused that they are entitled to have their case inquired into or tried by another Magistrate.

Ravi and two others feel that Magistrate Z might be prejudiced due to past interactions.

Ravi and the two others object to further proceedings before Magistrate Z.

The case is then transferred to Magistrate W, as specified by the Chief Judicial Magistrate, for all five accused.

Section 212: Making over of cases to Magistrates.

(1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him.

(2) Any Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to such other competent Magistrate as the Chief Judicial Magistrate may, by general or special order, specify, and thereupon such Magistrate may hold the inquiry or trial.

SIMPLIFIED ACTS

(1) A Chief Judicial Magistrate can, after officially recognizing a crime, assign the case to any qualified Magistrate who works under them for further investigation or trial.

(2) A first-class Magistrate, who has been given the authority by the Chief Judicial Magistrate, can also assign the case to another qualified Magistrate as specified by the Chief Judicial Magistrate. This other Magistrate can then conduct the investigation or trial.

Explanation using Example

Example 1:

Rajesh is accused of theft and the police file a charge sheet against him. The Chief Judicial Magistrate (CJM) takes cognizance of the offence, meaning the CJM acknowledges that the case is valid and should be heard. However, due to a heavy workload, the CJM decides to transfer Rajesh's case to a Magistrate subordinate to him, specifically Magistrate Sharma,

who is competent to handle such cases. Magistrate Sharma will now conduct the inquiry and trial for Rajesh's theft case.

Example 2:

Priya is accused of fraud, and the case is brought before Magistrate Verma, a Magistrate of the first class. Magistrate Verma has been given the authority by the Chief Judicial Magistrate to transfer cases. After taking cognizance of Priya's case, Magistrate Verma decides to transfer the case to Magistrate Singh, another competent Magistrate specified by the Chief Judicial Magistrate through a special order. Magistrate Singh will now be responsible for conducting the inquiry and trial in Priya's fraud case.

Section 213: Cognizance of offences by Court of Session.

Except as otherwise expressly provided by this Sanhita or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Sanhita.

SIMPLIFIED ACTS

Unless this law or any other current law specifically says otherwise, a Court of Session cannot start a trial for any crime on its own. It can only do so if a Magistrate has sent the case to it under this law.

Explanation using Example

Example 1:

Ravi is accused of a serious crime, such as murder, which falls under the jurisdiction of the Court of Session. The police complete their investigation and file a charge sheet. However, before the Court of Session can start the trial, the case must first be presented before a Magistrate. The Magistrate reviews the evidence and decides whether there is enough ground to commit the case to the Court of Session. Only after the Magistrate commits the case can the Court of Session take cognizance and begin the trial.

Example 2:

Priya is accused of a financial fraud involving a large sum of money. The police conduct an investigation and submit their findings to a Magistrate. The Magistrate examines the evidence and determines that the case is serious enough to be tried by the Court of Session. The Magistrate then commits the case to the Court of Session. The Court of Session can now take cognizance of the offence and proceed with the trial. If the Magistrate had not committed the case, the Court of Session would not have been able to take cognizance of it directly.

Section 214: Additional Sessions Judges to try cases made over to them.

An Additional Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

SIMPLIFIED ACTS

An Additional Sessions Judge will handle cases that the Sessions Judge of the area assigns to him, either through a general rule or a specific order.

The Additional Sessions Judge will also handle cases that the High Court specifically orders him to try.

Explanation using Example

Example 1:

Ravi is accused of a serious crime in the city of Mumbai. The Sessions Judge of Mumbai is overwhelmed with a backlog of cases. To ensure timely justice, the Sessions Judge issues a general order assigning Ravi's case to an Additional Sessions Judge, Judge Mehta. Judge Mehta will now handle Ravi's trial, ensuring that the case proceeds without unnecessary delays.

Example 2:

In the state of Karnataka, a high-profile corruption case involving a senior government official, Mr. Sharma, is under investigation. Given the complexity and sensitivity of the case, the High Court of Karnataka issues a special order directing Additional Sessions Judge, Judge Rao, to take over the trial. This special order ensures that the case is handled by a judge with specific expertise and experience, maintaining the integrity of the judicial process.

Section 215: Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance -

(a)

(i) of any offence punishable under sections 206 to 223 (both inclusive but excluding section 209) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) of any abetment of, or attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;

(b)

(i) of any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, sections 229 to 233 (both inclusive), 236, 237, 242 to 248 (both inclusive) and 267, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or

(ii) of any offence described in sub-section (1) of section 336, or punishable under sub-section (2) of section 340 or section 342 of the said Sanhita, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court; or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2)

Where a complaint has been made by a public servant or by some other public servant who has been authorised to do so by him under clause (a) of sub-section (1), any authority to which he is administratively subordinate or who has authorised such public servant, may, order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3)

In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central or State Act if declared by that Act to be a Court for the purposes of this section.

(4)

For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily

lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that -

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

SIMPLIFIED ACTS

(1) A Court cannot take action -

(a)

(i) on any crime punishable under sections 206 to 223 (except section 209) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) on any help given to commit, or attempt to commit, such a crime; or

(iii) on any plan to commit such a crime, unless there is a written complaint from the concerned public servant or another public servant who is authorized by the concerned public servant;

(b)

(i) on any crime punishable under sections 229 to 233, 236, 237, 242 to 248, and 267 of the Bharatiya Nyaya Sanhita, 2023, if the crime is related to any court proceeding; or

(ii) on any crime described in section 336(1), or punishable under section 340(2) or section 342 of the same Sanhita, if the crime involves a document used in a court proceeding; or

(iii) on any plan to commit, attempt to commit, or help commit any crime mentioned in (i) or (ii), unless there is a written complaint from the court or an authorized officer of the court, or another court to which the first court is subordinate.

(2)

If a public servant or an authorized public servant has made a complaint under clause (a) of sub-section (1), any higher authority can order the withdrawal of the complaint and send a copy of the order to the Court. Once the Court receives this order, it will stop any further action on the complaint:

However, this withdrawal cannot be ordered if the trial in the first court has already finished.

(3)

In clause (b) of sub-section (1), the term "Court" includes Civil, Revenue, or Criminal Courts, and also includes any tribunal set up by a Central or State Act if that Act declares the tribunal to be a Court for this section.

(4)

For clause (b) of sub-section (1), a Court is considered subordinate to the Court where appeals usually go from the decisions or sentences of the first Court. If it's a Civil Court with no usual appeals, it is subordinate to the main Court with original civil jurisdiction in the same area:

Provided that -

(a) if appeals go to more than one Court, the Court with lower authority is the one to which the first Court is subordinate;

(b) if appeals go to both a Civil and a Revenue Court, the first Court is subordinate to either the Civil or Revenue Court depending on the type of case or proceeding involved.

Explanation using Example

Example 1:

Rajesh, a government officer, discovers that a contractor has submitted forged documents to win a public tender. The documents were presented as evidence in a court proceeding. Under Section 215(1)(b)(ii) of the Bharatiya Nagarik Suraksha Sanhita 2023, the court cannot take cognizance of the offence of forgery unless there is a written complaint from the court where the documents were submitted or an authorized officer of that court. Rajesh informs the court, and the court authorizes its officer to file a complaint. The court then proceeds with the case based on this complaint.

Example 2:

Priya, a public servant, files a complaint against a person who attempted to bribe her, an offence under sections 206 to 223 of the Bharatiya Nyaya Sanhita, 2023. According to Section 215(1)(a)(i) of the Bharatiya Nagarik Suraksha Sanhita 2023, the court can only take cognizance of this offence if there is a written complaint from Priya or another authorized public servant. Priya's superior officer, who is administratively above her, decides to withdraw the complaint before the trial concludes. As per Section 215(2), the court receives the withdrawal order and ceases further proceedings on the complaint.

Example 3:

During a civil court proceeding, it is alleged that a witness has committed perjury by lying under oath. This offence falls under sections 229 to 233 of the Bharatiya Nyaya Sanhita,

2023. According to Section 215(1)(b)(i) of the Bharatiya Nagarik Suraksha Sanhita 2023, the court can only take cognizance of this offence if there is a written complaint from the court where the perjury occurred or an authorized officer of that court. The judge of the civil court authorizes the court clerk to file a complaint, and the court proceeds with the case based on this complaint.

Example 4:

A revenue court finds that a party has submitted a falsified land deed as evidence in a property dispute case. Under Section 215(1)(b)(ii) of the Bharatiya Nagarik Suraksha Sanhita 2023, the court cannot take cognizance of the offence unless there is a written complaint from the revenue court or an authorized officer of that court. The revenue court judge authorizes the registrar to file a complaint, and the court proceeds with the case based on this complaint.

Example 5:

An individual is accused of conspiring to obstruct justice by tampering with evidence in a criminal court case. This offence falls under sections 242 to 248 of the Bharatiya Nyaya Sanhita, 2023. According to Section 215(1)(b)(iii) of the Bharatiya Nagarik Suraksha Sanhita 2023, the court can only take cognizance of this offence if there is a written complaint from the criminal court where the tampering occurred or an authorized officer of that court. The judge of the criminal court authorizes the court officer to file a complaint, and the court proceeds with the case based on this complaint.

Section 216: Procedure for witnesses in case of threatening, etc.

A witness or any other person may file a complaint in relation to an offence under section 232 of the Bharatiya Nyaya Sanhita, 2023.

SIMPLIFIED ACTS

If you are a witness or any other person, you can file a complaint about a crime mentioned in section 232 of the Bharatiya Nyaya Sanhita, 2023.

Explanation using Example

Example 1:

Ravi is a key witness in a high-profile corruption case against a local politician. One evening, he receives a threatening phone call from an unknown number, warning him to withdraw his testimony or face dire consequences. Fearing for his safety, Ravi decides to file a complaint under Section 216 of the Bharatiya Nagarik Suraksha Sanhita 2023. He approaches the local police station and reports the threat, providing details of the call and

any other relevant information. The police then initiate an investigation to identify and apprehend the person responsible for the threat, ensuring Ravi's protection as a witness.

Example 2:

Priya is a journalist who has been reporting on illegal mining activities in her district. She has gathered substantial evidence and is set to testify in court. However, she starts receiving anonymous letters and messages threatening her and her family if she continues with her testimony. Priya, understanding the gravity of the situation, files a complaint under Section 216 of the Bharatiya Nagarik Suraksha Sanhita 2023. The authorities take her complaint seriously and provide her with police protection while investigating the source of the threats. This ensures that Priya can safely fulfill her role as a witness without fear of retribution.

Section 217: Prosecution for offences against State and for criminal conspiracy to commit such offence.

Legal Provisions

Section Details

(1) No Court shall take cognizance of -

(a) any offence punishable under Chapter VII or under section 196, section 299 or sub-section (1) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a criminal conspiracy to commit such offence; or

(c) any such abetment, as is described in section 47 of the Bharatiya Nyaya Sanhita, 2023, except with the previous sanction of the Central Government or of the State Government.

(2) No Court shall take cognizance of -

(a) any offence punishable under section 197 or sub-section (2) or sub-section (3) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.

(3) No Court shall take cognizance of the offence of any criminal conspiracy punishable under sub-section (2) of section 61 of the Bharatiya Nyaya Sanhita, 2023, other than a criminal conspiracy to commit an offence punishable with death, imprisonment for life or

rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of section 215 apply, no such consent shall be necessary.

(4) The Central Government or the State Government may, before according sanction under sub-section (1) or sub-section (2) and the District Magistrate may, before according sanction under sub-section (2) and the State Government or the District Magistrate may, before giving consent under sub-section (3), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 174.

SIMPLIFIED ACTS

Legal Provisions

Section Details

(1) A court cannot start legal proceedings for:

(a) any crime punishable under Chapter VII or under section 196, section 299, or sub-section (1) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a plan to commit such a crime; or

(c) helping someone commit such a crime, as described in section 47 of the Bharatiya Nyaya Sanhita, 2023,

unless the Central Government or the State Government gives permission first.

(2) A court cannot start legal proceedings for:

(a) any crime punishable under section 197 or sub-section (2) or sub-section (3) of section 353 of the Bharatiya Nyaya Sanhita, 2023; or

(b) a plan to commit such a crime,

unless the Central Government, the State Government, or the District Magistrate gives permission first.

(3) A court cannot start legal proceedings for a plan to commit a crime punishable under sub-section (2) of section 61 of the Bharatiya Nyaya Sanhita, 2023, unless the crime is punishable with death, life imprisonment, or rigorous imprisonment for two years or more, unless the State Government or the District Magistrate has given written consent:

However, if the plan involves a crime covered by section 215, no such consent is needed.

(4) Before giving permission under sub-section (1) or sub-section (2), and before giving consent under sub-section (3), the Central Government, the State Government, or the District Magistrate can order a preliminary investigation by a police officer of at least the rank of Inspector. This police officer will have the powers mentioned in sub-section (3) of section 174.

Explanation using Example

Example 1:

Ravi, a resident of Delhi, is accused of being involved in a criminal conspiracy to commit an act of terrorism, which is punishable under Chapter VII of the Bharatiya Nyaya Sanhita, 2023. The police gather evidence and want to prosecute Ravi. However, before the court can take cognizance of the case, the police must obtain prior sanction from the Central Government or the State Government. Without this sanction, the court cannot proceed with the case against Ravi.

Example 2:

Priya, a government employee in Maharashtra, is accused of abetting an offence described in section 47 of the Bharatiya Nyaya Sanhita, 2023, which involves providing support to a criminal conspiracy. The local police conduct an investigation and gather sufficient evidence. Before the court can take cognizance of the offence, the police must obtain prior sanction from the State Government. If the State Government grants the sanction, the court can then proceed with the case against Priya.

Example 3:

Arjun, a businessman in Karnataka, is accused of being part of a criminal conspiracy to commit an offence punishable under section 197 of the Bharatiya Nyaya Sanhita, 2023. The police gather evidence and want to prosecute Arjun. However, before the court can take cognizance of the case, the police must obtain prior sanction from the Central Government, the State Government, or the District Magistrate. Without this sanction, the court cannot proceed with the case against Arjun.

Example 4:

Meera, a resident of Uttar Pradesh, is accused of being involved in a criminal conspiracy punishable under sub-section (2) of section 61 of the Bharatiya Nyaya Sanhita, 2023, which is not punishable with death, imprisonment for life, or rigorous imprisonment for a term of two years or more. The police gather evidence and want to prosecute Meera. Before the court can take cognizance of the case, the police must obtain written consent from the State Government or the District Magistrate. If the consent is granted, the court can then proceed with the case against Meera.

Example 5:

The Central Government suspects that a group of individuals in Tamil Nadu is planning a criminal conspiracy to commit an offence punishable under sub-section (3) of section 353 of the Bharatiya Nyaya Sanhita, 2023. Before granting sanction for prosecution, the Central Government orders a preliminary investigation by a police officer of the rank of Inspector or above. The police officer conducts the investigation and submits a report. Based on the findings, the Central Government decides whether to grant the sanction for prosecution. If the sanction is granted, the court can then take cognizance of the case.

Section 218: Prosecution of Judges and public servants.

Legal Provisions

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 -

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted;

Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government;

Provided also that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 64, section 65, section 66, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79, section 143, section 199 or section 200 of the Bharatiya Nyaya Sanhita, 2023.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(4) Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(5) The Central Government or the State Government, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

SIMPLIFIED ACTS

Legal Provisions

(1) If a Judge, Magistrate, or a public servant (who can only be removed from their job with the Government's approval) is accused of a crime they allegedly committed while doing their official duties, a Court cannot start a case against them without prior approval, except as stated in the Lokpal and Lokayuktas Act, 2013:

(a) If the person was working for the Central Government at the time of the alleged crime.

(b) If the person was working for a State Government at the time of the alleged crime:

If the crime happened while the State was under President's rule (as per article 356 of the Constitution), the Central Government's approval is needed instead of the State Government's.

The Government must decide within 120 days of receiving the request for approval. If they don't decide within this time, it is assumed that approval is given.

No approval is needed if the public servant is accused of certain specific crimes listed in the Bharatiya Nyaya Sanhita, 2023.

(2) A Court cannot start a case against a member of the Armed Forces for a crime they allegedly committed while doing their official duties without prior approval from the Central Government.

(3) The State Government can decide that the rules in point (2) also apply to certain members of the Forces responsible for maintaining public order. In such cases, the State Government's approval is needed instead of the Central Government's.

(4) Even if the State Government has the power to approve as per point (3), if the crime was allegedly committed by a member of the Forces responsible for maintaining public order during President's rule in the State, only the Central Government's approval is needed.

(5) The Central or State Government can decide who will prosecute the Judge, Magistrate, or public servant, how the prosecution will be conducted, what crimes they will be prosecuted for, and which Court will handle the trial.

Explanation using Example

Example 1:

Scenario: A District Magistrate is accused of accepting a bribe while performing his official duties.

Application of the Act:

The District Magistrate is a public servant not removable from his office without the sanction of the Government.

The alleged offence (accepting a bribe) was committed while he was acting in the discharge of his official duty.

According to Section 218(1), no court can take cognizance of this offence without the previous sanction of the State Government.

The State Government must decide on the sanction within 120 days of receiving the request. If it fails to do so, the sanction is deemed to have been granted.

Outcome: The court will wait for the State Government's sanction before proceeding with the case against the District Magistrate.

Example 2:

Scenario: A police officer is accused of using excessive force during a protest, resulting in serious injuries to a protester.

Application of the Act:

The police officer is a public servant and was acting in the discharge of his official duty.

According to Section 218(1)(b), the court requires the previous sanction of the State Government to take cognizance of the offence.

If the incident occurred during a period when a Proclamation under Article 356 (President's Rule) was in force, the sanction must come from the Central Government instead of the State Government.

The State or Central Government must decide on the sanction within 120 days of receiving the request. If it fails to do so, the sanction is deemed to have been granted.

Outcome: The court will wait for the appropriate government's sanction before proceeding with the case against the police officer.

Example 3:

Scenario: An Army officer is accused of misconduct while on duty in a conflict zone.

Application of the Act:

The Army officer is a member of the Armed Forces of the Union.

According to Section 218(2), no court can take cognizance of the offence without the previous sanction of the Central Government.

The Central Government will review the case and decide whether to grant the sanction for prosecution.

Outcome: The court will wait for the Central Government's sanction before proceeding with the case against the Army officer.

Example 4:

Scenario: A member of the State Reserve Police Force is accused of wrongful detention during a period of civil unrest.

Application of the Act:

The member of the State Reserve Police Force is charged with maintaining public order.

According to Section 218(3), the State Government may direct that the provisions requiring sanction apply to this class of public servants.

If the State Government issues such a notification, the court will require the State Government's sanction to take cognizance of the offence.

If the incident occurred during a period when a Proclamation under Article 356 was in force, the sanction must come from the Central Government.

Outcome: The court will wait for the appropriate government's sanction before proceeding with the case against the member of the State Reserve Police Force.

Section 219: Prosecution for offences against marriage.

Legal Provisions

Section Details

(1) No Court shall take cognizance of an offence punishable under sections 81 to 84 (both inclusive) of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:

Provided that -

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

(b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;

(c) where the person aggrieved by an offence punishable under section 82 of the Bharatiya Nyaya Sanhita, 2023 is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister, or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

(2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 84 of the Bharatiya Nyaya Sanhita, 2023:

(3) When in any case falling under clause (a) of the proviso to sub-section (1), the complaint is sought to be made on behalf of a child or of a person of unsound mind by a person who has not been appointed or declared by a competent authority to be the guardian of the child, or of the person of unsound mind, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard.

(4) The authorisation referred to in clause (b) of the proviso to sub-section (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by

a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.

(6) No Court shall take cognizance of an offence under section 64 of the Bharatiya Nyaya Sanhita, 2023, where such offence consists of sexual intercourse by a man with his own wife, the wife being under eighteen years of age, if more than one year has elapsed from the date of the commission of the offence.

(7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

SIMPLIFIED ACTS

Legal Provisions

Section Details

(1) A court can only consider crimes under sections 81 to 84 of the Bharatiya Nyaya Sanhita, 2023 if the person affected by the crime makes a complaint:

Provided that -

(a) If the affected person is a child, mentally ill, has an intellectual disability, is too sick or weak to make a complaint, or is a woman who, due to local customs, should not appear in public, someone else can make the complaint for them with the court's permission.

(b) If the affected person is a husband serving in the Armed Forces and cannot get leave to make a complaint, someone else authorized by him can make the complaint on his behalf.

(c) If the affected person is a wife affected by a crime under section 82, her close family members (like her parents, siblings, or children) or, with the court's permission, any other relative can make the complaint for her.

(2) Only the husband of a woman can be considered affected by a crime under section 84 of the Bharatiya Nyaya Sanhita, 2023.

(3) If someone wants to make a complaint for a child or mentally ill person who has a legal guardian, the court must notify the guardian and give them a chance to speak before allowing the complaint.

(4) The authorization for someone to make a complaint on behalf of a husband in the Armed Forces must be in writing, signed by the husband, state that he knows about the

allegations, be countersigned by his Commanding Officer, and include a certificate from the Officer stating that the husband cannot get leave to make the complaint himself.

(5) Any document that looks like the authorization and certificate mentioned in sub-section (4) will be assumed to be genuine unless proven otherwise and can be used as evidence.

(6) A court cannot consider a crime under section 64 of the Bharatiya Nyaya Sanhita, 2023, if it involves a man having sex with his wife who is under 18 years old, if more than one year has passed since the crime happened.

(7) These rules also apply to helping or trying to commit a crime, just like they apply to the crime itself.

Explanation using Example

Example 1:

Scenario: A husband discovers that his wife has been subjected to mental cruelty by her employer.

Application:

The husband, being in the Armed Forces and unable to take leave, can authorize a trusted family member to file the complaint on his behalf.

The authorization must be in writing, signed by the husband, and countersigned by his Commanding Officer, certifying that leave cannot be granted for him to file the complaint personally.

The family member files the complaint in the court, attaching the necessary authorizations and certifications as per sub-section (4).

The court presumes the documents to be genuine and takes cognizance of the offence under Section 84 of the Bharatiya Nyaya Sanhita, 2023.

Example 2:

Scenario: A woman with an intellectual disability is being coerced into a fraudulent marriage.

Application:

The woman's brother, recognizing her inability to file a complaint, seeks to file it on her behalf.

He requests the court for permission, as outlined in the proviso to sub-section (1)(a), since she cannot appear in public due to her condition.

The court, upon verification that the brother is a suitable representative, grants leave for him to make the complaint.

The court then proceeds to take cognizance of the offence against marriage under sections 81 to 84 of the Bharatiya Nyaya Sanhita, 2023.

Example 3:

Scenario: A father wants to file a complaint against his daughter's husband for forcing her into a marriage under false pretenses.

Application:

The father files a complaint on behalf of his daughter, citing section 82 of the Bharatiya Nyaya Sanhita, 2023.

According to sub-section (1)(c), the father is a permissible complainant on behalf of his daughter.

The court takes cognizance of the offence, proceeding with the case as the complaint was made by a close relative as allowed by the section.

Example 4:

Scenario: A woman below the age of 18 is married off and subjected to sexual intercourse by her husband.

Application:

A complaint is filed by the girl's mother within one year of the offence.

The court takes cognizance of the offence under section 64 of the Bharatiya Nyaya Sanhita, 2023, because the complaint was made within the stipulated time frame.

If more than one year had elapsed, the court would not take cognizance of the offence as per sub-section (6).

Example 5:

Scenario: A person attempts to abet a marriage fraud involving a minor girl.

Application:

The girl's guardian files a complaint against the person attempting the abetment.

The court applies the provisions of this section to the abetment attempt, treating it with the same seriousness as the actual offence.

The court takes cognizance and proceeds with the case under the relevant sections of the Bharatiya Nyaya Sanhita, 2023, as specified in sub-section (7).

Section 220: Prosecution of offences under section 85 of Bharatiya Nyaya Sanhita, 2023.

No Court shall take cognizance of an offence punishable under section 85 of the Bharatiya Nyaya Sanhita, 2023 except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

SIMPLIFIED ACTS

A court cannot start a case for an offence under section 85 of the Bharatiya Nyaya Sanhita, 2023 unless:

The police provide a report with facts showing the offence happened, or

The person who was harmed by the offence makes a complaint, or

The complaint is made by the harmed person's father, mother, brother, sister, or their father's or mother's brother or sister, or

With the court's permission, any other person related to the harmed person by blood, marriage, or adoption makes the complaint.

Explanation using Example

Example 1:

Scenario: Rina, a young woman, has been a victim of harassment and threats by her neighbor, which falls under the offence described in Section 85 of the Bharatiya Nyaya Sanhita, 2023.

Application: Rina decides to take legal action against her neighbor. According to Section 220 of the Bharatiya Nagarik Suraksha Sanhita 2023, the court will only take cognizance of this offence if:

A police report is filed detailing the facts of the harassment and threats.

Rina herself files a complaint.

Alternatively, Rina's father, mother, brother, sister, or her father's or mother's brother or sister can file the complaint on her behalf.

If none of these relatives are available or willing, any other person related to Rina by blood, marriage, or adoption can file the complaint, but they must first obtain permission from the court.

In this case, Rina's brother files a complaint with the police, and a police report is generated. The court then takes cognizance of the offence based on the police report and proceeds with the legal process against the neighbor.

Example 2:

Scenario: Anjali, a married woman, is being blackmailed by her ex-boyfriend, which is an offence under Section 85 of the Bharatiya Nyaya Sanhita, 2023.

Application: Anjali wants to initiate legal proceedings against her ex-boyfriend. According to Section 220 of the Bharatiya Nagarik Suraksha Sanhita 2023, the court will only take cognizance of this offence if:

A police report is filed detailing the blackmail.

Anjali herself files a complaint.

Alternatively, Anjali's father, mother, brother, sister, or her father's or mother's brother or sister can file the complaint on her behalf.

If none of these relatives are available or willing, any other person related to Anjali by blood, marriage, or adoption can file the complaint, but they must first obtain permission from the court.

In this case, Anjali's father files a complaint with the police, and a police report is generated. The court then takes cognizance of the offence based on the police report and proceeds with the legal process against the ex-boyfriend.

Section 221: Cognizance of offence.

No Court shall take cognizance of an offence punishable under section 67 of the Bharatiya Nyaya Sanhita, 2023 where the persons are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband.

SIMPLIFIED ACTS

No Court will consider an offence under section 67 of the Bharatiya Nyaya Sanhita, 2023 if the people involved are married to each other.

The only exception is if the wife files a complaint against the husband and there is enough initial evidence to show that the offence might have happened.

Explanation using Example

Example 1:

Scenario: Priya and Raj are married. Priya discovers that Raj has been secretly recording their private conversations without her consent, which is an offense under Section 67 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act: Priya decides to file a complaint against Raj for this invasion of privacy. According to Section 221 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the court will not take cognizance of this offense unless Priya files a formal complaint and the court is prima facie satisfied that the facts presented constitute the offense.

Outcome: Priya files the complaint, and the court reviews the evidence. If the court finds sufficient preliminary evidence that Raj's actions constitute an offense under Section 67, it will take cognizance of the case and proceed with legal action against Raj.

Example 2:

Scenario: Anjali and Vikram are married. Anjali suspects that Vikram has been sharing her private photographs without her consent, which is punishable under Section 67 of the Bharatiya Nyaya Sanhita, 2023.

Application of the Act: Anjali decides to take legal action against Vikram. She files a complaint with the police, detailing the facts and providing evidence of Vikram's actions. According to Section 221 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the court will only take cognizance of the offense if it is prima facie satisfied that the facts presented by Anjali constitute the offense.

Outcome: The court examines the complaint and the evidence provided by Anjali. If the court finds that there is sufficient preliminary evidence to suggest that Vikram's actions fall under the offense described in Section 67, it will take cognizance of the case and initiate legal proceedings against Vikram.

Section 222: Prosecution for defamation.

Section 356 of the Bharatiya Nyaya Sanhita, 2023

(1) No Court shall take cognizance of an offence punishable under section 356 of the Bharatiya Nyaya Sanhita, 2023 except upon a complaint made by some person aggrieved by the offence:

Provided that where such person is a child, or is of unsound mind or is having intellectual disability or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Sanhita, when any offence falling under section 356 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction -

(a) of the State Government, -

(i) in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(ii) in the case of any other public servant employed in connection with the affairs of the State;

(b) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

SIMPLIFIED ACTS

Section 356 of the Bharatiya Nyaya Sanhita, 2023

(1) A court cannot start a case for an offence under Section 356 unless the person who was harmed by the offence makes a complaint:

However, if the harmed person is a child, mentally ill, has an intellectual disability, is too sick or weak to make a complaint, or is a woman who, due to local customs, should not

appear in public, someone else can make the complaint for them with the court's permission.

(2) Despite what is mentioned elsewhere in this law, if the offense under Section 356 is committed against high-ranking officials like the President, Vice-President, Governor, Administrator of a Union territory, or a Minister, or any other public servant while they are doing their job, a Court of Session can start the case directly based on a written complaint by the Public Prosecutor.

(3) The complaint mentioned in point (2) must clearly state the facts of the offense, the type of offense, and enough details to inform the accused person about what they are being accused of.

(4) The Public Prosecutor can only make a complaint under point (2) if they have prior approval:

(a) From the State Government, -

(i) if the person involved is or was the Governor or a Minister of that State;

(ii) if the person is any other public servant working for the State;

(b) From the Central Government, in all other cases.

(5) The Court of Session cannot start a case under point (2) if the complaint is made more than six months after the offense is said to have happened.

(6) This section does not stop the person who was harmed by the offense from making a complaint to a Magistrate who has the authority to handle the case, nor does it stop the Magistrate from starting the case based on such a complaint.

Explanation using Example

Example 1:

Ravi, a journalist, writes an article in a local newspaper accusing Suresh, a local businessman, of embezzling funds from his company. Suresh feels that the article has defamed him and harmed his reputation. Under Section 222 of the Bharatiya Nagarik Suraksha Sanhita 2023, Suresh can file a complaint for defamation against Ravi. However, if Suresh is unable to file the complaint himself due to illness, his wife can file the complaint on his behalf with the permission of the court.

Example 2:

Meera, a school teacher, is accused of defamation by her colleague, Priya, who claims that Meera spread false rumors about her personal life. Priya decides to file a complaint under Section 222 of the Bharatiya Nagarik Suraksha Sanhita 2023. Since Priya is the aggrieved

person, she can directly file the complaint. However, if Priya were a minor or had a mental disability, her guardian or a close relative could file the complaint on her behalf with the court's permission.

Example 3:

A political cartoonist publishes a cartoon depicting the Chief Minister of a state in a negative light, suggesting corruption. The Chief Minister feels defamed and wants to take legal action. Under Section 222 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Public Prosecutor can file a complaint on behalf of the Chief Minister. However, this requires prior sanction from the State Government. The complaint must be filed within six months of the alleged defamation.

Example 4:

An NGO worker, Anjali, accuses a Union Minister of misusing public funds during a public speech. The Union Minister feels defamed and wants to initiate legal proceedings. According to Section 222 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Public Prosecutor can file a complaint on behalf of the Union Minister, but only with prior sanction from the Central Government. The complaint must detail the facts and nature of the alleged offence and be filed within six months of the incident.

CHAPTER XVI: COMPLAINTS TO MAGISTRATES

Section 223: Examination of complainant.

Magistrate's Jurisdiction and Cognizance of Offence

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

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

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

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

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

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

(2) A Magistrate shall not take cognizance on a complaint against a public servant for any offence alleged to have been committed in course of the discharge of his official functions or duties unless -

(a) such public servant is given an opportunity to make assertions as to the situation that led to the incident so alleged; and

(b) a report containing facts and circumstances of the incident from the officer superior to such public servant is received.

SIMPLIFIED ACTS

Magistrate's Jurisdiction and Cognizance of Offence

(1) When a Magistrate is handling a complaint about a crime, they must:

Ask the person making the complaint and any witnesses to tell the truth under oath.

Write down what they say.

Have the complainant, the witnesses, and the Magistrate sign this written record.

However, the Magistrate cannot start dealing with the crime without first giving the accused person a chance to speak.

Additionally, if the complaint is written down, the Magistrate does not need to question the complainant and witnesses if:

(a) The complaint is made by a public servant doing their job or by a Court; or

(b) The Magistrate sends the case to another Magistrate for further investigation or trial under section 212.

Also, if the Magistrate has already questioned the complainant and witnesses and then sends the case to another Magistrate under section 212, the new Magistrate does not need to question them again.

(2) A Magistrate cannot handle a complaint against a public servant for something they did while doing their job unless:

(a) The public servant is given a chance to explain their side of the story; and

(b) A report with details about the incident is received from the public servant's superior officer.

Explanation using Example

Example 1:

Scenario: Ramesh files a complaint against his neighbor, Suresh, alleging that Suresh has been harassing him and his family.

Application of the Act:

Filing the Complaint: Ramesh goes to the local Magistrate's court and files a written complaint detailing the harassment.

Examination of Complainant: The Magistrate, having jurisdiction, takes cognizance of the complaint and calls Ramesh to the stand. Ramesh is examined under oath, and he narrates the incidents of harassment. Any witnesses Ramesh has brought along are also examined under oath.

Documentation: The Magistrate ensures that the substance of Ramesh's examination and the witnesses' statements are written down. Ramesh, the witnesses, and the Magistrate sign this document.

Opportunity for the Accused: Before taking further action, the Magistrate ensures that Suresh is given an opportunity to be heard regarding the allegations.

Proceeding with the Case: If the complaint was made in writing and the Magistrate decides to transfer the case to another Magistrate under section 212, the new Magistrate does not need to re-examine Ramesh and the witnesses.

Example 2:

Scenario: A public servant, Officer Sharma, is accused of using excessive force during a protest.

Application of the Act:

Filing the Complaint: A citizen files a written complaint against Officer Sharma, alleging excessive use of force.

Examination of Complainant: Since the complaint is against a public servant, the Magistrate does not immediately examine the complainant and witnesses.

Opportunity for the Public Servant: Officer Sharma is given an opportunity to explain the situation that led to the alleged incident.

Superior Officer's Report: The Magistrate waits for a report from Officer Sharma's superior, detailing the facts and circumstances of the incident.

Proceeding with the Case: Based on the superior officer's report and Officer Sharma's explanation, the Magistrate decides whether to take cognizance of the offence and proceed with the case.

Example 3:

Scenario: A citizen files a complaint against a local government official for corruption.

Application of the Act:

Filing the Complaint: The citizen submits a written complaint to the Magistrate, alleging that the local government official demanded a bribe.

Examination of Complainant: The Magistrate, having jurisdiction, examines the complainant under oath and records the statement. Any witnesses present are also examined under oath.

Documentation: The statements of the complainant and witnesses are written down and signed by all parties, including the Magistrate.

Opportunity for the Accused: The accused government official is given an opportunity to be heard before the Magistrate takes further action.

Public Servant Clause: If the complaint involves actions taken by the official in the course of their duties, the Magistrate waits for a report from the official's superior before proceeding.

Example 4:

Scenario: A citizen files a complaint against a police officer for wrongful detention.

Application of the Act:

Filing the Complaint: The citizen files a written complaint alleging wrongful detention by the police officer.

Examination of Complainant: The Magistrate examines the complainant under oath and records the statement. Any witnesses are also examined under oath.

Documentation: The statements are documented and signed by the complainant, witnesses, and the Magistrate.

Opportunity for the Accused: The police officer is given an opportunity to explain the circumstances of the detention.

Superior Officer's Report: The Magistrate waits for a report from the police officer's superior detailing the incident.

Proceeding with the Case: Based on the superior officer's report and the police officer's explanation, the Magistrate decides whether to take cognizance of the offence and proceed with the case.

Section 224: Procedure by Magistrate not competent to take cognizance of case.

If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall, -

- (a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;
- (b) if the complaint is not in writing, direct the complainant to the proper Court.

SIMPLIFIED ACTS

If a complaint is made to a Magistrate who does not have the authority to handle the case, he shall, -

- (a) if the complaint is written, give it back to the person who made the complaint and tell them to take it to the correct Court;
- (b) if the complaint is not written, tell the person who made the complaint to go to the correct Court.

Explanation using Example

Example 1:

Ravi files a written complaint against his neighbor for trespassing on his property. He submits the complaint to Magistrate Sharma. However, Magistrate Sharma realizes that he does not have the jurisdiction to take cognizance of trespassing cases. Following Section 224 of The Bharatiya Nagarik Suraksha Sanhita 2023, Magistrate Sharma returns the written complaint to Ravi with an endorsement stating that Ravi should present it to the proper Court that has the jurisdiction to handle trespassing cases.

Example 2:

Sunita verbally complains to Magistrate Verma about a case of domestic violence she is facing. Magistrate Verma, upon hearing the details, understands that he is not competent to take cognizance of domestic violence cases. According to Section 224 of The Bharatiya Nagarik Suraksha Sanhita 2023, Magistrate Verma directs Sunita to the appropriate Court that has the authority to handle domestic violence cases, ensuring she knows where to go to seek justice.

Section 225: Postponement of issue of process.

Section (1)

Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 212, may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

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 223.

Section (2)

In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

Section (3)

If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Sanhita on an officer in charge of a police station except the power to arrest without warrant.

SIMPLIFIED ACTS

Section (1)

A Magistrate, when receiving a complaint about a crime that he is allowed to handle or that has been assigned to him under section 212, can choose to delay taking action against the accused if the accused lives outside the area where the Magistrate has authority. The Magistrate can either investigate the case himself or ask a police officer or another person to investigate, to decide if there is enough reason to proceed with the case:

However, the Magistrate cannot order an investigation if:

- (a) The crime is one that can only be tried by the Court of Session; or
- (b) The complaint was not made by a Court, unless the person making the complaint and any witnesses present have been questioned under oath according to section 223.

Section (2)

During an investigation under Section (1), the Magistrate can choose to take sworn statements from witnesses:

However, if the crime is one that can only be tried by the Court of Session, the Magistrate must ask the person making the complaint to bring all their witnesses and have them give sworn statements.

Section (3)

If someone other than a police officer is asked to investigate under Section (1), that person will have all the powers of a police officer in charge of a police station for the investigation, except they cannot arrest anyone without a warrant.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, files a complaint with a Magistrate in Delhi, alleging that Suresh, who resides in Chennai, has committed fraud.

Application of Section 225:

Postponement of Process: The Magistrate in Delhi receives the complaint and notes that Suresh resides outside his jurisdiction (in Chennai). Therefore, the Magistrate decides to postpone the issue of process against Suresh.

Inquiry or Investigation: The Magistrate may choose to inquire into the case himself or direct a police officer or another suitable person to investigate the matter to determine if there is sufficient ground to proceed.

Examination of Complainant and Witnesses: If the complaint was not made by a Court, the Magistrate will examine Ramesh and any witnesses present on oath under section 223 before directing an investigation.

Exclusivity of Court of Session: If the offence alleged by Ramesh is triable exclusively by the Court of Session, the Magistrate will not direct an investigation but will call upon Ramesh to produce all his witnesses and examine them on oath.

Example 2:

Scenario: Priya files a complaint with a Magistrate in Bangalore, alleging that her neighbor, Anil, has committed a serious assault. The complaint is not made by a Court.

Application of Section 225:

Postponement of Process: The Magistrate in Bangalore receives the complaint and decides to postpone the issue of process against Anil to ensure there is sufficient ground to proceed.

Inquiry or Investigation: The Magistrate may choose to inquire into the case himself or direct a police officer or another suitable person to investigate the matter.

Examination of Complainant and Witnesses: Since the complaint was not made by a Court, the Magistrate examines Priya and any witnesses present on oath under section 223 before directing an investigation.

Taking Evidence on Oath: During the inquiry, the Magistrate may take evidence of witnesses on oath to gather more information.

Exclusivity of Court of Session: If the offence alleged by Priya is triable exclusively by the Court of Session, the Magistrate will call upon Priya to produce all her witnesses and examine them on oath instead of directing an investigation.

Investigation by Non-Police Officer: If the Magistrate directs an investigation by a person who is not a police officer, that person will have all the powers of a police officer in charge of a police station, except the power to arrest without a warrant.

Section 226: Dismissal of complaint.

If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 225, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

SIMPLIFIED ACTS

If, after looking at the sworn statements (if any) from the person making the complaint and the witnesses, and after considering the results of any inquiry or investigation under section 225, the Magistrate thinks there isn't enough reason to continue, he will dismiss the complaint. In every such case, he will briefly write down his reasons for doing so.

Explanation using Example

Example 1:

Scenario: Rajesh files a complaint against his neighbor, Suresh, alleging that Suresh has been harassing him by playing loud music late at night. Rajesh provides his statement under oath and brings two witnesses who also testify under oath. The Magistrate orders an inquiry under Section 225, and the police investigate the matter. The investigation reveals that Suresh has not been playing loud music and that the noise was coming from a nearby construction site.

Application of Section 226: After considering the statements of Rajesh and his witnesses, and reviewing the police investigation report, the Magistrate concludes that there is no sufficient ground to proceed against Suresh. Therefore, the Magistrate dismisses Rajesh's complaint and records the reasons for the dismissal, stating that the evidence does not support the allegations made by Rajesh.

Example 2:

Scenario: Priya files a complaint against her colleague, Anil, accusing him of stealing her laptop from their office. Priya provides her statement under oath, but she does not have any witnesses to support her claim. The Magistrate orders an investigation under Section 225, and the police find that there is no evidence linking Anil to the theft. The CCTV footage from the office shows that Anil was not present in the office at the time of the alleged theft.

Application of Section 226: After considering Priya's statement and the results of the police investigation, the Magistrate determines that there is no sufficient ground to proceed with the case against Anil. Consequently, the Magistrate dismisses Priya's complaint and records the reasons for the dismissal, noting that the investigation did not find any evidence implicating Anil in the theft.

Section 227: Issue of process.

Section

(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be -

(a) a summons-case, he shall issue summons to the accused for his attendance; or

(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction: Provided that summons or warrants may also be issued through electronic means.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of section 90.

SIMPLIFIED ACTS

Section

(1) If a Magistrate believes there is enough reason to move forward with a case, and the case is:

(a) a minor case, he will send a notice (summons) to the accused to come to court; or

(b) a serious case, he can either send a notice (summons) or a warrant to bring the accused to court at a specific time. If the Magistrate doesn't have the authority, another Magistrate who does will handle it. Summons or warrants can also be sent electronically.

(2) No notice (summons) or warrant will be sent to the accused until a list of witnesses for the prosecution is provided.

(3) If the case started with a written complaint, every notice (summons) or warrant must include a copy of that complaint.

(4) If there are any fees required by law, no notice (summons) or warrant will be sent until those fees are paid. If the fees are not paid in a reasonable time, the Magistrate can dismiss the complaint.

(5) This section does not change the rules in section 90.

Explanation using Example

Example 1:

Scenario: Ramesh files a written complaint against Suresh for cheating him in a business deal.

Magistrate's Opinion: The Magistrate reviews the complaint and finds sufficient grounds to proceed with the case.

Summons-Case: Since cheating is considered a summons-case, the Magistrate issues a summons to Suresh, requiring him to appear in court on a specified date.

Prosecution Witnesses List: Before issuing the summons, the prosecution submits a list of witnesses who will testify against Suresh.

Complaint Copy: The summons sent to Suresh includes a copy of Ramesh's written complaint.

Process Fees: Ramesh pays the required process fees. If he fails to do so within a reasonable time, the Magistrate has the authority to dismiss the complaint.

Example 2:

Scenario: Priya files a written complaint against her neighbor, Anil, for causing grievous hurt during a dispute.

Magistrate's Opinion: The Magistrate examines the complaint and determines there are sufficient grounds to proceed.

Warrant-Case: Since causing grievous hurt is a warrant-case, the Magistrate decides to issue a warrant for Anil's arrest to ensure his appearance in court.

Prosecution Witnesses List: The prosecution provides a list of witnesses who will support Priya's allegations.

Complaint Copy: The warrant issued to Anil is accompanied by a copy of Priya's written complaint.

Process Fees: Priya pays the necessary process fees. If she does not pay within a reasonable time, the Magistrate may dismiss her complaint.

Example 3:

Scenario: A company files a written complaint against an employee, Raj, for embezzlement of funds.

Magistrate's Opinion: The Magistrate reviews the complaint and finds sufficient grounds to proceed.

Warrant-Case: Embezzlement is a serious offense, so the Magistrate issues a warrant for Raj's arrest to ensure he appears in court.

Prosecution Witnesses List: The company submits a list of witnesses, including auditors and other employees, who will testify against Raj.

Complaint Copy: The warrant issued to Raj includes a copy of the company's written complaint.

Process Fees: The company pays the required process fees. If the fees are not paid within a reasonable time, the Magistrate has the authority to dismiss the complaint.

Example 4:

Scenario: Sunita files a written complaint against her landlord, Ravi, for illegally evicting her from her rented apartment.

Magistrate's Opinion: The Magistrate examines the complaint and finds sufficient grounds to proceed.

Summons-Case: Illegal eviction is considered a summons-case, so the Magistrate issues a summons to Ravi, requiring him to appear in court on a specified date.

Prosecution Witnesses List: Sunita provides a list of witnesses, including neighbors and friends, who will testify about the illegal eviction.

Complaint Copy: The summons sent to Ravi includes a copy of Sunita's written complaint.

Process Fees: Sunita pays the necessary process fees. If she fails to pay within a reasonable time, the Magistrate may dismiss her complaint.

Section 228: Magistrate may dispense with personal attendance of accused.

(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his advocate.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

SIMPLIFIED ACTS

(1) When a Magistrate sends a legal notice to someone accused of a crime, he can allow the accused to send their lawyer instead of showing up in person, if he thinks it's okay.

(2) However, the Magistrate handling the case can decide at any time that the accused must show up in person, and if needed, can make sure the accused comes to court using the methods mentioned earlier.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman, is accused of a minor traffic violation.

Application of the Act:

The Magistrate issues a summons to Rajesh to appear in court.

Considering Rajesh's busy schedule and the minor nature of the offense, the Magistrate decides to dispense with Rajesh's personal attendance.

Rajesh is allowed to be represented by his advocate in court.

However, during the proceedings, the Magistrate feels that Rajesh's personal presence is necessary to clarify certain facts.

The Magistrate then directs Rajesh to personally attend the next hearing.

Rajesh complies and attends the court as directed.

Example 2:

Scenario: Priya, a software engineer, is accused of a minor case of public nuisance.

Application of the Act:

The Magistrate issues a summons to Priya to appear in court.

Priya's advocate requests the Magistrate to allow Priya to be represented by her advocate due to her work commitments.

The Magistrate, seeing no significant reason for Priya's personal attendance, permits her to be represented by her advocate.

As the case progresses, new evidence comes to light that requires Priya's personal explanation.

The Magistrate then exercises his discretion to direct Priya to attend the court personally.

Priya is informed and attends the court as required.

Example 3:

Scenario: Anil, a college student, is accused of a minor theft.

Application of the Act:

The Magistrate issues a summons to Anil to appear in court.

Anil's advocate requests the Magistrate to dispense with Anil's personal attendance due to his ongoing exams.

The Magistrate, considering the minor nature of the offense and Anil's academic commitments, allows Anil to be represented by his advocate.

Later, the Magistrate finds it necessary to question Anil directly about certain details of the case.

The Magistrate directs Anil to personally attend the next court session.

Anil attends the court as directed and provides the necessary information.

Example 4:

Scenario: Sunita, a homemaker, is accused of a minor case of trespassing.

Application of the Act:

The Magistrate issues a summons to Sunita to appear in court.

Sunita's advocate requests the Magistrate to allow Sunita to be represented by her advocate due to her responsibilities at home.

The Magistrate, seeing no immediate need for Sunita's personal attendance, permits her to be represented by her advocate.

During the trial, the Magistrate decides that Sunita's personal testimony is crucial for the case.

The Magistrate directs Sunita to attend the court personally.

Sunita complies and attends the court as directed.

Example 5:

Scenario: Vikram, a retired government employee, is accused of a minor case of defamation.

Application of the Act:

The Magistrate issues a summons to Vikram to appear in court.

Vikram's advocate requests the Magistrate to dispense with Vikram's personal attendance due to his health issues.

The Magistrate, considering Vikram's health and the minor nature of the offense, allows Vikram to be represented by his advocate.

As the case proceeds, the Magistrate finds it necessary to have Vikram's personal statement.

The Magistrate directs Vikram to attend the court personally.

Vikram attends the court as directed and provides his statement.

Section 229: Special summons in cases of petty offence.

(1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 283 or section 284, the Magistrate shall, except where

he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by an advocate before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by an advocate and to plead guilty to the charge through such advocate, to authorise, in writing, the advocate to plead guilty to the charge on his behalf and to pay the fine through such advocate:

Provided that the amount of the fine specified in such summons shall not exceed five thousand rupees.

(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding five thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1988, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

(3) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable under section 359 or any offence punishable with imprisonment for a term not exceeding three months, or with fine, or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.

SIMPLIFIED ACTS

(1) If a Magistrate thinks that a minor offence can be quickly resolved under section 283 or 284, the Magistrate will usually send a notice to the accused. This notice will ask the accused to either:

Show up in person or with a lawyer on a specific date, or

If the accused wants to admit guilt without appearing in court, they can send a written guilty plea and the fine amount by mail or messenger before the specified date, or

If the accused wants to admit guilt through a lawyer, they can authorize the lawyer in writing to plead guilty and pay the fine on their behalf.

However, the fine mentioned in the notice cannot be more than five thousand rupees.

(2) For this section, a "petty offence" is any offence that is only punishable by a fine not exceeding five thousand rupees. This does not include offences under the Motor Vehicles Act, 1988, or any other law that allows for convicting someone in their absence if they plead guilty.

(3) The State Government can give special permission to any Magistrate to use the powers mentioned in sub-section (1) for any offence that can be settled under section 359 or any offence punishable by up to three months in jail, a fine, or both. The Magistrate can decide to impose only a fine if they believe it is fair based on the facts and circumstances of the case.

Explanation using Example

Example 1:

Rajesh, a shopkeeper in Mumbai, is accused of creating a public nuisance by playing loud music in his shop late at night, disturbing the neighborhood. The local police file a complaint, and the case is brought before a Magistrate. The Magistrate considers this a petty offence as it is punishable only with a fine not exceeding five thousand rupees. The Magistrate decides that the case can be summarily disposed of and issues a special summons to Rajesh.

Rajesh receives the summons, which gives him three options:

Appear in person before the Magistrate on the specified date.

Plead guilty by sending a written plea and the fine amount of Rs. 2,000 by post or messenger before the specified date.

Authorize his advocate to appear on his behalf, plead guilty, and pay the fine.

Rajesh chooses the second option and sends his written plea of guilty along with the fine amount by post. The Magistrate accepts the plea and the fine, and the case is closed without Rajesh having to appear in court.

Example 2:

Sunita, a resident of Delhi, is caught littering in a public park. The local municipal authorities issue a fine and file a complaint for the petty offence. The case is taken up by a Magistrate who believes it can be summarily disposed of. The Magistrate issues a special summons to Sunita.

Sunita receives the summons, which specifies:

She can appear in person before the Magistrate on the given date.

She can plead guilty by sending a written plea and the fine amount of Rs. 500 by post or messenger before the specified date.

She can authorize her advocate to appear on her behalf, plead guilty, and pay the fine.

Sunita decides to authorize her advocate to handle the matter. She provides a written authorization to her advocate, who then appears before the Magistrate, pleads guilty on her behalf, and pays the fine. The case is resolved without Sunita needing to appear in court.

Example 3:

Vikram, a small business owner in Bangalore, is fined for not displaying the mandatory business license in his shop. The fine is Rs. 1,000, and the case is brought before a Magistrate. The Magistrate deems it a petty offence and decides it can be summarily disposed of. A special summons is issued to Vikram.

The summons outlines Vikram's options:

Appear in person before the Magistrate on the specified date.

Plead guilty by sending a written plea and the fine amount of Rs. 1,000 by post or messenger before the specified date.

Authorize his advocate to appear on his behalf, plead guilty, and pay the fine.

Vikram opts to appear in person before the Magistrate. On the specified date, he appears in court, pleads guilty, and pays the fine. The case is concluded swiftly.

Example 4:

Anita, a college student in Chennai, is caught smoking in a no-smoking zone on campus. The campus security files a complaint, and the case is taken up by a Magistrate. The Magistrate considers it a petty offence, punishable only with a fine not exceeding five thousand rupees, and decides to issue a special summons to Anita.

The summons provides Anita with three choices:

Appear in person before the Magistrate on the specified date.

Plead guilty by sending a written plea and the fine amount of Rs. 300 by post or messenger before the specified date.

Authorize her advocate to appear on her behalf, plead guilty, and pay the fine.

Anita chooses to plead guilty by sending a written plea and the fine amount by post. The Magistrate receives her plea and the fine, and the case is closed without Anita having to appear in court.

Section 230: Supply to accused of copy of police report and other documents.

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or

appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:

- (i) the police report;
- (ii) the first information report recorded under section 173;
- (iii) the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (7) of section 193;
- (iv) the confessions and statements, if any, recorded under section 183;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (6) of section 193:

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

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

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

SIMPLIFIED ACTS

If a case starts with a police report, the Magistrate must quickly, and definitely within fourteen days from when the accused appears in court, give free copies of the following documents to both the accused and the victim (if they have a lawyer):

- (i) the police report;
- (ii) the first information report (FIR) recorded under section 173;
- (iii) the statements recorded under section 180(3) of all people the prosecution plans to call as witnesses, except any parts the police have asked to exclude under section 193(7);
- (iv) any confessions and statements recorded under section 183;
- (v) any other document or relevant part of a document sent to the Magistrate with the police report under section 193(6).

However, the Magistrate can review the excluded parts mentioned in (iii) and decide if the accused should get a copy of those parts or just some of them.

If the Magistrate thinks any document is too long, they can give the copies electronically or allow the accused and the victim (if they have a lawyer) to look at it in court instead of giving physical copies.

Providing documents electronically is considered as properly giving them.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is arrested by the police. The police file a report with the Magistrate, and Rajesh appears in court for the first time.

Application of Section 230:

Within 14 days of Rajesh's first court appearance, the Magistrate must provide Rajesh and his lawyer with copies of the following documents free of cost:

The police report detailing the investigation and charges.

The First Information Report (FIR) that was initially filed by the complainant.

Statements recorded by the police from witnesses who will testify in court, except any parts that the police have requested to exclude for specific reasons.

Any confessions or statements made by Rajesh during the investigation.

Any other relevant documents submitted to the Magistrate by the police.

Outcome: Rajesh and his lawyer receive all necessary documents to prepare his defense, ensuring a fair trial process.

Example 2:

Scenario: Priya is a victim of a fraud case and has hired an advocate to represent her. The accused, Sunil, is arrested and brought before the Magistrate.

Application of Section 230:

Within 14 days of Sunil's first court appearance, the Magistrate must provide Priya's advocate with copies of the following documents free of cost:

The police report detailing the investigation and charges against Sunil.

The First Information Report (FIR) that Priya initially filed.

Statements recorded by the police from witnesses who will testify in court, except any parts that the police have requested to exclude for specific reasons.

Any confessions or statements made by Sunil during the investigation.

Any other relevant documents submitted to the Magistrate by the police.

Outcome: Priya's advocate receives all necessary documents to prepare for the case, ensuring that Priya's interests are adequately represented in court.

Example 3:

Scenario: The police have submitted a large volume of documents in a complex financial fraud case involving multiple accused. One of the accused, Anil, appears in court for the first time.

Application of Section 230:

The Magistrate reviews the documents and determines that they are too voluminous to provide as physical copies.

The Magistrate decides to provide the documents to Anil and his lawyer in electronic form.

Alternatively, the Magistrate may allow Anil and his lawyer to inspect the documents in court.

Outcome: Anil and his lawyer receive the documents electronically or are allowed to inspect them in court, ensuring they have access to all necessary information while managing the practical challenges of handling large volumes of documents.

Section 231: Supply of copies of statements and documents to accused in other cases triable by Court of Session.

Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 227 that the offence is triable exclusively by the Court of Session, the Magistrate shall forthwith furnish to the accused, free of cost, a copy of each of the following:

- (i) the statements recorded under section 223 or section 225, of all persons examined by the Magistrate;
- (ii) the statements and confessions, if any, recorded under section 180 or section 183;
- (iii) any documents produced before the Magistrate on which the prosecution proposes to rely;

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through an advocate in Court:

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

SIMPLIFIED ACTS

If a case starts without a police report and the Magistrate finds that the crime should be judged only by the Court of Session, the Magistrate must immediately give the accused free copies of the following:

- (i) The statements recorded under section 223 or section 225 from all people the Magistrate has questioned.
- (ii) Any statements and confessions recorded under section 180 or section 183.
- (iii) Any documents shown to the Magistrate that the prosecution plans to use.

However, if the Magistrate thinks any document is too large, instead of giving a copy to the accused, the Magistrate will allow the accused to look at it in court, either by themselves or with a lawyer.

Additionally, providing documents in electronic form is considered as properly giving them.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of committing a serious fraud, and the case is not based on a police report but rather a private complaint filed by a business partner. The Magistrate, after reviewing the complaint, determines that the case is serious enough to be tried exclusively by the Court of Session.

Application of Section 231:

The Magistrate issues a process under section 227, indicating that the case will be tried by the Court of Session.

Rajesh, the accused, is entitled to receive, free of cost, copies of:

Statements recorded under section 223 or section 225 of all persons examined by the Magistrate.

Any statements and confessions recorded under section 180 or section 183.

Any documents produced before the Magistrate that the prosecution intends to rely on.

If any of these documents are voluminous, the Magistrate may direct Rajesh to inspect them personally or through his advocate in court instead of providing physical copies.

The Magistrate may also provide these documents in electronic form, which will be considered as duly furnished.

Example 2:

Scenario: Priya is accused of causing grievous harm to a neighbor, and the case is initiated through a private complaint rather than a police report. The Magistrate, upon reviewing the case, decides that it should be tried exclusively by the Court of Session.

Application of Section 231:

The Magistrate issues a process under section 227, indicating that the case will be tried by the Court of Session.

Priya, the accused, is entitled to receive, free of cost, copies of:

Statements recorded under section 223 or section 225 of all persons examined by the Magistrate.

Any statements and confessions recorded under section 180 or section 183.

Any documents produced before the Magistrate that the prosecution intends to rely on.

If any of these documents are voluminous, the Magistrate may direct Priya to inspect them personally or through her advocate in court instead of providing physical copies.

The Magistrate may also provide these documents in electronic form, which will be considered as duly furnished.

Section 232: Commitment of case to Court of Session when offence is triable exclusively by it.

When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall -

(a) commit, after complying with the provisions of section 230 or section 231, the case to the Court of Session, and subject to the provisions of this Sanhita relating to bail, remand the accused to custody until such commitment has been made;

(b) subject to the provisions of this Sanhita relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session:

Provided that the proceedings under this section shall be completed within a period of ninety days from the date of taking cognizance, and such period may be extended by the Magistrate for a period not exceeding one hundred and eighty days for the reasons to be recorded in writing:

Provided further that any application filed before the Magistrate by the accused or the victim or any person authorised by such person in a case triable by Court of Session, shall be forwarded to the Court of Session with the committal of the case.

SIMPLIFIED ACTS

When a case starts based on a police report or any other way, and the accused person shows up or is brought before the Magistrate, and the Magistrate sees that the crime should be judged only by the Court of Session, the Magistrate must:

(a) After following the rules in section 230 or section 231, send the case to the Court of Session and, according to the rules about bail, keep the accused in custody until the case is sent;

(b) According to the rules about bail, keep the accused in custody during the trial and until it ends;

(c) Send the case records, documents, and any items to be used as evidence to the Court of Session;

(d) Inform the Public Prosecutor that the case has been sent to the Court of Session.

However, the steps mentioned above must be completed within ninety days from the date the Magistrate takes notice of the case. This period can be extended by the Magistrate up to one hundred and eighty days if there are written reasons for the delay.

Additionally, any application made by the accused, the victim, or someone authorized by them in a case that should be judged by the Court of Session must be sent to the Court of Session along with the case.

Explanation using Example

Example 1:

Scenario: A case of murder is reported in a small town in India. The police conduct an investigation and file a charge sheet against the accused, Rajesh.

Application of Section 232:

Appearance Before Magistrate: Rajesh is brought before the Magistrate after the police file the charge sheet.

Magistrate's Decision: The Magistrate reviews the case and determines that the offence of murder is triable exclusively by the Court of Session.

Commitment to Court of Session:

The Magistrate complies with the provisions of sections 230 and 231.

The Magistrate commits the case to the Court of Session.

Rajesh is remanded to custody until the commitment is made, subject to bail provisions.

Transfer of Records: The Magistrate sends the record of the case, along with documents and articles to be used as evidence, to the Court of Session.

Notification: The Public Prosecutor is notified about the commitment of the case to the Court of Session.

Time Frame: The entire process is completed within ninety days from the date the Magistrate took cognizance of the case. If necessary, the Magistrate can extend this period up to one hundred and eighty days with written reasons.

Forwarding Applications: Any application filed by Rajesh, the victim, or any authorized person is forwarded to the Court of Session along with the committal of the case.

Example 2:

Scenario: A case of serious financial fraud is reported in a metropolitan city in India. The police investigate and arrest the accused, Priya, and file a charge sheet.

Application of Section 232:

Appearance Before Magistrate: Priya is brought before the Magistrate after the police file the charge sheet.

Magistrate's Decision: The Magistrate reviews the case and determines that the offence of financial fraud is triable exclusively by the Court of Session.

Commitment to Court of Session:

The Magistrate complies with the provisions of sections 230 and 231.

The Magistrate commits the case to the Court of Session.

Priya is remanded to custody until the commitment is made, subject to bail provisions.

Transfer of Records: The Magistrate sends the record of the case, along with documents and articles to be used as evidence, to the Court of Session.

Notification: The Public Prosecutor is notified about the commitment of the case to the Court of Session.

Time Frame: The entire process is completed within ninety days from the date the Magistrate took cognizance of the case. If necessary, the Magistrate can extend this period up to one hundred and eighty days with written reasons.

Forwarding Applications: Any application filed by Priya, the victim, or any authorized person is forwarded to the Court of Session along with the committal of the case.

Section 233: Procedure to be followed when there is a complaint case and police investigation in respect of same offence.

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 193 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Sanhita.

SIMPLIFIED ACTS

(1) If a case is started by someone other than the police (we'll call this a complaint case), and during the investigation or trial, the Magistrate finds out that the police are also investigating the same crime, the Magistrate must pause the trial and ask the police for a report on their investigation.

(2) If the police officer investigating the case submits a report under section 193, and the Magistrate decides to take action based on this report against someone who is also accused in the complaint case, the Magistrate will handle both the complaint case and the police case together as if they were both started by the police.

(3) If the police report does not involve anyone accused in the complaint case, or if the Magistrate decides not to take action based on the police report, the Magistrate will continue with the paused investigation or trial according to the rules of this law.

Explanation using Example

Example 1:

Scenario: Rajesh files a complaint case against Suresh for theft of his mobile phone. While the Magistrate is conducting the inquiry, it is revealed that the police are also investigating the same theft incident.

Application of Section 233:

The Magistrate learns about the ongoing police investigation during the inquiry.

The Magistrate decides to stay the proceedings of the inquiry and requests a report from the police officer handling the investigation.

The police officer submits a report under section 193, indicating that Suresh is indeed a suspect in the theft case.

The Magistrate takes cognizance of the offence based on the police report and decides to try both the complaint case and the police case together as if both were initiated by a police report.

Example 2:

Scenario: Priya files a complaint case against her neighbor, Anil, for causing grievous hurt during a neighborhood dispute. During the trial, it comes to the Magistrate's attention that the police are also investigating the same incident.

Application of Section 233:

The Magistrate becomes aware of the police investigation during the trial.

The Magistrate stays the trial proceedings and calls for a report from the investigating police officer.

The police report is submitted, but it does not mention Anil as a suspect; instead, it implicates another individual, Ravi.

Since the police report does not relate to Anil, the Magistrate decides to proceed with the trial of the complaint case against Anil as per the provisions of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 3:

Scenario: Sunita files a complaint case against her colleague, Ramesh, for defamation. During the inquiry, the Magistrate finds out that the police are also investigating the same defamation incident.

Application of Section 233:

The Magistrate discovers the ongoing police investigation during the inquiry.

The Magistrate stays the inquiry proceedings and requests a report from the police officer conducting the investigation.

The police officer submits a report under section 193, but the Magistrate does not find sufficient grounds to take cognizance of any offence based on the police report.

Since the Magistrate does not take cognizance of any offence from the police report, he resumes and continues with the inquiry of the complaint case filed by Sunita.

CHAPTER XVIII: THE CHARGE

A - FORM OF CHARGES

Section 234: Contents of charge.

Charges under the Sanhita

- (1) Every charge under this Sanhita shall state the offence with which the accused is charged.
- (2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.
- (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, 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.

Illustrations

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 100 and 101 of the Bharatiya Nyaya Sanhita, 2023; that it did not fall within any of the general exceptions of the said Sanhita; and that it did not fall within any of the five exceptions to section 101 thereof, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(b) A is charged under sub-section (2) of section 118 of the Bharatiya Nyaya Sanhita, 2023, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by sub-section (2) of section 122 of the said Sanhita, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Bharatiya Nyaya Sanhita, 2023; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged under section 219 of the Bharatiya Nyaya Sanhita, 2023, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

SIMPLIFIED ACTS

Charges under the Sanhita

- (1) Every charge under this Sanhita must clearly state the crime the person is accused of.
- (2) If the law gives the crime a specific name, the charge can just use that name.
- (3) If the law doesn't give the crime a specific name, the charge must include enough details to inform the accused of what they are being charged with.
- (4) The charge must mention the law and section of the law that the crime is said to have broken.
- (5) Making a charge means that all legal conditions required to define the crime were met in this case.
- (6) The charge must be written in the language used by the Court.

(7) If the accused has been convicted of a crime before and this affects their punishment for a new crime, the charge must include details of the previous conviction. If this information is missing, the Court can add it before sentencing.

Illustrations

(a) A is charged with the murder of B. This means that A's actions fit the definition of murder according to sections 100 and 101 of the Bharatiya Nyaya Sanhita, 2023, and that none of the exceptions to these sections apply, or if Exception 1 applies, one of its conditions is met.

(b) A is charged under sub-section (2) of section 118 of the Bharatiya Nyaya Sanhita, 2023, with causing serious injury to B using a shooting instrument. This means that the case is not covered by sub-section (2) of section 122 of the same Sanhita, and that no general exceptions apply.

(c) A is accused of murder, cheating, theft, extortion, criminal intimidation, or using a false property mark. The charge can simply state that A committed one of these crimes without needing to define them, but it must refer to the sections of the Bharatiya Nyaya Sanhita, 2023, that specify the punishment.

(d) A is charged under section 219 of the Bharatiya Nyaya Sanhita, 2023, with intentionally obstructing a property sale authorized by a public servant. The charge should use these exact words.

Explanation using Example

Example 1:

Scenario: Raj is accused of theft.

Charge Details:

Offence: Theft

Specific Name: Theft (as per the Bharatiya Nyaya Sanhita, 2023)

Section of Law: Section 378 of the Bharatiya Nyaya Sanhita, 2023

Language: Hindi (as the court's language is Hindi)

Previous Conviction: Raj was previously convicted of theft in 2020 in Mumbai.

Charge Statement: "Raj is charged with theft under Section 378 of the Bharatiya Nyaya Sanhita, 2023. He was previously convicted of theft on 15th March 2020 in Mumbai."

Example 2:

Scenario: Priya is accused of voluntarily causing grievous hurt to Anil using a knife.

Charge Details:

Offence: Voluntarily causing grievous hurt

Specific Name: Grievous Hurt (as per the Bharatiya Nyaya Sanhita, 2023)

Section of Law: Section 320 of the Bharatiya Nyaya Sanhita, 2023

Language: English (as the court's language is English)

Previous Conviction: Priya has no previous convictions.

Charge Statement: "Priya is charged with voluntarily causing grievous hurt to Anil by means of a knife under Section 320 of the Bharatiya Nyaya Sanhita, 2023."

Example 3:

Scenario: Suresh is accused of cheating.

Charge Details:

Offence: Cheating

Specific Name: Cheating (as per the Bharatiya Nyaya Sanhita, 2023)

Section of Law: Section 415 of the Bharatiya Nyaya Sanhita, 2023

Language: Kannada (as the court's language is Kannada)

Previous Conviction: Suresh was previously convicted of cheating in 2018 in Bangalore.

Charge Statement: "Suresh is charged with cheating under Section 415 of the Bharatiya Nyaya Sanhita, 2023. He was previously convicted of cheating on 10th July 2018 in Bangalore."

Example 4:

Scenario: Meena is accused of using a false property-mark.

Charge Details:

Offence: Using a false property-mark

Specific Name: False Property-Mark (as per the Bharatiya Nyaya Sanhita, 2023)

Section of Law: Section 482 of the Bharatiya Nyaya Sanhita, 2023

Language: Tamil (as the court's language is Tamil)

Previous Conviction: Meena has no previous convictions.

Charge Statement: "Meena is charged with using a false property-mark under Section 482 of the Bharatiya Nyaya Sanhita, 2023."

Example 5:

Scenario: Ravi is accused of intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant.

Charge Details:

Offence: Intentionally obstructing a sale of property

Specific Name: Obstruction of Sale (as per the Bharatiya Nyaya Sanhita, 2023)

Section of Law: Section 219 of the Bharatiya Nyaya Sanhita, 2023

Language: Bengali (as the court's language is Bengali)

Previous Conviction: Ravi has no previous convictions.

Charge Statement: "Ravi is charged under Section 219 of the Bharatiya Nyaya Sanhita, 2023, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant."

Section 235: Particulars as to time, place and person.

Charge Details

(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 242:

Provided that the time included between the first and last of such dates shall not exceed one year.

SIMPLIFIED ACTS

Charge Details

(1) The charge must include details about when and where the alleged crime happened, and who or what was affected by it. This information should be clear enough to let the accused person understand what they are being charged with.

(2) If the accused is charged with stealing money or other movable property, it is enough to mention the total amount of money or describe the property involved, and the time period during which the crime is said to have happened. You don't need to list specific items or exact dates. This type of charge will be considered as one single offence under section 242:

However, the time period mentioned should not be longer than one year.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of stealing a laptop from his office.

Charge Details:

Time: Between 10:00 AM and 12:00 PM on 15th August 2023

Place: XYZ Pvt. Ltd., 5th Floor, ABC Building, Mumbai

Person: The laptop belonged to his colleague, Suresh.

In this scenario, the charge against Ramesh includes specific details about the time, place, and the person from whom the laptop was stolen, giving Ramesh clear notice of the allegations against him.

Example 2:

Scenario: Priya is accused of misappropriating funds from her company over a period of several months.

Charge Details:

Time: Between 1st January 2022 and 31st December 2022

Place: ABC Corporation, New Delhi

Person/Thing: Priya is accused of misappropriating a total sum of ₹10,00,000 from the company's accounts.

In this scenario, the charge against Priya specifies the total amount of money misappropriated and the time period during which the offence occurred, without needing to list each individual transaction or exact dates. This provides Priya with sufficient information about the nature of the charges while adhering to the legal requirements.

Section 236: When manner of committing offence must be stated.

When the nature of the case is such that the particulars mentioned in sections 234 and 235 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations

- (a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.
- (b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.
- (c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.
- (d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.
- (e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.
- (f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

SIMPLIFIED ACTS

When the details in sections 234 and 235 are not enough to inform the accused about what they are being charged with, the charge must include more details about how the alleged crime was committed to make it clear.

Examples

- (a) If A is accused of stealing a specific item at a specific time and place, the charge does not need to explain how the theft happened.
- (b) If A is accused of cheating B at a specific time and place, the charge must explain how A cheated B.
- (c) If A is accused of lying under oath at a specific time and place, the charge must specify which part of A's testimony is alleged to be false.
- (d) If A is accused of obstructing B, a public servant, from doing their job at a specific time and place, the charge must explain how A obstructed B.

(e) If A is accused of murdering B at a specific time and place, the charge does not need to explain how A committed the murder.

(f) If A is accused of disobeying a law to help B avoid punishment, the charge must explain what law A disobeyed and how A disobeyed it.

Explanation using Example

Example 1:

Scenario: Raj is accused of stealing a gold necklace from a jewelry store in Mumbai on 15th August 2023.

Application of Section 236: In this case, the charge against Raj would state that he is accused of theft of a gold necklace at a specific time and place. The charge does not need to detail how Raj allegedly stole the necklace, such as whether he broke into the store or took it while pretending to be a customer.

Example 2:

Scenario: Priya is accused of cheating her business partner, Anil, by forging documents to transfer company funds to her personal account on 10th September 2023 in Delhi.

Application of Section 236: Here, the charge against Priya must include specific details of how she allegedly cheated Anil. This would involve describing the manner in which Priya forged the documents and the steps she took to transfer the funds, providing sufficient notice to Priya about the exact nature of the cheating.

Example 3:

Scenario: Sanjay is accused of giving false testimony in a court case on 5th July 2023 in Bangalore.

Application of Section 236: In this situation, the charge against Sanjay must specify the exact portion of his testimony that is alleged to be false. This means detailing the statements he made under oath that are claimed to be untrue, so Sanjay is fully aware of the false evidence he is being accused of providing.

Example 4:

Scenario: Meera is accused of obstructing a police officer, Inspector Sharma, while he was performing his duty on 20th October 2023 in Chennai.

Application of Section 236: For Meera, the charge must detail how she allegedly obstructed Inspector Sharma. This could include actions such as physically blocking his path, refusing to comply with lawful orders, or interfering with an arrest, providing a clear understanding of the obstruction.

Example 5:

Scenario: Vikram is accused of murdering his neighbor, Ramesh, on 1st January 2023 in Kolkata.

Application of Section 236: In Vikram's case, the charge would state that he is accused of the murder of Ramesh at a specific time and place. The charge does not need to describe how Vikram allegedly committed the murder, such as the weapon used or the method of attack.

Example 6:

Scenario: Anjali is accused of disobeying a court order with the intent to help her friend, Suresh, avoid punishment on 12th March 2023 in Hyderabad.

Application of Section 236: Here, the charge against Anjali must include details of the specific court order she disobeyed and how her actions were intended to help Suresh avoid punishment. This means outlining the nature of the disobedience and the legal directive that was violated.

Section 237: Words in charge taken in sense of law under which offence is punishable.

In every charge, words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

SIMPLIFIED ACTS

In every legal charge, the words used to describe a crime should be understood according to the meaning given to them by the law that makes the crime punishable.

Explanation using Example

Example 1:

Ravi is charged with "theft" under Section 379 of the Indian Penal Code (IPC). The charge sheet states that Ravi "dishonestly took movable property out of the possession of another person without that person's consent." Here, the words "dishonestly," "movable property," and "without consent" are interpreted as per their definitions in the IPC. Therefore, "dishonestly" means with the intention of causing wrongful gain or loss, "movable property" includes any tangible property that can be moved, and "without consent" means without the permission of the owner. These interpretations ensure that Ravi understands the exact nature of the offence he is being charged with.

Example 2:

Priya is accused of "cheating" under Section 420 of the IPC. The charge sheet mentions that Priya "fraudulently induced another person to deliver property." In this context, the words "fraudulently" and "induced" are understood as per the IPC. "Fraudulently" means with intent to deceive, and "induced" means to persuade or influence someone to act in a certain way. By using these legal definitions, the charge clearly communicates to Priya the specific actions that constitute the offence of cheating.

Section 238: Effect of errors.

No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations

(a) A is charged under section 180 of the Bharatiya Nyaya Sanhita, 2023, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 2023. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 2023. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 2023, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 2023. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The

witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

SIMPLIFIED ACTS

No mistake in stating the crime or the details needed in the charge, and no failure to state the crime or those details, will be considered important at any point in the case unless the accused was actually confused by the mistake or omission, and it caused an unfair trial.

Examples

(a) A is charged under section 180 of the Bharatiya Nyaya Sanhita, 2023, with "having counterfeit coins and knowing they were fake when he got them," but the word "fraudulently" is left out. Unless it shows that A was actually confused by this omission, the mistake will not be considered important.

(b) A is charged with cheating B, but the way he cheated B is not explained in the charge or is explained incorrectly. A defends himself, calls witnesses, and tells his side of the story. The Court may decide from this that not explaining the cheating properly is not important.

(c) A is charged with cheating B, but the way he cheated B is not explained in the charge. There were many transactions between A and B, and A had no way of knowing which one the charge was about, so he did not defend himself. The Court may decide from these facts that not explaining the cheating properly was an important mistake.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 2023. In reality, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 2023. A was only charged with one murder and had heard the investigation before the Magistrate, which was only about Haidar Baksh. The Court may decide from these facts that A was not confused, and that the mistake in the charge was not important.

(e) A was charged with murdering Haidar Baksh on the 20th January, 2023, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 2023. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defense were witnesses in the case of Haidar Baksh. The Court may decide from this that A was confused, and that the mistake was important.

Explanation using Example

Example 1:

Ravi is charged with theft under Section 378 of the Bharatiya Nyaya Sanhita, 2023. The charge sheet mistakenly states that Ravi stole a "gold necklace" instead of a "gold ring." During the trial, Ravi presents his defense and witnesses, clearly understanding that the charge pertains to the theft of the gold ring. Since Ravi was not misled by the error in the

charge sheet, the court determines that the mistake is immaterial and proceeds with the case.

Example 2:

Priya is charged with forgery under Section 463 of the Bharatiya Nyaya Sanhita, 2023. The charge sheet fails to mention that Priya "intended to deceive" when she forged a document. Priya understands the nature of the charge and presents her defense, including witnesses who testify about her intentions. The court finds that Priya was not misled by the omission and that it did not result in a failure of justice. Therefore, the omission is considered immaterial.

Example 3:

Arjun is charged with assaulting Ramesh on the 15th of March, 2023. The charge sheet incorrectly states the date of the assault as the 16th of March, 2023. Arjun knows that the charge pertains to the incident on the 15th and prepares his defense accordingly. The court concludes that Arjun was not misled by the incorrect date and that the error is immaterial.

Example 4:

Sunita is charged with cheating Anil by promising to sell him a plot of land that she did not own. The charge sheet does not specify how Sunita cheated Anil. Sunita defends herself by explaining the transaction and calling witnesses. The court infers that the omission of the specific details of the cheating did not mislead Sunita and did not result in a failure of justice, making the omission immaterial.

Example 5:

Vikram is charged with the murder of Rajesh on the 10th of January, 2023. The charge sheet mistakenly names the victim as Suresh and the date of the murder as the 11th of January, 2023. Vikram knows that the charge pertains to the murder of Rajesh and has heard the inquiry before the Magistrate, which exclusively referred to Rajesh's case. The court determines that Vikram was not misled by the errors in the charge sheet and that the mistakes are immaterial.

Example 6:

Meera is charged with the murder of Sita on the 5th of February, 2023, and the murder of Gita (who tried to arrest her for Sita's murder) on the 6th of February, 2023. When charged for Sita's murder, Meera is tried for Gita's murder instead. The witnesses present in her defense are those relevant to Sita's case. The court infers that Meera was misled by the error, and the mistake is considered material.

Section 239: Court may alter charge.

- (1) Any Court may alter or add to any charge at any time before judgment is pronounced.
- (2) Every such alteration or addition shall be read and explained to the accused.
- (3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.
- (4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.
- (5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

SIMPLIFIED ACTS

- (1) Any Court can change or add to any charge at any time before the final decision is made.
- (2) Every change or addition must be read and explained to the person accused.
- (3) If the change or addition to a charge is not likely to harm the accused's defense or the prosecutor's case, the Court can continue with the trial as if the new charge was the original one.
- (4) If the change or addition is likely to harm the accused or the prosecutor, the Court can either start a new trial or delay the trial for as long as needed.
- (5) If the new charge requires special permission to proceed, the trial cannot continue until that permission is obtained, unless it has already been given for the same facts as the new charge.

Explanation using Example

Example 1:

Scenario: Rajesh is on trial for theft under Section 379 of the Indian Penal Code (IPC). During the trial, new evidence emerges suggesting that Rajesh was also involved in house-breaking, which is a more serious offense under Section 454 of the IPC.

Application of Section 239:

Alteration of Charge: The court decides to alter the charge from theft to house-breaking.

Explanation to Accused: The judge reads and explains the new charge of house-breaking to Rajesh.

Proceeding with Trial: The court determines that proceeding immediately with the trial on the new charge will not prejudice Rajesh's defense or the prosecutor's case. Therefore, the trial continues as if the new charge had been the original charge.

Example 2:

Scenario: Priya is on trial for causing grievous hurt under Section 325 of the IPC. During the trial, it is discovered that the injury caused was more severe than initially thought, and the charge needs to be altered to attempt to murder under Section 307 of the IPC.

Application of Section 239:

Alteration of Charge: The court decides to alter the charge from causing grievous hurt to attempt to murder.

Explanation to Accused: The judge reads and explains the new charge of attempt to murder to Priya.

Prejudice to Accused: The court believes that proceeding immediately with the trial on the new charge might prejudice Priya's defense because the new charge is significantly more serious.

Adjournment: The court adjourns the trial for a period necessary for Priya to prepare her defense against the new charge.

Example 3:

Scenario: Sunil is on trial for forgery under Section 465 of the IPC. During the trial, it is found that the forgery was committed to cheat someone, which falls under Section 468 of the IPC, requiring prior sanction for prosecution.

Application of Section 239:

Alteration of Charge: The court decides to alter the charge from forgery to forgery for the purpose of cheating.

Explanation to Accused: The judge reads and explains the new charge to Sunil.

Requirement of Sanction: Since the new charge requires prior sanction for prosecution, the court cannot proceed with the trial until the necessary sanction is obtained.

Obtaining Sanction: The trial is paused until the prosecution obtains the required sanction to proceed with the new charge.

Section 240: Recall of witnesses when charge altered.

Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed -

(a) to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;

(b) also to call any further witness whom the Court may think to be material.

SIMPLIFIED ACTS

If the Court changes or adds a charge after the trial has started, both the prosecutor and the accused have the right to:

(a) Bring back and question any witness who has already testified about the changes or additions, unless the Court writes down reasons why it believes that the prosecutor or the accused only wants to do this to cause trouble, delay, or to prevent justice from being served;

(b) Also call any new witness that the Court thinks is important.

Explanation using Example

Example 1:

Scenario: A theft case is being tried in a district court in Mumbai. During the trial, the prosecution initially charges the accused, Rajesh, with theft under Section 379 of the Indian Penal Code. However, midway through the trial, new evidence surfaces indicating that Rajesh also committed housebreaking to execute the theft. The court decides to alter the charge to include housebreaking under Section 454 of the Indian Penal Code.

Application of Section 240:

The prosecutor requests to recall the key witness, Mr. Sharma, who initially testified about the theft but did not mention the housebreaking.

The court allows the prosecutor to recall Mr. Sharma to question him about the new charge of housebreaking.

Rajesh's defense lawyer also requests to re-examine Mr. Sharma to challenge his testimony regarding the housebreaking.

Additionally, the defense lawyer requests to call a new witness, Mrs. Gupta, who can provide an alibi for Rajesh during the time of the alleged housebreaking.

The court permits both the recall of Mr. Sharma and the summoning of Mrs. Gupta, ensuring that the trial remains fair and just.

Example 2:

Scenario: In a fraud case in Delhi, the accused, Priya, is initially charged with cheating under Section 420 of the Indian Penal Code. During the trial, it is discovered that Priya also forged documents to commit the fraud. The court decides to add the charge of forgery under Section 468 of the Indian Penal Code.

Application of Section 240:

The defense lawyer requests to recall the forensic expert who testified about the authenticity of the documents, to question him about the new forgery charge.

The court allows the defense to recall the forensic expert for further examination.

The prosecutor also requests to call a new witness, Mr. Verma, who can provide additional evidence about the forgery.

The court permits the prosecutor to call Mr. Verma, considering his testimony material to the new charge.

The court records its reasons in writing, ensuring that the recall and summoning of witnesses are not for the purpose of vexation or delay but to ensure a fair trial.

Example 3:

Scenario: In a domestic violence case in Bangalore, the accused, Anil, is initially charged with causing grievous hurt under Section 325 of the Indian Penal Code. During the trial, it is revealed that Anil also threatened the victim with a weapon, which constitutes an additional charge under Section 506 of the Indian Penal Code.

Application of Section 240:

The prosecutor requests to recall the victim, Mrs. Mehta, to testify about the threats made by Anil with the weapon.

The court allows the prosecutor to recall Mrs. Mehta for further examination regarding the new charge.

Anil's defense lawyer also requests to re-examine Mrs. Mehta to challenge her testimony about the threats.

Additionally, the defense lawyer requests to call a new witness, Mr. Singh, who can testify that Anil did not possess any weapon during the incident.

The court permits both the recall of Mrs. Mehta and the summoning of Mr. Singh, ensuring that the trial remains comprehensive and just.

Example 4:

Scenario: In a bribery case in Chennai, the accused, Ramesh, is initially charged with accepting a bribe under Section 7 of the Prevention of Corruption Act. During the trial, it is discovered that Ramesh also attempted to tamper with evidence. The court decides to add the charge of tampering with evidence under Section 201 of the Indian Penal Code.

Application of Section 240:

The defense lawyer requests to recall the investigating officer who testified about the bribery, to question him about the new charge of evidence tampering.

The court allows the defense to recall the investigating officer for further examination.

The prosecutor also requests to call a new witness, Mr. Kumar, who can provide additional evidence about the tampering.

The court permits the prosecutor to call Mr. Kumar, considering his testimony material to the new charge.

The court records its reasons in writing, ensuring that the recall and summoning of witnesses are not for the purpose of vexation or delay but to ensure a fair trial.

Section 241: Separate charges for distinct offences.

(1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:

Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of sections 242, 243, 244 and 246.

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

SIMPLIFIED ACTS

(1) For every different crime someone is accused of, there must be a separate charge, and each charge must be tried separately:

However, if the accused person asks in writing and the judge thinks it won't be unfair to them, the judge can decide to try all or some of the charges together.

(2) This rule does not change the rules in sections 242, 243, 244, and 246.

Example

If A is accused of stealing on one occasion and causing serious injury on another occasion, A must be charged and tried separately for the theft and the serious injury.

Explanation using Example

Example 1:

Ravi is accused of two separate incidents. On January 10th, he allegedly committed theft by stealing a motorcycle. On February 15th, he is accused of causing grievous hurt to his neighbor during a dispute. According to Section 241 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi must be charged separately for the theft and the grievous hurt. Each charge will be tried in separate trials unless Ravi submits a written application requesting a joint trial and the Magistrate believes that a joint trial will not prejudice Ravi's case.

Example 2:

Priya is accused of two distinct offences. On March 5th, she allegedly committed fraud by forging documents to obtain a loan. On April 20th, she is accused of trespassing into a restricted government area. Under Section 241, Priya will face separate charges for fraud and trespassing, and each charge will be tried separately. However, if Priya writes to the Magistrate requesting a combined trial and the Magistrate is convinced that Priya will not be unfairly affected, the Magistrate may decide to try both charges together.

Section 242: Offences of same kind within year may be charged together.

Section on Multiple Offences

(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding five.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Bharatiya Nyaya Sanhita, 2023 or of any special or local law:

Provided that for the purposes of this section, an offence punishable under sub-section (2) of section 303 of the Bharatiya Nyaya Sanhita, 2023 shall be deemed to be an offence of the same kind as an offence punishable under section 305 of the said Sanhita, and that an offence punishable under any section of the said Sanhita, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

SIMPLIFIED ACTS

Section on Multiple Offences

(1) If a person is accused of committing more than one similar offence within a year, they can be charged and tried for up to five of these offences in one trial. It doesn't matter if the offences were against the same person or different people.

(2) Offences are considered similar if they have the same punishment under the same section of the Bharatiya Nyaya Sanhita, 2023, or any special or local law:

This means:

An offence punishable under sub-section (2) of section 303 of the Bharatiya Nyaya Sanhita, 2023 is treated the same as an offence under section 305 of the same law.

An offence under any section of the Bharatiya Nyaya Sanhita, 2023, or any special or local law, is treated the same as an attempt to commit that offence, if attempting it is also an offence.

Explanation using Example

Example 1:

Ravi is a shopkeeper in Mumbai. Over the course of a year, he is accused of committing five separate acts of theft from his own shop, each time stealing goods worth Rs. 10,000. These thefts occurred in January, March, June, September, and December of the same year. Since all these offences are of the same kind (theft) and occurred within a twelve-month period, Ravi can be charged and tried for all five thefts in a single trial under Section 242 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 2:

Priya, a resident of Delhi, is accused of committing three acts of fraud within a year. She defrauded three different people in February, May, and November, each time obtaining Rs. 50,000 through deceit. Since all these offences are of the same kind (fraud) and occurred within a twelve-month period, Priya can be charged and tried for all three frauds in a single trial under Section 242 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 3:

Aman, a software engineer in Bangalore, is accused of hacking into five different company databases within a year, causing significant data breaches. These incidents occurred in January, April, July, October, and December. Since all these offences are of the same kind (hacking) and occurred within a twelve-month period, Aman can be charged and tried for all five hacking incidents in a single trial under Section 242 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 4:

Sunita, a teacher in Kolkata, is accused of committing four acts of forgery within a year. She forged signatures on various official documents in March, June, September, and November. Since all these offences are of the same kind (forgery) and occurred within a twelve-month period, Sunita can be charged and tried for all four forgeries in a single trial under Section 242 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 5:

Rajesh, a businessman in Chennai, is accused of committing five acts of bribery within a year. He bribed different government officials in January, March, May, August, and October to get various approvals for his business. Since all these offences are of the same kind (bribery) and occurred within a twelve-month period, Rajesh can be charged and tried for all five acts of bribery in a single trial under Section 242 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Section 243: Trial for more than one offence.

Section

- (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.
- (2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 235 or in sub-section (1) of section 242, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.
- (3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.
- (4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may

be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 9 of the Bharatiya Nyaya Sanhita, 2023.

Illustrations to sub-section (1)

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sub-section (2) of section 121 and section 263 of the Bharatiya Nyaya Sanhita, 2023.

(b) A commits house-breaking by day with intent to commit rape, and commits, in the house so entered, rape with B's wife. A may be separately charged with, and convicted of, offences under section 64 and sub-section (3) of section 331 of the Bharatiya Nyaya Sanhita, 2023.

(c) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 337 of the Bharatiya Nyaya Sanhita, 2023. A may be separately charged with, and convicted of, the possession of each seal under sub-section (2) of section 341 of the Bharatiya Nyaya Sanhita, 2023.

(d) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 248 of the Bharatiya Nyaya Sanhita, 2023.

(e) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 230 and 248 of the Bharatiya Nyaya Sanhita, 2023.

(f) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sub-section (2) of section 117, sub-section (2) of section 191 and section 195 of the Bharatiya Nyaya Sanhita, 2023.

(g) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under sub-sections (2) and (3) of section 351 of the Bharatiya Nyaya Sanhita, 2023.

The separate charges referred to in illustrations (a) to (h), respectively, may be tried at the same time.

Illustrations to sub-section (3)

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sub-section (2) of section 115 and section 131 of the Bharatiya Nyaya Sanhita, 2023.

(j) Several stolen sacks of corn are made over to A and B, who knew they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sub-sections (2) and (5) of section 317 of the Bharatiya Nyaya Sanhita, 2023.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 93 and 105 of the Bharatiya Nyaya Sanhita, 2023.

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 201 of the Bharatiya Nyaya Sanhita, 2023. A may be separately charged with, and convicted of, offences under section 233 and sub-section (2) of section 340 (read with section 337) of that Sanhita.

Illustration to sub-section (4)

(m) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sub-section (2) of section 115 and sub-sections (2) and (4) of section 309 of the Bharatiya Nyaya Sanhita, 2023.

SIMPLIFIED ACTS

Section

(1) If a person commits multiple crimes as part of the same series of actions, they can be charged with and tried for each crime in one trial.

(2) If a person is accused of criminal breach of trust or dishonest misappropriation of property, and they also commit offenses like falsifying accounts to hide or facilitate the first crime, they can be charged with and tried for all these crimes in one trial.

(3) If a person's actions break multiple laws, they can be charged with and tried for each offense in one trial.

(4) If several actions, which could each be a crime on their own, together form a different crime, the person can be charged with and tried for both the combined crime and the individual crimes in one trial.

(5) This section does not affect section 9 of the Bharatiya Nyaya Sanhita, 2023.

Illustrations to sub-section (1)

(a) A rescues B, who is in lawful custody, and hurts C, the constable holding B. A can be charged with and convicted of both rescuing and hurting under sections 121(2) and 263 of the Bharatiya Nyaya Sanhita, 2023.

(b) A breaks into a house to commit rape and then rapes B's wife. A can be charged with and convicted of both house-breaking and rape under sections 64 and 331(3) of the Bharatiya Nyaya Sanhita, 2023.

(c) A has several counterfeit seals intending to use them for forgery. A can be charged with and convicted of possessing each counterfeit seal under section 341(2) of the Bharatiya Nyaya Sanhita, 2023.

(d) A falsely accuses B of a crime to cause harm, knowing there is no basis for it, and starts a criminal proceeding against B. A can be charged with and convicted of both offenses under section 248 of the Bharatiya Nyaya Sanhita, 2023.

(e) A falsely accuses B of a crime and gives false evidence to convict B of a serious crime. A can be charged with and convicted of both offenses under sections 230 and 248 of the Bharatiya Nyaya Sanhita, 2023.

(f) A, with six others, commits rioting, hurts someone seriously, and assaults a public servant. A can be charged with and convicted of all these offenses under sections 117(2), 191(2), and 195 of the Bharatiya Nyaya Sanhita, 2023.

(g) A threatens B, C, and D at the same time, causing them alarm. A can be charged with and convicted of threatening each person under sections 351(2) and (3) of the Bharatiya Nyaya Sanhita, 2023.

These separate charges can be tried together.

Illustrations to sub-section (3)

(i) A hits B with a cane. A can be charged with and convicted of offenses under sections 115(2) and 131 of the Bharatiya Nyaya Sanhita, 2023.

(j) A and B knowingly receive stolen sacks of corn to hide them and help each other conceal the sacks. A and B can be charged with and convicted of offenses under sections 317(2) and (5) of the Bharatiya Nyaya Sanhita, 2023.

(k) A abandons her child, knowing it could cause the child's death, and the child dies. A can be charged with and convicted of offenses under sections 93 and 105 of the Bharatiya Nyaya Sanhita, 2023.

(l) A uses a forged document as real evidence to convict B, a public servant, of a crime. A can be charged with and convicted of offenses under sections 233 and 340(2) (read with section 337) of the Bharatiya Nyaya Sanhita, 2023.

Illustration to sub-section (4)

(m) A robs B and hurts him during the robbery. A can be charged with and convicted of robbery and causing hurt under sections 115(2) and 309(2) and (4) of the Bharatiya Nyaya Sanhita, 2023.

Explanation using Example

Example 1:

Rajesh, a businessman, is involved in a series of fraudulent activities. He first forges documents to obtain a loan from a bank. Later, he uses the same forged documents to secure another loan from a different bank. Additionally, he falsifies his company's accounts to hide these fraudulent loans. Under Section 243 of the Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh can be charged and tried for all these offences in a single trial. This includes forgery, obtaining loans through fraudulent means, and falsification of accounts.

Example 2:

Priya, an employee at a financial firm, is accused of embezzling funds from her company. To cover up her crime, she falsifies the company's financial records. Additionally, she is found to have used the embezzled funds to bribe a government official to avoid detection. Under Section 243 of the Bharatiya Nagarik Suraksha Sanhita 2023, Priya can be charged and tried for embezzlement, falsification of accounts, and bribery in a single trial. This ensures that all her connected offences are addressed together, providing a comprehensive view of her criminal activities.

Section 244: Where it is doubtful what offence has been committed.

Charges and Convictions

(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustrations

(a) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

(b) In the case mentioned, A is only charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

(c) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court, A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

SIMPLIFIED ACTS

Charges and Convictions

(1) If someone does something that could be considered several different crimes, and it's not clear which one it is, they can be charged with all of those crimes at once. They can also be charged with just one of those crimes as an alternative.

(2) If someone is charged with one crime, but the evidence shows they actually committed a different crime that they could have been charged with under the first rule, they can still be found guilty of the crime they actually committed, even if they weren't originally charged with it.

Examples

(a) A person is accused of doing something that could be theft, receiving stolen property, criminal breach of trust, or cheating. They can be charged with all of these crimes, or just one of them.

(b) In the above example, if the person is only charged with theft, but the evidence shows they actually committed criminal breach of trust or received stolen goods, they can be found guilty of criminal breach of trust or receiving stolen goods, even though they were only charged with theft.

(c) A person tells a judge that they saw someone hit another person with a club. Later, in a higher court, they say that the person never hit anyone. This person can be charged and found guilty of lying under oath, even if it's not clear which statement was the lie.

Explanation using Example

Example 1:

Raj is accused of an act where he was found in possession of a laptop that was reported stolen. The circumstances are such that it is unclear whether Raj stole the laptop himself, received it knowing it was stolen, or committed a criminal breach of trust by misappropriating it. Under Section 244 of The Bharatiya Nagarik Suraksha Sanhita 2023, Raj can be charged with theft, receiving stolen property, and criminal breach of trust all at once. Alternatively, he can be charged with any one of these offences. During the trial, if evidence shows that Raj did not steal the laptop but received it knowing it was stolen, he can be convicted for receiving stolen property even if he was initially charged with theft.

Example 2:

Priya is accused of embezzling funds from her employer. The evidence is ambiguous, and it is uncertain whether her actions constitute theft, criminal breach of trust, or cheating. Priya can be charged with all three offences simultaneously or with any one of them. If during the trial, it is proven that Priya did not commit theft but instead committed cheating by falsifying records to cover up the embezzlement, she can be convicted of cheating even though she was initially charged with theft.

Example 3:

Sunil is a witness in a case and gives a statement under oath before a Magistrate that he saw Ravi assaulting another person, Mohan, with a stick. Later, in the Sessions Court, Sunil changes his statement and says that Ravi never assaulted Mohan. It is unclear which of Sunil's statements is false. Under Section 244, Sunil can be charged with intentionally giving false evidence in the alternative. If it is proven that one of his statements is false, he can be convicted of giving false evidence even though it is not clear which specific statement was false.

Section 245: When offence proved included in offence charged.

Section on Minor Offences

(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

Illustrations

(a) A is charged, under sub-section (3) of section 316 of the Bharatiya Nyaya Sanhita, 2023, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under sub-section (2) of section 316 of that Sanhita in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said sub-section (2) of section 316.

(b) A is charged, under sub-section (2) of section 117 of the Bharatiya Nyaya Sanhita, 2023, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under sub-section (2) of section 122 of that Sanhita.

SIMPLIFIED ACTS

Section on Minor Offences

(1) If someone is accused of a crime that has several parts, and only some of those parts make up a smaller crime, and those parts are proven, the person can be found guilty of the smaller crime, even if they weren't specifically accused of it.

(2) If someone is accused of a crime, and the proven facts show that it is actually a smaller crime, the person can be found guilty of the smaller crime, even if they weren't specifically accused of it.

(3) If someone is accused of a crime, they can be found guilty of trying to commit that crime, even if they weren't specifically accused of the attempt.

(4) This section does not allow someone to be found guilty of a smaller crime if the necessary conditions to start legal proceedings for that smaller crime have not been met.

Illustrations

(a) A is accused of criminal breach of trust (misusing property given to him) as a carrier under sub-section (3) of section 316 of the Bharatiya Nyaya Sanhita, 2023. It turns out he did misuse the property, but not as a carrier. He can be found guilty under sub-section (2) of section 316 for criminal breach of trust.

(b) A is accused of causing serious injury under sub-section (2) of section 117 of the Bharatiya Nyaya Sanhita, 2023. He proves that he acted because he was suddenly and seriously provoked. He can be found guilty under sub-section (2) of section 122 for acting under provocation.

Explanation using Example

Example 1:

Scenario: Raj is charged with theft under Section 378 of the Bharatiya Nyaya Sanhita, 2023, for stealing a mobile phone from a shop. During the trial, it is proven that Raj did not steal the mobile phone but instead attempted to steal it and was caught in the act.

Application of Section 245:

According to Section 245(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, Raj can be convicted of the attempt to commit theft, even though he was not separately charged with the attempt. The court can convict Raj for the attempt to steal the mobile phone.

Example 2:

Scenario: Priya is charged with causing grievous hurt under Section 117(2) of the Bharatiya Nyaya Sanhita, 2023, after she hit her neighbor during a heated argument, resulting in a serious injury. During the trial, it is established that Priya acted under grave and sudden provocation.

Application of Section 245:

According to Section 245(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, since the facts proved reduce the offence to a minor one, Priya can be convicted under Section 122(2) of the Bharatiya Nyaya Sanhita, 2023, which deals with causing hurt under grave and sudden provocation, even though she was not initially charged with this minor offence.

Example 3:

Scenario: Mohan is charged with criminal breach of trust under Section 316(3) of the Bharatiya Nyaya Sanhita, 2023, for misappropriating funds entrusted to him as a manager of a company. During the trial, it is proven that Mohan did commit criminal breach of trust, but the funds were not entrusted to him in his capacity as a manager.

Application of Section 245:

According to Section 245(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, Mohan can be convicted of criminal breach of trust under Section 316(2) of the Bharatiya Nyaya Sanhita, 2023, even though he was not charged under this specific provision, as the combination of proven facts constitutes a complete minor offence.

Example 4:

Scenario: Sita is charged with cheating under Section 420 of the Bharatiya Nyaya Sanhita, 2023, for deceiving a person into giving her money by pretending to sell a valuable item. During the trial, it is proven that Sita did not cheat but attempted to cheat the person.

Application of Section 245:

According to Section 245(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, Sita can be convicted of the attempt to cheat, even though the attempt was not separately charged. The court can convict Sita for the attempt to deceive the person.

Section 246: What persons may be charged jointly.

The following persons may be charged and tried together, namely:

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;
- (c) persons accused of more than one offence of the same kind, within the meaning of section 242 committed by them jointly within the period of twelve months;
- (d) persons accused of different offences committed in the course of the same transaction;
- (e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;
- (f) persons accused of offences under sub-sections (2) and (5) of section 317 of the Bharatiya Nyaya Sanhita, 2023 or either of those sections in respect of stolen property the possession of which has been transferred by one offence;
- (g) persons accused of any offence under Chapter X of the Bharatiya Nyaya Sanhita, 2023 relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate or Court of Session may, if such persons by an application in writing, so desire, and if he or it is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.

SIMPLIFIED ACTS

The following people can be charged and tried together:

- (a) People accused of committing the same crime during the same event.

- (b) People accused of a crime and those accused of helping or trying to commit that crime.
- (c) People accused of committing multiple similar crimes together within a year.
- (d) People accused of different crimes that happened during the same event.
- (e) People accused of crimes like theft, extortion, cheating, or misuse of property, and those accused of receiving, keeping, helping to sell, or hiding the stolen property, or helping or trying to commit these crimes.
- (f) People accused of crimes under sections 317(2) and 317(5) of the Bharatiya Nyaya Sanhita, 2023, related to stolen property.
- (g) People accused of crimes related to counterfeit coins under Chapter X of the Bharatiya Nyaya Sanhita, 2023, and those accused of other crimes involving the same counterfeit coins, or helping or trying to commit these crimes.

If several people are charged with different crimes and they don't fit into any of the above categories, the Magistrate or Court of Session can decide to try them together if they request it in writing, and if the court believes it won't harm their case and it's practical to do so.

Explanation using Example

Example 1:

Scenario: A bank robbery in Mumbai

Persons Involved:

Person A: The mastermind who planned the robbery.

Person B: The driver who drove the getaway car.

Person C: The individual who entered the bank and stole the money.

Person D: The person who provided the weapons used in the robbery.

Person E: The individual who helped hide the stolen money.

Application of Section 246:

Clause (a): Persons A, B, and C can be charged jointly as they are accused of the same offence (bank robbery) committed in the course of the same transaction.

Clause (b): Person D can be charged jointly with Persons A, B, and C as he is accused of abetment (providing weapons) of the robbery.

Clause (e): Person E can be charged jointly with Persons A, B, and C as he is accused of assisting in the concealment of the stolen money.

Example 2:

Scenario: A series of fraudulent activities in Delhi

Persons Involved:

Person F: The individual who committed multiple acts of cheating by pretending to be a government official.

Person G: The accomplice who helped Person F by creating fake documents.

Person H: The person who received money from the victims, knowing it was obtained through cheating.

Person I: The individual who attempted to cheat another victim but was caught in the act.

Application of Section 246:

Clause (a): Persons F and G can be charged jointly as they are accused of the same offence (cheating) committed in the course of the same transaction.

Clause (b): Person H can be charged jointly with Persons F and G as he is accused of receiving money obtained through cheating.

Clause (c): Persons F and G can also be charged jointly for multiple acts of cheating committed within twelve months.

Clause (d): Person I can be charged jointly with Persons F and G as he is accused of attempting to commit the same offence (cheating) in the course of the same transaction.

Section 247: Withdrawal of remaining charges on conviction on one of several charges.

When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

SIMPLIFIED ACTS

If a person is facing multiple charges at the same time and is found guilty of one or more of those charges, the person who filed the complaint or the prosecutor can ask the court for permission to drop the remaining charges. The court can also decide on its own to stop looking into or trying those remaining charges.

If the remaining charges are dropped, it will be as if the person was found not guilty of those charges, unless the conviction that was made is later overturned. If the conviction is overturned, the court can continue with the investigation or trial of the charges that were previously dropped, depending on the instructions from the court that overturned the conviction.

Explanation using Example

Example 1:

Rajesh is charged with three offenses: theft, assault, and vandalism. During the trial, the court finds Rajesh guilty of theft. The prosecution, with the court's consent, decides to withdraw the charges of assault and vandalism. As a result, Rajesh is acquitted of the assault and vandalism charges. However, if Rajesh's conviction for theft is later overturned on appeal, the court may decide to reopen the trial for the assault and vandalism charges.

Example 2:

Priya is accused of fraud, forgery, and embezzlement. The court convicts her of fraud after a thorough trial. The prosecution, seeing the conviction, requests the court to withdraw the charges of forgery and embezzlement. The court agrees, and Priya is acquitted of these charges. If Priya successfully appeals her fraud conviction, the court has the option to resume the trial for the forgery and embezzlement charges, depending on the appellate court's orders.

CHAPTER XIX: TRIAL BEFORE A COURT OF SESSION

Section 248: Trial to be conducted by Public Prosecutor.

In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

SIMPLIFIED ACTS

In every trial that takes place in a Court of Session, the case for the government will be presented by a Public Prosecutor.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of committing a serious crime, such as armed robbery, in Mumbai. The police have gathered evidence and filed a charge sheet against him. The case is now set to be tried in a Court of Session.

Application of Section 248: In this scenario, the trial against Rajesh will be conducted by a Public Prosecutor. The Public Prosecutor, appointed by the government, will present the evidence and argue the case against Rajesh in the Court of Session. Rajesh will have the opportunity to defend himself through his own lawyer, but the prosecution's case will be managed and presented by the Public Prosecutor.

Example 2:

Scenario: Meena is a victim of a serious assault in Delhi. The police have arrested the accused, and the case is now ready to go to trial in a Court of Session.

Application of Section 248: In this case, the trial will be conducted by a Public Prosecutor. The Public Prosecutor will represent the state and Meena's interests in court, presenting the evidence collected by the police and making legal arguments to prove the guilt of the accused. Meena does not need to hire a private lawyer for the prosecution, as the Public Prosecutor will handle the case on behalf of the state.

Section 249: Opening case for prosecution.

When the accused appears or is brought before the Court, in pursuance of a commitment of the case under section 232, or under any other law for the time being in force, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

SIMPLIFIED ACTS

When the person accused of a crime shows up or is brought to the Court because of a commitment under section 232 or any other current law, the prosecutor will start by explaining the charges against the accused and stating what evidence they will use to prove the accused is guilty.

Explanation using Example

Example 1:

Ravi is accused of theft and is brought before the Court of Session after the case is committed under Section 232. The prosecutor begins the trial by explaining that Ravi is charged with stealing a motorcycle. The prosecutor then outlines the evidence they will

present, including CCTV footage showing Ravi near the scene, witness testimonies from neighbors who saw Ravi with the motorcycle, and forensic evidence linking Ravi to the crime scene.

Example 2:

Meena is accused of fraud and is brought before the Court of Session. The case was committed under another applicable law. The prosecutor starts the trial by detailing the charges against Meena, which include forging documents to obtain a bank loan. The prosecutor states that they will prove Meena's guilt through evidence such as the forged documents, bank records showing the fraudulent transactions, and expert testimony from a handwriting analyst confirming that the signatures on the documents were forged by Meena.

Section 250: Discharge.

- (1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232.
- (2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

SIMPLIFIED ACTS

- (1) The person accused of a crime can ask to be released from the case within sixty days from the date the case is officially started under section 232.
- (2) If, after looking at all the case documents and listening to both the accused and the prosecution, the Judge thinks there isn't enough evidence to continue with the case, the Judge will release the accused and explain why.

Explanation using Example

Example 1:

Ravi is accused of theft and his case is committed to the Court of Session on January 1, 2023. Ravi believes that the evidence against him is weak and decides to file an application for discharge. He submits his application on February 15, 2023, which is within the 60-day period allowed under Section 250 of The Bharatiya Nagarik Suraksha Sanhita 2023.

The Judge reviews the case records and documents submitted by both the prosecution and the defense. After hearing the arguments from both sides, the Judge finds that the evidence is insufficient to proceed with the trial. Consequently, the Judge discharges Ravi and

records the reasons for this decision, stating that the prosecution failed to provide enough evidence to establish a prima facie case of theft against Ravi.

Example 2:

Priya is charged with fraud and her case is committed to the Court of Session on March 10, 2023. Priya's lawyer files an application for discharge on April 20, 2023, within the 60-day window provided by Section 250 of The Bharatiya Nagarik Suraksha Sanhita 2023.

The Judge examines the case file, including all documents and evidence presented by both the prosecution and the defense. During the hearing, Priya's lawyer argues that the evidence is circumstantial and does not directly link Priya to the alleged fraud. The prosecution, however, insists that there is enough evidence to proceed to trial.

After careful consideration, the Judge concludes that the evidence is not strong enough to justify a trial. The Judge discharges Priya and documents the reasons for this decision, noting that the prosecution's evidence was largely speculative and did not meet the required legal standard to proceed with the case.

Section 251: Framing of charge.

(1)

If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which -

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.

(2)

Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused present either physically or through audio-video electronic means and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

SIMPLIFIED ACTS

(1)

If, after reviewing and hearing the case, the Judge believes there is reason to think the accused has committed a crime which -

(a) is not only to be tried by the Court of Session, he can create a formal charge against the accused and transfer the case for trial to the Chief Judicial Magistrate or any other Judicial Magistrate of the first class. The Judge will set a date for the accused to appear before the Chief Judicial Magistrate or the Judicial Magistrate of the first class. The Magistrate will then handle the case following the procedure for warrant-cases started by a police report;

(b) is only to be tried by the Court of Session, he must write a formal charge against the accused within sixty days from the first hearing on the charge.

(2)

When the Judge creates a charge under clause (b) of section (1), the charge must be read and explained to the accused, who can be present either in person or through audio-video means. The accused will then be asked if they plead guilty to the charge or if they want to go to trial.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft, which is not exclusively triable by the Court of Session.

Details:

Rajesh is brought before a Sessions Judge.

After considering the evidence and hearing the arguments, the Judge believes there is enough ground to presume that Rajesh has committed the theft.

Since theft is not exclusively triable by the Court of Session, the Judge frames a charge against Rajesh.

The Judge then orders the case to be transferred to the Chief Judicial Magistrate.

Rajesh is directed to appear before the Chief Judicial Magistrate on a specified date.

The Chief Judicial Magistrate will then try the case according to the procedure for warrant-cases instituted on a police report.

Example 2:

Scenario: Priya is accused of murder, which is exclusively triable by the Court of Session.

Details:

Priya is brought before a Sessions Judge.

After considering the evidence and hearing the arguments, the Judge believes there is enough ground to presume that Priya has committed the murder.

Since murder is exclusively triable by the Court of Session, the Judge frames a charge against Priya in writing.

This charge is framed within sixty days from the date of the first hearing on the charge.

The charge is then read and explained to Priya, who is present either physically in the courtroom or through audio-video electronic means.

Priya is asked whether she pleads guilty to the charge or claims to be tried.

Depending on Priya's response, the trial proceeds accordingly.

Section 252: Conviction on plea of guilty.

If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

SIMPLIFIED ACTS

If the person accused of a crime says they are guilty, the Judge will write down their admission.

The Judge can then decide whether to find them guilty based on that admission.

Explanation using Example

Example 1:

Ravi is accused of theft and is brought before the Court of Session. During the trial, Ravi decides to plead guilty to the charges. The judge records Ravi's plea of guilty. Given the circumstances and evidence, the judge uses his discretion to convict Ravi based on his guilty plea. Ravi is then sentenced according to the law for theft.

Example 2:

Meena is charged with fraud and is facing trial in a Court of Session. During the proceedings, Meena admits her guilt and pleads guilty to the fraud charges. The judge officially records Meena's guilty plea. After considering the details of the case, the judge decides to convict Meena based on her admission of guilt. Meena is subsequently given a punishment as per the legal provisions for fraud.

Section 253: Date for prosecution evidence.

If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 252, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

SIMPLIFIED ACTS

If the person accused of a crime refuses to say if they are guilty or not, or doesn't say anything, or wants a trial, or is not found guilty under section 252, the Judge will set a date to hear from witnesses.

The Judge can also, if the prosecution asks, order that any witness must come to court or that any document or item must be brought to court.

Explanation using Example

Example 1:

Ravi is accused of theft and is brought before the Court of Session. During the initial hearing, Ravi refuses to plead guilty and claims that he wants to be tried. According to Section 253 of The Bharatiya Nagarik Suraksha Sanhita 2023, the judge then schedules a date for the examination of witnesses. The prosecution requests the court to issue summons to compel the attendance of key witnesses who saw Ravi at the scene of the crime and to produce CCTV footage from a nearby shop. The judge grants this request, ensuring that all necessary evidence and witnesses will be available for the trial.

Example 2:

Meena is accused of fraud and is presented before the Court of Session. She does not enter a plea during her initial appearance. Following the procedure outlined in Section 253, the judge sets a date for the prosecution to present its evidence. The prosecution files an application requesting the court to issue a subpoena for bank records and to summon the bank manager who can testify about the fraudulent transactions. The judge approves the application, thereby ensuring that the prosecution can present all relevant evidence and witnesses during the trial.

Section 254: Evidence for prosecution.

(1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that evidence of a witness under this sub-section may be recorded by audio-video electronic means.

(2) The deposition of evidence of any public servant may be taken through audio-video electronic means.

(3) The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

SIMPLIFIED ACTS

(1) On the set date, the Judge will start to review all the evidence presented by the prosecution:

This evidence can be recorded using audio-video technology.

(2) The testimony of any government employee can also be recorded using audio-video technology.

(3) The Judge can decide to delay the cross-examination of a witness until other witnesses have been questioned, or call back any witness for more questioning.

Explanation using Example

Example 1:

Scenario: A high-profile corruption case involving a government official is being tried in a Court of Session.

Application of Section 254:

Date Fixed for Evidence: The Judge sets a date for the prosecution to present its evidence.

Audio-Video Recording: The prosecution presents a key witness, a whistleblower, whose testimony is recorded via audio-video electronic means due to security concerns.

Public Servant Testimony: A senior public servant, who is a crucial witness, provides his deposition through a video conference from his office in another city.

Deferred Cross-Examination: The defense requests to defer the cross-examination of the whistleblower until after the testimony of the senior public servant. The Judge permits this request.

Recall for Further Cross-Examination: After hearing the senior public servant's testimony, the defense finds new points to question the whistleblower and requests the Judge to recall the whistleblower for further cross-examination. The Judge grants this request.

Example 2:

Scenario: A murder trial where the prosecution relies on multiple eyewitnesses and forensic experts.

Application of Section 254:

Date Fixed for Evidence: The Judge schedules a date for the prosecution to present its evidence.

Audio-Video Recording: One of the eyewitnesses, who is currently abroad, provides their testimony via audio-video electronic means.

Public Servant Testimony: A forensic expert, who is a public servant, gives his deposition through a video link from the forensic lab.

Deferred Cross-Examination: The defense requests to defer the cross-examination of the forensic expert until after the testimonies of all eyewitnesses are completed. The Judge agrees to this request.

Recall for Further Cross-Examination: After all eyewitnesses have testified, the defense identifies inconsistencies and requests the Judge to recall the forensic expert for further cross-examination. The Judge allows this.

Section 255: Acquittal.

If, after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal.

SIMPLIFIED ACTS

If, after listening to the evidence from the prosecution, questioning the accused, and hearing arguments from both the prosecution and the defense, the Judge believes there is no proof that the accused committed the crime, the Judge must officially declare the accused not guilty.

Explanation using Example

Example 1:

Ravi was accused of theft in his neighborhood. The case was brought before a Court of Session. During the trial, the prosecution presented its evidence, which included witness testimonies and some circumstantial evidence. Ravi was also given a chance to present his defense. After examining all the evidence and hearing both sides, the Judge found that there was no concrete evidence linking Ravi to the theft. As a result, the Judge recorded an order of acquittal, and Ravi was declared not guilty.

Example 2:

Meena was charged with fraud in a business transaction. The case went to trial in a Court of Session. The prosecution presented documents and witness statements to support their case. Meena was also examined and allowed to present her defense. After reviewing all the evidence and hearing arguments from both the prosecution and the defense, the Judge determined that the evidence was insufficient to prove that Meena had committed fraud. Consequently, the Judge issued an order of acquittal, and Meena was acquitted of all charges.

Section 256: Entering upon defence.

- (1) Where the accused is not acquitted under section 255, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.
- (2) If the accused puts in any written statement, the Judge shall file it with the record.
- (3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

SIMPLIFIED ACTS

- (1) If the accused is not found not guilty under section 255, they will be asked to present their defense and any evidence they have to support it.
- (2) If the accused submits a written statement, the Judge will add it to the case records.
- (3) If the accused requests the court to call a witness or produce a document or item, the Judge will usually agree to this unless the Judge believes, and records the reasons, that the request is meant to cause trouble, delay the case, or prevent justice from being served.

Explanation using Example

Example 1:

Scenario: Rajesh is on trial for theft in a Court of Session. The prosecution has presented its evidence, but Rajesh has not been acquitted under Section 255.

Application of Section 256:

Entering Defence: The judge informs Rajesh that it is now his turn to present his defence. Rajesh decides to testify on his own behalf and calls his friend, Suresh, as a witness to support his alibi.

Written Statement: Rajesh submits a written statement explaining his whereabouts during the time of the alleged theft. The judge accepts this statement and files it with the court records.

Compelling Attendance: Rajesh requests the court to summon a CCTV footage from a nearby shop that could prove his innocence. The judge issues the necessary orders to obtain the footage, as it is relevant to Rajesh's defence and not intended to cause delay or vexation.

Example 2:

Scenario: Priya is accused of fraud and is being tried in a Court of Session. The prosecution has completed presenting its case, but Priya has not been acquitted under Section 255.

Application of Section 256:

Entering Defence: The judge informs Priya that she can now present her defence. Priya decides to call her accountant, who can testify that the financial discrepancies were due to a clerical error and not intentional fraud.

Written Statement: Priya submits a detailed written statement explaining the accounting errors and how they occurred. The judge files this statement with the court records.

Compelling Attendance: Priya requests the court to summon her bank manager to produce bank statements that can corroborate her explanation. The judge issues the summons, as the request is pertinent to the case and not intended to delay the proceedings.

Example 3:

Scenario: Anil is on trial for assault in a Court of Session. The prosecution has presented its evidence, but Anil has not been acquitted under Section 255.

Application of Section 256:

Entering Defence: The judge informs Anil that it is his turn to present his defence. Anil decides to call his neighbor, who witnessed the incident and can testify that Anil acted in self-defense.

Written Statement: Anil submits a written statement detailing the events leading up to the incident, claiming self-defense. The judge accepts this statement and files it with the court records.

Compelling Attendance: Anil requests the court to summon the medical officer who treated his injuries after the incident to provide medical records. The judge issues the necessary orders, as the medical records are crucial to Anil's defence and the request is not made to cause delay or vexation.

Section 257: Arguments.

When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his advocate shall be entitled to reply:

Provided that where any point of law is raised by the accused or his advocate, the prosecution may, with the permission of the Judge, make his submissions with regard to such point of law.

SIMPLIFIED ACTS

After the defense finishes questioning their witnesses (if they have any), the prosecutor will summarize their case.

The accused person or their lawyer has the right to respond to the prosecutor's summary.

If the accused person or their lawyer brings up a legal issue, the prosecutor can talk about that legal issue too, but only if the Judge allows it.

Explanation using Example

Example 1:

Scenario: Raj is accused of theft and is being tried in a Court of Session. During the trial, Raj's lawyer presents several witnesses to defend Raj.

Application of Section 257:

After Raj's lawyer finishes examining the defence witnesses, the prosecutor sums up the case against Raj, highlighting the evidence and arguments that support the accusation of theft.

Raj's lawyer then replies, summarizing the defence's arguments and evidence that suggest Raj is innocent.

During the reply, Raj's lawyer raises a legal point, arguing that the evidence was obtained unlawfully.

The judge permits the prosecutor to respond to this legal point, allowing the prosecutor to argue why the evidence should still be considered valid.

Example 2:

Scenario: Priya is on trial for fraud in a Court of Session. Her lawyer calls witnesses to testify in her defence, and the examination of these witnesses is completed.

Application of Section 257:

The prosecutor then sums up the case, detailing how the evidence presented proves Priya's involvement in the fraud.

Priya's lawyer replies, presenting a summary of the defence's case, including evidence and arguments that counter the prosecution's claims.

Priya's lawyer raises a legal issue, claiming that the prosecution has not met the burden of proof required for a conviction.

The judge allows the prosecutor to address this legal issue, giving the prosecutor an opportunity to argue that the evidence presented does indeed meet the required burden of proof.

Section 258: Judgment of acquittal or conviction.

(1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may be extended to a period of forty-five days for reasons to be recorded in writing.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 401, hear the accused on the questions of sentence, and then pass sentence on him according to law.

SIMPLIFIED ACTS

(1) After listening to the arguments and legal points (if any), the Judge must make a decision in the case as soon as possible, within thirty days after the arguments are finished. This period can be extended to forty-five days if the Judge writes down the reasons for the delay.

(2) If the person on trial is found guilty, the Judge must, unless following the rules of section 401, listen to what the convicted person has to say about the punishment before deciding on the sentence according to the law.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is being tried in a Court of Session.

Process:

The trial proceeds, and both the prosecution and defense present their arguments and evidence.

After the completion of arguments, the Judge listens to the final points of law from both sides.

The Judge then takes time to deliberate on the case.

Within 30 days from the completion of arguments, the Judge delivers a judgment. If the Judge needs more time, they record the reasons in writing and extend the period to 45 days.

The Judge finds Rajesh not guilty and acquits him of all charges.

Outcome: Rajesh is acquitted, and the judgment is delivered within the stipulated time frame.

Example 2:

Scenario: Priya is accused of fraud and is being tried in a Court of Session.

Process:

The trial proceeds, and both the prosecution and defense present their arguments and evidence.

After the completion of arguments, the Judge listens to the final points of law from both sides.

The Judge then takes time to deliberate on the case.

Within 30 days from the completion of arguments, the Judge delivers a judgment. If the Judge needs more time, they record the reasons in writing and extend the period to 45 days.

The Judge finds Priya guilty of fraud.

Before passing the sentence, the Judge asks Priya if she has anything to say regarding the sentence.

Priya presents her mitigating circumstances.

The Judge considers Priya's statement and then passes the sentence according to the law.

Outcome: Priya is convicted, and the sentence is passed after considering her statement, all within the stipulated time frame.

Section 259: Previous conviction.

In a case where a previous conviction is charged under the provisions of sub-section (7) of section 234, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 252 or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Judge nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 252 or section 258.

SIMPLIFIED ACTS

If someone is accused of having a previous criminal conviction under sub-section (7) of section 234, and they deny it, the Judge can look into it only after finding them guilty of the current charge under section 252 or section 258.

The Judge will then gather evidence about the previous conviction and make a decision on it.

However, the Judge cannot mention the previous conviction, ask the accused to respond to it, or let the prosecution bring it up in any way until the accused is found guilty of the current charge under section 252 or section 258.

Explanation using Example

Example 1:

Ravi is on trial for theft under Section 252 of the Bharatiya Nagarik Suraksha Sanhita 2023. During the trial, the prosecution believes that Ravi has a previous conviction for a similar offense. However, Ravi denies having any previous convictions. According to Section 259, the judge cannot mention Ravi's past conviction during the trial or ask Ravi to plead about it until Ravi is convicted for the current theft charge. Once Ravi is convicted under Section 252, the judge can then take evidence regarding Ravi's previous conviction and make a finding on it.

Example 2:

Sita is accused of fraud and is being tried under Section 258 of the Bharatiya Nagarik Suraksha Sanhita 2023. The prosecution has information that Sita was previously convicted of a similar fraud case. Sita, however, does not admit to this previous conviction. As per Section 259, the judge will not bring up Sita's past conviction during the trial, nor will the prosecution mention it. Only after Sita is convicted for the current fraud charge under Section 258 can the judge consider evidence of her previous conviction and record a finding on it.

Section 260: Procedure in cases instituted under sub-section (2) of section 222.

Section 222 - Court of Session Taking Cognizance

(1) A Court of Session taking cognizance of an offence under sub-section (2) of section 222 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate:

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

(2) Every trial under this section shall be held in camera if either party thereto so desires or if the Court thinks fit so to do.

(3) If, in any such case, the Court discharges or acquits all or any of the accused and is of opinion that there was no reasonable cause for making the accusation against them or any of them, it may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, the Vice-President or the Governor of a State or the Administrator of a Union territory) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(4) The Court shall record and consider any cause which may be shown by the person so directed, and if it is satisfied that there was no reasonable cause for making the accusation, it may, for reasons to be recorded, make an order that compensation to such amount not exceeding five thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(5) Compensation awarded under sub-section (4) shall be recovered as if it were a fine imposed by a Magistrate.

(6) No person who has been directed to pay compensation under sub-section (4) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(7) The person who has been ordered under sub-section (4) to pay compensation may appeal from the order, in so far as it relates to the payment of compensation, to the High Court.

(8) When an order for payment of compensation to an accused person is made, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

SIMPLIFIED ACTS

Section 222 - Court of Session Taking Cognizance

(1) When a Court of Session starts dealing with a case under sub-section (2) of section 222, it will follow the same procedure as a Magistrate's court does for cases that are not based on a police report. The person who is said to be the victim must be called as a witness for the prosecution unless the Court decides otherwise and records the reasons for it.

(2) The trial will be held privately (in camera) if either side requests it or if the Court thinks it is necessary.

(3) If the Court finds that there was no good reason to accuse the person and decides to discharge or acquit them, it can order the alleged victim (except if they are the President, Vice-President, Governor of a State, or Administrator of a Union territory) to explain why they should not pay compensation to the accused.

(4) The Court will listen to the reasons given by the alleged victim and if it is convinced that there was no good reason for the accusation, it can order the alleged victim to pay compensation up to five thousand rupees to the accused.

(5) The compensation ordered by the Court will be collected as if it were a fine imposed by a Magistrate.

(6) Paying compensation does not protect the person from any other civil or criminal charges related to the complaint. However, any compensation paid will be considered in any future civil case about the same matter.

(7) The person ordered to pay compensation can appeal this decision to the High Court.

(8) The compensation will not be paid to the accused until the time allowed for an appeal has passed, or if an appeal is made, until the appeal is decided.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft by his neighbor, Suresh. Suresh files a complaint directly in the Court of Session under sub-section (2) of section 222.

Cognizance by Court of Session: The Court of Session takes cognizance of the case and decides to try it as a warrant-case, similar to how a Magistrate would handle it.

Witness Examination: The court examines Suresh as a witness for the prosecution, as he is the person against whom the offence is alleged.

In-Camera Trial: Rajesh requests the trial to be held in camera (private), and the court agrees.

Acquittal and Compensation: After the trial, the court finds Rajesh not guilty and believes there was no reasonable cause for the accusation. The court orders Suresh to show cause why he should not pay compensation to Rajesh.

Compensation Order: Suresh fails to provide a satisfactory reason, and the court orders him to pay Rs. 5,000 as compensation to Rajesh.

Recovery of Compensation: The compensation is recovered as if it were a fine imposed by a Magistrate.

Appeal: Suresh appeals the compensation order to the High Court.

Payment of Compensation: The compensation is not paid to Rajesh until the appeal period has elapsed or the appeal is decided.

Example 2:

Scenario: Priya accuses her colleague, Anil, of harassment and files a complaint directly in the Court of Session under sub-section (2) of section 222.

Cognizance by Court of Session: The Court of Session takes cognizance of the case and decides to try it as a warrant-case, similar to how a Magistrate would handle it.

Witness Examination: The court examines Priya as a witness for the prosecution, as she is the person against whom the offence is alleged.

In-Camera Trial: Anil requests the trial to be held in camera (private), and the court agrees.

Acquittal and Compensation: After the trial, the court finds Anil not guilty and believes there was no reasonable cause for the accusation. The court orders Priya to show cause why she should not pay compensation to Anil.

Compensation Order: Priya fails to provide a satisfactory reason, and the court orders her to pay Rs. 3,000 as compensation to Anil.

Recovery of Compensation: The compensation is recovered as if it were a fine imposed by a Magistrate.

Appeal: Priya appeals the compensation order to the High Court.

Payment of Compensation: The compensation is not paid to Anil until the appeal period has elapsed or the appeal is decided.

CHAPTER XX: TRIAL OF WARRANT-CASES BY MAGISTRATES

A - CASES INSTITUTED ON A POLICE REPORT

Section 261: Compliance with section 230.

When, in any warrant-case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has complied with the provisions of section 230.

SIMPLIFIED ACTS

When a person is accused of a crime and the case is started based on a police report, and the accused shows up or is brought to the Magistrate at the start of the trial, the Magistrate must make sure that he has followed the rules mentioned in section 230.

Explanation using Example

Example 1:

Ravi is accused of theft and a police report has been filed against him. He is brought before the Magistrate for the commencement of his trial. Before proceeding, the Magistrate checks to ensure that all the necessary documents and evidence listed in Section 230 have been provided to Ravi and his lawyer. This includes the police report, witness statements, and any other relevant evidence. Only after confirming that Ravi has received all this information does the Magistrate proceed with the trial.

Example 2:

Priya is accused of fraud, and the police have filed a report against her. At the start of her trial, Priya appears before the Magistrate. The Magistrate must first verify that Priya has been given access to all the documents and evidence as required by Section 230. This includes the charge sheet, copies of statements made by witnesses, and any other material evidence. The Magistrate ensures that Priya and her defense team have had sufficient time to review these documents before moving forward with the trial.

Section 262: When accused shall be discharged.

(1) The accused may prefer an application for discharge within a period of sixty days from the date of supply of copies of documents under section 230.

(2) If, upon considering the police report and the documents sent with it under section 193 and making such examination, if any, of the accused, either physically or through audio-video electronic means, as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

SIMPLIFIED ACTS

(1) The person accused of a crime can ask to be released from the charges within sixty days after they receive copies of the documents related to their case, as mentioned in section 230.

(2) If the Magistrate, after looking at the police report and the documents that come with it under section 193, and after possibly questioning the accused either in person or through video call, and after listening to both the prosecution and the accused, thinks that there is no basis for the charges, the Magistrate must release the accused and explain why in writing.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft based on a police report.

Details:

Rajesh is provided with copies of the police report and other documents on January 1, 2023, under section 230.

Rajesh believes that the charges against him are baseless and decides to file an application for discharge on February 15, 2023, which is within the 60-day period allowed by Section 262(1).

Process:

The Magistrate reviews the police report and the accompanying documents as per Section 193.

The Magistrate also conducts an examination of Rajesh through a video call to understand his side of the story.

Both the prosecution and Rajesh are given an opportunity to present their arguments.

Outcome:

After considering all the evidence and hearing both sides, the Magistrate finds that there is no substantial ground to proceed with the charges against Rajesh.

The Magistrate discharges Rajesh and records the reasons for this decision, stating that the evidence provided does not support the allegations of theft.

Example 2:

Scenario: Priya is accused of fraud based on a police report.

Details:

Priya receives copies of the police report and related documents on March 1, 2023, under section 230.

Priya files an application for discharge on April 20, 2023, within the 60-day period specified in Section 262(1).

Process:

The Magistrate examines the police report and the documents submitted under Section 193.

The Magistrate decides to conduct a physical examination of Priya to ask her specific questions about the case.

Both the prosecution and Priya are given a chance to present their arguments during a hearing.

Outcome:

After reviewing the evidence and hearing both sides, the Magistrate concludes that the charges of fraud against Priya are unfounded.

The Magistrate discharges Priya and records the reasons for this decision, noting that the evidence does not establish any fraudulent activity on her part.

Section 263: Framing of charge.

(1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

SIMPLIFIED ACTS

(1) If, after looking at the evidence and listening to both sides, the Magistrate thinks there is enough reason to believe that the accused person has committed a crime that the Magistrate can handle and punish properly, the Magistrate must write down the charges against the accused within sixty days from the first hearing.

(2) The written charges must then be read and explained to the accused person, and the accused must be asked whether they admit to the crime or want to go to trial.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft from a local store.

Details:

Rajesh is arrested by the police and a report is filed.

The case is brought before a Magistrate under Chapter XX of The Bharatiya Nagarik Suraksha Sanhita 2023.

During the first hearing, the Magistrate reviews the police report, examines any evidence, and listens to initial arguments from both the prosecution and defense.

Application of Section 263:

Consideration and Examination: The Magistrate considers the police report and examines the evidence presented.

Opinion Formation: The Magistrate forms an opinion that there is sufficient ground to presume Rajesh has committed the theft.

Framing of Charge: Within sixty days from the first hearing, the Magistrate frames a written charge against Rajesh, detailing the theft accusation.

Reading and Explanation: The charge is read and explained to Rajesh in a language he understands.

Plea: Rajesh is asked whether he pleads guilty or wishes to contest the charge and go to trial.

Example 2:

Scenario: Priya is accused of causing grievous hurt to her neighbor during a dispute.

Details:

Priya is taken into custody and a police report is filed.

The case is presented before a Magistrate under Chapter XX of The Bharatiya Nagarik Suraksha Sanhita 2023.

At the first hearing, the Magistrate reviews the police report, examines the medical reports of the injured neighbor, and hears initial statements from both sides.

Application of Section 263:

Consideration and Examination: The Magistrate considers the police report and examines the medical evidence.

Opinion Formation: The Magistrate forms an opinion that there is sufficient ground to presume Priya has committed the offence of causing grievous hurt.

Framing of Charge: Within sixty days from the first hearing, the Magistrate frames a written charge against Priya, specifying the offence of causing grievous hurt.

Reading and Explanation: The charge is read and explained to Priya in a language she understands.

Plea: Priya is asked whether she pleads guilty or wishes to contest the charge and go to trial.

Section 264: Conviction on plea of guilty.

If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

SIMPLIFIED ACTS

If the person accused of a crime says they are guilty, the judge will write down their statement and can decide to find them guilty based on that statement.

Explanation using Example

Example 1:

Ravi was caught by the police for theft in a local market. The police conducted an investigation and filed a report against Ravi. During the trial, the Magistrate asked Ravi if he wanted to plead guilty or not guilty. Ravi admitted to the theft and pleaded guilty. The Magistrate recorded Ravi's plea and, using his discretion, decided to convict Ravi based on his admission of guilt. Ravi was then sentenced according to the law for theft.

Example 2:

Meena was accused of causing a public disturbance by engaging in a fight at a community event. The police investigated the incident and submitted a report to the court. During the

trial, Meena was given the opportunity to plead guilty or not guilty. Meena chose to plead guilty, acknowledging her involvement in the disturbance. The Magistrate recorded her plea and, exercising his discretion, convicted Meena based on her guilty plea. Meena received a penalty appropriate for causing a public disturbance.

Section 265: Evidence for prosecution.

(1)

If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 264, the Magistrate shall fix a date for the examination of witnesses:

Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.

(2)

The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3)

On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination:

Provided further that the examination of a witness under this sub-section may be done by audio-video electronic means at the designated place to be notified by the State Government.

SIMPLIFIED ACTS

(1)

If the person accused of a crime refuses to say if they are guilty or not, or if they want a trial, or if the Magistrate does not find them guilty under section 264, the Magistrate will set a date to hear from witnesses:

The Magistrate must give the accused person the statements made by witnesses to the police during the investigation before the trial.

(2)

The Magistrate can, if the prosecution asks, send a notice to any of its witnesses telling them to come to court or bring any documents or items.

(3)

On the set date, the Magistrate will listen to all the evidence presented by the prosecution:

The Magistrate can allow the questioning of a witness to be delayed until other witnesses have been questioned or call back any witness for more questioning:

The questioning of a witness can be done through audio-video electronic means at a place designated by the State Government.

Explanation using Example

Example 1:

Scenario: Raj is accused of theft and is brought before a Magistrate.

Refusal to Plead:

Raj refuses to plead guilty or not guilty.

The Magistrate, following Section 265(1), fixes a date for the examination of witnesses.

Raj is provided with the statements of witnesses recorded by the police during the investigation.

Summoning Witnesses:

The prosecution applies to the Magistrate to summon key witnesses, including the shop owner who reported the theft and a bystander who saw Raj at the scene.

The Magistrate issues summonses to these witnesses, directing them to attend the court on the fixed date.

Examination of Witnesses:

On the fixed date, the Magistrate begins taking evidence from the prosecution's witnesses.

The shop owner testifies about the missing items and identifies Raj as the person he saw near the shop.

The bystander corroborates the shop owner's testimony, stating he saw Raj running away from the shop.

Cross-Examination:

Raj's lawyer requests to defer the cross-examination of the shop owner until after the bystander has been examined.

The Magistrate permits this, allowing the defense to cross-examine the shop owner later.

Electronic Means:

One of the witnesses, a security guard, is unable to attend in person due to health reasons.

The Magistrate allows the security guard to testify via audio-video electronic means from a designated place notified by the State Government.

Example 2:

Scenario: Priya is accused of fraud and is brought before a Magistrate.

Claims to be Tried:

Priya claims she is innocent and wants to be tried.

The Magistrate, following Section 265(1), fixes a date for the examination of witnesses.

Priya is provided with the statements of witnesses recorded by the police during the investigation.

Summoning Witnesses:

The prosecution applies to the Magistrate to summon key witnesses, including the victim who lost money and a bank official who has records of the transactions.

The Magistrate issues summonses to these witnesses, directing them to attend the court on the fixed date.

Examination of Witnesses:

On the fixed date, the Magistrate begins taking evidence from the prosecution's witnesses.

The victim testifies about how Priya convinced him to invest money in a fake scheme.

The bank official provides transaction records showing the transfer of money to Priya's account.

Cross-Examination:

Priya's lawyer requests to recall the bank official for further cross-examination after examining other witnesses.

The Magistrate permits this, allowing the defense to recall the bank official later.

Electronic Means:

One of the witnesses, an expert in financial fraud, is out of the country.

The Magistrate allows the expert to testify via audio-video electronic means from a designated place notified by the State Government.

Section 266: Evidence for defence.

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

(2) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing:

Provided that when the accused has cross-examined or had the opportunity of cross-examining any witness before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice:

Provided further that the examination of a witness under this sub-section may be done by audio-video electronic means at the designated place to be notified by the State Government.

(3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.

SIMPLIFIED ACTS

(1) The accused person will be asked to present their defense and show any evidence they have. If the accused gives a written statement, the Magistrate will keep it in the official records.

(2) If the accused wants the Magistrate to call any witnesses to testify or bring any documents or items after starting their defense, the Magistrate will do so unless they believe the request is just to cause trouble, delay, or to prevent justice. The Magistrate must write down the reason if they refuse the request:

However, if the accused has already questioned or had the chance to question a witness before starting their defense, that witness won't be called again unless the Magistrate thinks it's necessary for justice:

Additionally, a witness can be questioned through audio-video means at a place decided by the State Government.

(3) Before calling any witness requested by the accused, the Magistrate can ask for the witness's reasonable travel and attendance costs to be paid to the court.

Explanation using Example

Example 1:

Scenario: Raj is accused of theft and is on trial in a Magistrate's court.

Application of Section 266:

Entering Defence: After the prosecution has presented its case, the Magistrate calls upon Raj to present his defence. Raj decides to submit a written statement explaining his innocence and providing an alibi. The Magistrate files this written statement with the court records.

Request for Witnesses: Raj believes that his friend, Suresh, who was with him at the time of the alleged theft, can testify to his innocence. Raj requests the Magistrate to issue a summons to Suresh to appear in court as a witness. The Magistrate issues the summons because the request is not for vexation or delay.

Cross-Examination: During the trial, the prosecution had already cross-examined Suresh. Raj wants to cross-examine Suresh again to clarify some points. The Magistrate considers whether this is necessary for justice and decides it is, so he allows the cross-examination.

Electronic Means: Suresh is currently out of town and cannot attend the court in person. The Magistrate allows Suresh to be examined via video conferencing from a designated place notified by the State Government.

Expenses: Before summoning another witness, the Magistrate asks Raj to deposit a reasonable amount in court to cover the witness's travel expenses.

Example 2:

Scenario: Priya is accused of fraud and is on trial in a Magistrate's court.

Application of Section 266:

Entering Defence: After the prosecution rests its case, the Magistrate asks Priya to present her defence. Priya submits a written statement detailing her version of events and denying the charges. The Magistrate files this statement with the court records.

Request for Documents: Priya believes that certain bank statements can prove her innocence. She requests the Magistrate to issue a process to the bank to produce these

documents. The Magistrate issues the process as the request is legitimate and not intended to delay the trial.

Cross-Examination: Priya had the opportunity to cross-examine the bank manager earlier in the trial. She now wants to call the bank manager again to clarify some new points. The Magistrate assesses the necessity and decides it is not required for justice, so he denies the request.

Electronic Means: One of Priya's witnesses, an expert accountant, is unable to attend the court in person due to health reasons. The Magistrate allows the accountant to testify via video conferencing from a designated place notified by the State Government.

Expenses: Priya requests the attendance of another witness who lives far away. The Magistrate asks Priya to deposit a reasonable amount in court to cover the witness's travel expenses before issuing the summons.

B - CASES INSTITUTED OTHERWISE THAN ON POLICE REPORT

Section 267: Evidence for prosecution.

- (1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.
- (2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

SIMPLIFIED ACTS

- (1) When someone is accused of a crime and the case is not started by a police report, if the accused shows up or is brought to a Magistrate, the Magistrate will listen to the prosecution's side and look at all the evidence they present.
- (2) The Magistrate can, if the prosecution asks, send a notice to any of their witnesses telling them to come to court or bring any documents or other items needed.

Explanation using Example

Example 1:

Scenario: Ramesh, a shop owner, files a private complaint against Suresh, accusing him of theft from his shop. This case is not based on a police report but directly initiated by Ramesh.

Application of Section 267:

Appearance Before Magistrate: Suresh is summoned and appears before the Magistrate.

Hearing the Prosecution: The Magistrate listens to Ramesh's complaint and the evidence he presents, such as CCTV footage and witness testimonies from other shop employees.

Issuing Summons: Ramesh requests the Magistrate to summon a key witness, a neighboring shop owner who saw Suresh near the shop at the time of the theft. The Magistrate issues a summons to this witness to attend the court and provide testimony.

Example 2:

Scenario: Priya files a private complaint against her neighbor, Anil, for causing damage to her property during a dispute. This case is also not based on a police report but initiated by Priya herself.

Application of Section 267:

Appearance Before Magistrate: Anil is summoned and appears before the Magistrate.

Hearing the Prosecution: The Magistrate listens to Priya's complaint and examines the evidence she presents, such as photographs of the damaged property and statements from other neighbors who witnessed the incident.

Issuing Summons: Priya requests the Magistrate to summon a contractor who assessed the damage and provided an estimate for repairs. The Magistrate issues a summons to the contractor to attend the court and present his findings.

Section 268: When accused shall be discharged.

(1) If, upon taking all the evidence referred to in section 267, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

SIMPLIFIED ACTS

(1) If, after looking at all the evidence mentioned in section 267, the Magistrate believes, and writes down the reasons, that there is no case against the accused that would lead to a conviction if not challenged, the Magistrate must let the accused go.

(2) This section does not stop a Magistrate from letting the accused go earlier in the case if the Magistrate believes, and writes down the reasons, that the charges are baseless.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of theft by his neighbor, Suresh. Suresh claims that Ramesh stole his bicycle. The case is brought before a Magistrate.

Process:

The Magistrate takes all the evidence as referred to in Section 267, which includes witness statements, any physical evidence, and any other relevant information.

After reviewing all the evidence, the Magistrate finds that there is no substantial proof that Ramesh stole the bicycle. The evidence presented is weak and does not convincingly point to Ramesh's guilt.

The Magistrate records the reasons for this conclusion, noting that the evidence is insufficient to warrant a conviction.

Based on this assessment, the Magistrate discharges Ramesh, meaning he is released from the accusation and the case is closed.

Outcome: Ramesh is discharged because the evidence against him is not strong enough to justify a conviction.

Example 2:

Scenario: Priya is accused of fraud by her employer, who claims she embezzled company funds. The case is brought before a Magistrate.

Process:

Before the trial proceeds to the stage of taking all evidence, the Magistrate reviews the initial complaint and the preliminary evidence provided by the employer.

The Magistrate finds that the charge is based on a misunderstanding of accounting records and that there is no actual evidence of fraud. The employer's claim appears to be groundless.

The Magistrate records the reasons for this conclusion, noting that the charge lacks any substantial basis.

The Magistrate decides to discharge Priya at this early stage, without proceeding to a full trial.

Outcome: Priya is discharged early in the process because the charge against her is found to be groundless.

Section 269: 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 is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken.
- (5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.
- (6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.
- (7) Where, despite giving opportunity to the prosecution and after taking all reasonable measures under this Sanhita, if the attendance of the prosecution witnesses under sub-sections (5) and (6) can not be secured for cross-examination, it shall be deemed that such witness has not been examined for not being available, and the Magistrate may close the prosecution evidence for reasons to be recorded in writing and proceed with the case on the basis of the materials on record.

SIMPLIFIED ACTS

- (1) If, after looking at the evidence or at any earlier point in the case, the Magistrate thinks there is enough reason to believe that the accused has committed a crime that he can judge and punish, he will write down the charges against the accused.
- (2) The charges will then be read and explained to the accused, and the accused will be asked if they plead guilty or if they have any defense.
- (3) If the accused pleads guilty, the Magistrate will record this plea and may decide to convict the accused based on it.

(4) If the accused does not plead guilty, refuses to plead, or wants a trial, or if the accused is not convicted under section (3), the accused will be asked at the start of the next hearing, or immediately if the Magistrate thinks it's necessary, whether they want to question any of the prosecution witnesses whose evidence has been taken.

(5) If the accused wants to question any witnesses, those witnesses will be called back, questioned, and then released.

(6) The evidence from any remaining prosecution witnesses will then be taken, and after questioning and re-questioning, they will also be released.

(7) If, despite giving the prosecution a chance and taking all reasonable steps, the prosecution witnesses cannot be brought in for questioning, it will be considered as if those witnesses were not available, and the Magistrate can close the prosecution's evidence and continue with the case based on the available materials, with reasons recorded in writing.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft from a local shop.

Evidence Collection: The shop owner and a few witnesses provide evidence against Rajesh. The Magistrate reviews the evidence and believes there is enough ground to presume Rajesh committed the theft.

Framing Charges: The Magistrate frames a charge of theft against Rajesh in writing.

Reading Charges: The charge is read and explained to Rajesh. The Magistrate asks Rajesh if he pleads guilty or has any defense.

Plea: Rajesh pleads not guilty and claims he wants to be tried.

Cross-Examination: At the next hearing, Rajesh is asked if he wishes to cross-examine any of the prosecution witnesses. Rajesh chooses to cross-examine the shop owner and one witness.

Witness Recall: The shop owner and the witness are recalled, cross-examined by Rajesh's lawyer, and then discharged.

Remaining Witnesses: The remaining witnesses for the prosecution are then examined, cross-examined, and discharged.

Unavailable Witnesses: Despite efforts, one witness could not be secured for cross-examination. The Magistrate records this and proceeds with the case based on the available evidence.

Example 2:

Scenario: Priya is accused of causing grievous hurt in a neighborhood altercation.

Evidence Collection: Several neighbors provide evidence against Priya. The Magistrate reviews the evidence and believes there is enough ground to presume Priya committed the offense.

Framing Charges: The Magistrate frames a charge of causing grievous hurt against Priya in writing.

Reading Charges: The charge is read and explained to Priya. The Magistrate asks Priya if she pleads guilty or has any defense.

Plea: Priya pleads guilty. The Magistrate records her plea.

Conviction: Using his discretion, the Magistrate convicts Priya based on her guilty plea.

Sentencing: The Magistrate then proceeds to sentence Priya appropriately for the offense of causing grievous hurt.

Example 3:

Scenario: Sunil is accused of fraud in a business transaction.

Evidence Collection: The business partner and other witnesses provide evidence against Sunil. The Magistrate reviews the evidence and believes there is enough ground to presume Sunil committed the fraud.

Framing Charges: The Magistrate frames a charge of fraud against Sunil in writing.

Reading Charges: The charge is read and explained to Sunil. The Magistrate asks Sunil if he pleads guilty or has any defense.

Plea: Sunil refuses to plead and claims he wants to be tried.

Cross-Examination: At the next hearing, Sunil is asked if he wishes to cross-examine any of the prosecution witnesses. Sunil chooses to cross-examine the business partner and two other witnesses.

Witness Recall: The business partner and the two witnesses are recalled, cross-examined by Sunil's lawyer, and then discharged.

Remaining Witnesses: The remaining witnesses for the prosecution are then examined, cross-examined, and discharged.

Unavailable Witnesses: Despite efforts, one key witness could not be secured for cross-examination. The Magistrate records this and proceeds with the case based on the available evidence.

Section 270: Evidence for defence.

The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 266 shall apply to the case.

SIMPLIFIED ACTS

The accused person will be asked to present their defense and show any evidence they have.

The rules mentioned in section 266 will also apply to this situation.

Explanation using Example

Example 1:

Ravi is accused of theft and is being tried in a magistrate's court. The case was not initiated by a police report but by a private complaint filed by the victim, Mr. Sharma. After the prosecution presents its evidence, the magistrate calls upon Ravi to present his defence. Ravi decides to testify on his own behalf and also calls his friend, Suresh, as a witness to provide an alibi. Ravi and Suresh both testify that they were at a movie theatre at the time of the alleged theft. The magistrate considers their evidence as per the provisions of Section 266, which ensures that Ravi's right to present his defence is upheld.

Example 2:

Anita is accused of causing grievous hurt to her neighbor, Meena, during a heated argument. The case is brought to the magistrate's court through a private complaint by Meena. After the prosecution finishes presenting its evidence, the magistrate asks Anita to present her defence. Anita brings in medical records showing that she was recovering from surgery and was physically incapable of causing the injuries at the time they occurred. She also calls her doctor as a witness to corroborate her medical condition. The magistrate evaluates this evidence in accordance with Section 266, ensuring that Anita's right to a fair defence is maintained.

C - CONCLUSION OF TRIAL

Section 271: Acquittal or conviction.

(1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 364 or section 401, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 234 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2).

SIMPLIFIED ACTS

(1) If, in any case under this Chapter where a formal charge has been made, the Magistrate finds the accused person not guilty, he must officially declare the person innocent.

(2) If, in any case under this Chapter, the Magistrate finds the accused person guilty but does not follow the procedures outlined in section 364 or section 401, he must, after listening to the accused person's arguments about the punishment, decide on the punishment according to the law.

(3) If, in any case under this Chapter, the accused person is charged with having a previous conviction under section 234(7) and the accused denies having been previously convicted, the Magistrate can, after finding the accused guilty, gather evidence about the previous conviction and make a decision on it:

Provided that the Magistrate cannot mention the previous conviction, ask the accused to respond to it, or allow the prosecution to bring it up in any evidence until the accused has been found guilty under sub-section (2).

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is being tried in a warrant-case by a Magistrate.

Application of Section 271(1):

After the trial, the Magistrate reviews all the evidence and testimonies.

The Magistrate concludes that Rajesh is not guilty of the theft charges.

The Magistrate records an order of acquittal, officially declaring Rajesh not guilty.

Outcome: Rajesh is acquitted and free to go, with no criminal record from this case.

Example 2:

Scenario: Priya is accused of fraud and is being tried in a warrant-case by a Magistrate.

Application of Section 271(2):

The Magistrate finds Priya guilty of fraud after reviewing the evidence.

The Magistrate does not proceed under sections 364 or 401, which involve more severe sentencing procedures.

The Magistrate then hears Priya's arguments regarding the sentence.

After considering Priya's statements, the Magistrate passes a sentence according to the law, such as a fine or imprisonment.

Outcome: Priya is sentenced based on the severity of her crime and the legal guidelines.

Example 3:

Scenario: Anil is accused of burglary and has a previous conviction for a similar crime. He is being tried in a warrant-case by a Magistrate.

Application of Section 271(3):

The prosecution charges Anil with burglary and mentions his previous conviction under sub-section (7) of section 234.

Anil does not admit to the previous conviction.

The Magistrate first convicts Anil of the current burglary charge.

After the conviction, the Magistrate takes evidence regarding Anil's previous conviction.

The Magistrate records a finding on whether Anil was previously convicted.

Outcome: If the Magistrate finds that Anil was previously convicted, this may influence the severity of the sentence for the current burglary conviction.

Section 272: 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 after giving thirty days' time to the complainant to be present, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

SIMPLIFIED ACTS

If a case starts because someone made a complaint, and on the day of the hearing, the person who complained is not there, the judge can take certain actions.

If the crime can be legally settled between the parties or is not a serious crime that the police can arrest someone for without a warrant, the judge has some options.

The judge must give the person who complained 30 days to show up.

If the person who complained still doesn't show up after 30 days, the judge can decide to let the accused person go free.

This can happen at any time before the formal charges are made against the accused.

Explanation using Example

Example 1:

Scenario: Ramesh files a complaint against Suresh for a minor property dispute, which is a non-cognizable offence.

Situation: On the day of the hearing, Ramesh does not show up in court.

Application of the Act:

The Magistrate notes Ramesh's absence.

Since the offence is non-cognizable and can be lawfully compounded, the Magistrate gives Ramesh a 30-day period to appear in court.

If Ramesh still does not appear within these 30 days, the Magistrate has the discretion to discharge Suresh before any charges are framed.

Example 2:

Scenario: Priya files a complaint against her neighbor, Anil, for a minor altercation, which is a non-cognizable offence.

Situation: On the scheduled hearing date, Priya is absent.

Application of the Act:

The Magistrate observes Priya's absence.

Given that the offence is non-cognizable and can be lawfully compounded, the Magistrate provides Priya with a 30-day window to attend the court.

If Priya fails to appear within the 30-day period, the Magistrate may use his discretion to discharge Anil before any charges are framed.

Section 273: Compensation for accusation without reasonable cause.

(1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence

triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sub-section (6) of section 8 of the Bharatiya Nyaya Sanhita, 2023 shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second class to pay compensation exceeding two thousand rupees, may appeal from the order, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided; and where such order is made in a case which is not so subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

(8) The provisions of this section apply to summons-cases as well as to warrant-cases.

SIMPLIFIED ACTS

(1) If someone is accused of a crime based on a complaint or information given to the police or a Magistrate, and the Magistrate finds them not guilty or dismisses the case, the Magistrate can ask the person who made the complaint to explain why they shouldn't have to pay compensation to the accused. If the person who made the complaint isn't there, the Magistrate can send them a notice to appear and explain.

(2) The Magistrate will listen to the explanation from the person who made the complaint. If the Magistrate believes there was no good reason for the accusation, they can order the complainant to pay compensation to the accused. The amount of compensation cannot be more than the maximum fine the Magistrate can impose.

(3) If the person ordered to pay compensation doesn't pay, the Magistrate can order them to go to jail for up to 30 days.

(4) If someone is jailed for not paying compensation, the rules in section 8(6) of the Bharatiya Nyaya Sanhita, 2023 will apply.

(5) Even if someone is ordered to pay compensation, they can still face other legal consequences for making the complaint. However, any compensation paid will be considered if there is a later civil lawsuit about the same issue.

(6) If a Magistrate of the second class orders someone to pay more than two thousand rupees in compensation, that person can appeal the order as if they had been convicted of a crime.

(7) If there is an order to pay compensation and the case can be appealed, the compensation won't be paid until the time to appeal has passed or the appeal is decided. If the case can't be appealed, the compensation won't be paid until one month after the order.

(8) These rules apply to both summons-cases and warrant-cases.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Delhi, files a complaint against his competitor, Suresh, accusing him of theft. The police investigate and the case goes to trial before a Magistrate. During the trial, it becomes clear that there is no evidence to support Ravi's accusation, and the Magistrate acquits Suresh. The Magistrate also determines that Ravi had no reasonable grounds for making the accusation. Consequently, the Magistrate orders Ravi to pay compensation of ₹5,000 to Suresh for the false accusation. Ravi is present in court and is asked to show cause why he should not pay the compensation. Ravi fails to provide a satisfactory explanation, so the Magistrate finalizes the order. If Ravi fails to pay the compensation, he may face simple imprisonment for up to 30 days.

Example 2:

Priya, a resident of Mumbai, informs the police that her neighbor, Anil, has been harassing her. The police file a case, and Anil is brought before a Magistrate. After a thorough examination of the evidence, the Magistrate finds that the accusations are baseless and acquits Anil. The Magistrate believes that Priya had no reasonable grounds for her complaint and orders her to pay ₹3,000 as compensation to Anil. Priya is not present in court, so the Magistrate issues a summons for her to appear and show cause why she should not pay the compensation. Priya appears in court later and argues that she genuinely believed Anil was harassing her, but the Magistrate is not convinced and upholds the compensation order. Priya is given a month to pay the compensation, failing which she could face simple imprisonment for up to 30 days.

Example 3:

Sunita, a teacher in Bangalore, accuses her colleague, Rajesh, of embezzling school funds. The case is taken up by a Magistrate, who, after reviewing the evidence, finds Rajesh not guilty and concludes that Sunita's accusation was made without reasonable grounds. The Magistrate orders Sunita to pay ₹2,500 as compensation to Rajesh. Sunita, unhappy with the decision, appeals the order since the compensation exceeds ₹2,000. The compensation is not paid to Rajesh until the appeal is decided. If the appellate court upholds the Magistrate's order, Sunita will have to pay the compensation, or she may face simple imprisonment for up to 30 days if she defaults on the payment.

Example 4:

Amit, a businessman in Kolkata, files a complaint against his former employee, Neha, accusing her of fraud. The case is heard by a Magistrate, who finds Neha not guilty and determines that Amit's accusation was unfounded. The Magistrate orders Amit to pay ₹1,500 as compensation to Neha. Amit does not appeal the order, and after one month, Neha receives the compensation. Amit is also informed that this compensation will be considered if Neha decides to file a civil suit for damages related to the false accusation.

CHAPTER XXI: TRIAL OF SUMMONS-CASES BY MAGISTRATES

Section 274: Substance of accusation to be stated.

When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge:

Provided that if the Magistrate considers the accusation as groundless, he shall, after recording reasons in writing, release the accused and such release shall have the effect of discharge.

SIMPLIFIED ACTS

When a person is accused of a minor crime and appears or is brought before the Magistrate, the details of the crime will be explained to them. They will be asked if they admit to the crime or if they have any defense.

There is no need to create a formal charge document.

If the Magistrate thinks the accusation has no basis, they must write down the reasons and release the accused. This release will be considered as if the person was officially cleared of the charges.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of causing a public nuisance by playing loud music late at night in his neighborhood.

Application of Section 274:

Rajesh receives a summons to appear before the Magistrate.

When Rajesh appears in court, the Magistrate informs him of the specific offence he is accused of, i.e., causing a public nuisance by playing loud music.

The Magistrate asks Rajesh whether he pleads guilty or if he has any defense to make.

Rajesh pleads not guilty and states that he was not at home on the night in question and has an alibi.

The Magistrate considers Rajesh's defense and finds it credible. The Magistrate records the reasons in writing and releases Rajesh, effectively discharging him from the accusation.

Example 2:

Scenario: Priya is accused of trespassing on her neighbor's property.

Application of Section 274:

Priya is brought before the Magistrate after being served a summons.

The Magistrate explains to Priya that she is accused of trespassing on her neighbor's property.

The Magistrate asks Priya if she pleads guilty or has any defense to make.

Priya admits that she accidentally entered her neighbor's property while chasing her dog and pleads guilty.

Since Priya pleads guilty, the Magistrate proceeds with the appropriate legal consequences without the need to frame a formal charge.

If Priya had provided a defense that the Magistrate found groundless, the Magistrate would have recorded the reasons in writing and released her, discharging her from the accusation.

Section 275: Conviction on plea of guilty.

If the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon.

SIMPLIFIED ACTS

If the person accused of a crime says they are guilty, the judge will write down exactly what the accused person says.

The judge can then decide to find the accused person guilty based on their admission.

Explanation using Example

Example 1:

Rajesh is accused of petty theft in a local market. During his trial in front of the Magistrate, Rajesh admits to the crime and says, "Yes, I stole the fruits from the vendor." The Magistrate records Rajesh's exact words and, using his discretion, decides to convict Rajesh based on his admission of guilt. Rajesh is then sentenced to a fine and community service.

Example 2:

Meena is charged with causing a public disturbance by playing loud music late at night. When she appears before the Magistrate, she pleads guilty and says, "I did play loud music and disturbed my neighbors." The Magistrate notes down Meena's statement as closely as possible to her original words. Considering her admission, the Magistrate convicts Meena and imposes a small fine and a warning to avoid such behavior in the future.

Section 276: Conviction on plea of guilty in absence of accused in petty cases.

Section 229 - Plea of Guilty

(1) Where a summons has been issued under section 229 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.

(2) The Magistrate may, in his discretion, convict the accused in his absence, on his plea of guilty and sentence him to pay the fine specified in the summons, and the amount transmitted by the accused shall be adjusted towards that fine, or where an advocate authorised by the accused in this behalf pleads guilty on behalf of the accused, the Magistrate shall record the plea as nearly as possible in the words used by the advocate and may, in his discretion, convict the accused on such plea and sentence him as aforesaid.

SIMPLIFIED ACTS

Section 229 - Plea of Guilty

(1) If you have received a summons (a legal notice to appear in court) under section 229 and you want to admit that you are guilty without going to court, you can send a letter to the Magistrate (the judge) by mail or through someone else. In this letter, you should say that you are guilty and also include the amount of the fine mentioned in the summons.

(2) The Magistrate can decide to find you guilty and make you pay the fine without you being there, based on your letter. The money you sent will be used to pay the fine. If you have a lawyer who is allowed to admit guilt for you, the Magistrate will write down your lawyer's words as closely as possible and can decide to find you guilty and make you pay the fine based on that.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, receives a summons for a petty traffic violation, such as jumping a red light. The summons specifies a fine of ₹500. Ravi, who is busy with work and cannot appear before the Magistrate, decides to plead guilty. He writes a letter admitting his guilt and sends it along with a cheque for ₹500 to the Magistrate by post. The Magistrate, upon receiving Ravi's letter and the fine amount, decides to convict Ravi in his absence based on his plea of guilty and the fine is adjusted accordingly.

Example 2:

Priya, who lives in Delhi, is charged with a minor offense of public nuisance for playing loud music late at night. She receives a summons with a fine of ₹1000. Priya authorizes her advocate, Mr. Sharma, to plead guilty on her behalf as she is out of town. Mr. Sharma appears before the Magistrate and pleads guilty using the exact words authorized by Priya. The Magistrate records the plea and convicts Priya in her absence, sentencing her to pay the ₹1000 fine, which Mr. Sharma pays on her behalf.

Section 277: Procedure when not convicted.

(1) If the Magistrate does not convict the accused under section 275 or section 276, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of the prosecution or the accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that the reasonable expenses of the witness incurred in attending for the purposes of the trial be deposited in Court.

SIMPLIFIED ACTS

(1) If the Magistrate does not find the accused guilty under section 275 or section 276, the Magistrate will listen to the prosecution's case and consider all the evidence they present. The Magistrate will also listen to the accused and consider all the evidence the accused presents in their defense.

(2) The Magistrate can, if he thinks it's appropriate, and if either the prosecution or the accused asks for it, send a notice to any witness to come to court or to bring any document or item needed.

(3) Before asking any witness to come to court based on such a request, the Magistrate can require that the cost of the witness's travel and attendance be paid to the court in advance.

Explanation using Example

Example 1:

Scenario: Raj is accused of petty theft from a local grocery store. The case is being heard by a Magistrate.

Initial Hearing: The Magistrate reviews the evidence presented by the prosecution under sections 275 and 276 but does not find sufficient grounds to convict Raj.

Next Steps: According to Section 277(1), the Magistrate decides to proceed further. The prosecution is given an opportunity to present additional evidence, such as CCTV footage or witness testimonies.

Defense Opportunity: Raj is also given a chance to present his defense. He brings in his friend, who testifies that Raj was with him at the time of the alleged theft.

Summoning Witnesses: Raj's lawyer requests the Magistrate to summon the store owner to produce the store's sales records as evidence. The Magistrate, considering it relevant, issues a summons to the store owner under Section 277(2).

Depositing Expenses: Before summoning the store owner, the Magistrate asks Raj's lawyer to deposit a reasonable amount in court to cover the store owner's travel and other expenses, as per Section 277(3).

Example 2:

Scenario: Priya is accused of causing a public disturbance during a protest. The case is being heard by a Magistrate.

Initial Hearing: The Magistrate reviews the initial evidence but does not find it sufficient to convict Priya under sections 275 and 276.

Next Steps: Following Section 277(1), the Magistrate decides to hear more from the prosecution. The prosecution presents additional evidence, including video footage from the protest.

Defense Opportunity: Priya is given a chance to defend herself. She brings in a fellow protester who testifies that Priya was peacefully protesting and did not cause any disturbance.

Summoning Witnesses: Priya's lawyer requests the Magistrate to summon a journalist who covered the protest and has video evidence supporting Priya's claim. The Magistrate issues a summons to the journalist under Section 277(2).

Depositing Expenses: The Magistrate requires Priya's lawyer to deposit money in court to cover the journalist's expenses for attending the trial, as per Section 277(3).

Example 3:

Scenario: Anil is accused of damaging public property by graffiti. The case is being heard by a Magistrate.

Initial Hearing: The Magistrate reviews the evidence but does not find it sufficient to convict Anil under sections 275 and 276.

Next Steps: According to Section 277(1), the Magistrate decides to proceed further. The prosecution presents additional evidence, such as photographs of the graffiti and testimonies from local residents.

Defense Opportunity: Anil is given a chance to present his defense. He brings in his art teacher, who testifies that Anil was attending an art class at the time of the incident.

Summoning Witnesses: Anil's lawyer requests the Magistrate to summon a local shopkeeper who has CCTV footage of the area where the graffiti was found. The Magistrate issues a summons to the shopkeeper under Section 277(2).

Depositing Expenses: Before summoning the shopkeeper, the Magistrate asks Anil's lawyer to deposit a reasonable amount in court to cover the shopkeeper's expenses for attending the trial, as per Section 277(3).

Section 278: Acquittal or conviction.

(1) If the Magistrate, upon taking the evidence referred to in section 277 and such further evidence, if any, as he may, of his own motion, cause to be produced, finds the accused not guilty, he shall record an order of acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 364 or section 401, he shall, if he finds the accused guilty, pass sentence upon him according to law.

(3) A Magistrate may, under section 275 or section 278, convict the accused of any offence triable under this Chapter, which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons, if the Magistrate is satisfied that the accused would not be prejudiced thereby.

SIMPLIFIED ACTS

(1) If the judge, after reviewing the evidence mentioned in section 277 and any additional evidence he decides to look at, finds that the accused person is not guilty, he will officially declare the person innocent.

(2) If the judge does not follow the rules in section 364 or section 401, and finds the accused person guilty, he will give a punishment according to the law.

(3) A judge can, under section 275 or section 278, find the accused person guilty of any crime that can be judged under this Chapter, based on the facts that are admitted or proven, regardless of the original complaint or summons, as long as the judge believes that this will not unfairly harm the accused person.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of petty theft from a local grocery store. The store owner, Mr. Sharma, files a complaint, and the case is brought before a Magistrate.

Application of Section 278:

Evidence Collection: The Magistrate takes evidence as per Section 277, including witness statements from Mr. Sharma and other customers who saw Ramesh at the store.

Further Evidence: The Magistrate also reviews CCTV footage from the store, which shows Ramesh taking items without paying.

Acquittal: If the evidence, including the CCTV footage, does not conclusively prove that Ramesh committed the theft (e.g., the footage is unclear or Ramesh has an alibi), the Magistrate will record an order of acquittal under Section 278(1).

Conviction: If the evidence clearly shows Ramesh committing the theft, and there is no reasonable doubt, the Magistrate will find Ramesh guilty and pass a sentence according to the law under Section 278(2).

Example 2:

Scenario: Priya is accused of causing a public nuisance by playing loud music late at night in her residential area. Her neighbors file a complaint, and the case is brought before a Magistrate.

Application of Section 278:

Evidence Collection: The Magistrate takes evidence as per Section 277, including statements from Priya's neighbors and a police report documenting the noise levels.

Further Evidence: The Magistrate may also consider additional evidence, such as recordings of the noise levels taken by the police.

Acquittal: If the evidence shows that the noise levels were within permissible limits or that Priya was not responsible for the noise, the Magistrate will record an order of acquittal under Section 278(1).

Conviction: If the evidence proves that Priya was indeed causing a public nuisance by playing loud music beyond permissible limits, the Magistrate will find her guilty and pass a sentence according to the law under Section 278(2).

Example 3:

Scenario: Anil is accused of driving without a valid license. The traffic police issue a summons, and the case is brought before a Magistrate.

Application of Section 278:

Evidence Collection: The Magistrate takes evidence as per Section 277, including the traffic police report and Anil's statement.

Further Evidence: The Magistrate may also review the records from the transport department to verify Anil's license status.

Acquittal: If the evidence shows that Anil had a valid license at the time of the incident, the Magistrate will record an order of acquittal under Section 278(1).

Conviction: If the evidence proves that Anil was driving without a valid license, the Magistrate will find him guilty and pass a sentence according to the law under Section 278(2).

Example 4:

Scenario: Sunita is accused of trespassing on private property. The property owner files a complaint, and the case is brought before a Magistrate.

Application of Section 278:

Evidence Collection: The Magistrate takes evidence as per Section 277, including statements from the property owner and Sunita.

Further Evidence: The Magistrate may also consider additional evidence, such as photographs or video footage of the trespassing incident.

Acquittal: If the evidence shows that Sunita had permission to be on the property or that she did not actually trespass, the Magistrate will record an order of acquittal under Section 278(1).

Conviction: If the evidence proves that Sunita trespassed on the property without permission, the Magistrate will find her guilty and pass a sentence according to the law under Section 278(2).

Section 279: 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, after giving thirty days' time to the complainant to be present, 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 an advocate 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.

SIMPLIFIED ACTS

(1)

If a summons (a legal notice to appear in court) has been issued because of a complaint, and on the scheduled day for the accused to appear in court, or any later day the hearing is postponed to, the person who made the complaint (the complainant) does not show up, the judge (Magistrate) will give the complainant thirty days to be present. If the complainant still does not appear after thirty days, the judge will dismiss the case and declare the accused not guilty, unless the judge has a good reason to postpone the hearing to another day.

However, if the complainant has a lawyer or an officer handling the prosecution, or if the judge believes the complainant does not need to be there in person, the judge can decide to continue with the case without the complainant being present.

(2)

The rules in section (1) also apply if the complainant does not show up because they have passed away.

Explanation using Example

Example 1:

Ravi files a complaint against Suresh for cheating. The court issues a summons to Suresh to appear on a specific date. On the appointed day, Suresh appears in court, but Ravi does not. The Magistrate gives Ravi an additional 30 days to appear. If Ravi still does not show up after 30 days, the Magistrate may acquit Suresh unless there is a valid reason to adjourn the hearing to another date. However, if Ravi's lawyer is present, the Magistrate may decide to proceed with the case without Ravi's personal attendance.

Example 2:

Priya files a complaint against her neighbor, Anil, for causing a public nuisance. The court schedules a hearing, and Anil appears, but Priya does not. The Magistrate gives Priya 30 more days to appear. Unfortunately, Priya passes away before the next hearing. The Magistrate, considering Priya's death, may still proceed with the case if Priya's lawyer or the prosecution officer is present, or if the Magistrate believes Priya's personal attendance is not necessary. If none of these conditions are met, the Magistrate may acquit Anil.

Section 280: Withdrawal of complaint.

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.

SIMPLIFIED ACTS

If a person who has made a complaint (the complainant) convinces the judge (the Magistrate) that there are good reasons to drop the complaint before the final decision is made, the judge can allow the complainant to do so.

If there is more than one person accused, the complainant can choose to drop the complaint against all or just some of them.

Once the judge allows the complaint to be withdrawn, the accused person(s) will be declared not guilty for that complaint.

Explanation using Example

Example 1:

Ravi files a complaint against his neighbor, Suresh, alleging that Suresh has been causing a public nuisance by playing loud music late at night. The case is taken up by the Magistrate under Chapter XXI of The Bharatiya Nagarik Suraksha Sanhita 2023. Before the final order is passed, Ravi and Suresh come to an amicable settlement. Ravi approaches the Magistrate and explains that they have resolved the issue and he wishes to withdraw his complaint. The Magistrate, after being satisfied that there are sufficient grounds for withdrawal, permits Ravi to withdraw the complaint. Consequently, Suresh is acquitted of the charges.

Example 2:

Meena files a complaint against three individuals, A, B, and C, accusing them of fraud. The case proceeds under Chapter XXI of The Bharatiya Nagarik Suraksha Sanhita 2023. During the trial, Meena realizes that A and B were not involved in the fraud and only C was responsible. She approaches the Magistrate and requests to withdraw her complaint against A and B, providing sufficient reasons for her decision. The Magistrate, being satisfied with the grounds presented, permits Meena to withdraw the complaint against A and B. As a result, A and B are acquitted, while the case continues against C.

Section 281: Power to stop proceedings in certain cases.

In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial

Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.

SIMPLIFIED ACTS

In cases that start without a formal complaint, a Magistrate of the first class, or any other Judicial Magistrate with permission from the Chief Judicial Magistrate, can stop the case at any time for specific reasons that they must write down.

If the Magistrate stops the case after hearing the main witnesses, they can declare the accused not guilty.

If the case is stopped at any other time, the accused will be released, which means they are free to go and the case is considered closed.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of trespassing on government property. The police file a summons-case against him, but it is not based on a formal complaint from any individual.

Application of Section 281:

The Magistrate of the first class, after reviewing the evidence, finds that the evidence is insufficient to proceed further.

The Magistrate records the reasons for this decision and decides to stop the proceedings without pronouncing any judgment.

Since the principal witnesses have already given their testimonies, the Magistrate pronounces a judgment of acquittal.

Ramesh is acquitted of the charges and is free to go.

Example 2:

Scenario: Priya is accused of petty theft from a local market. The case is a summons-case initiated by the police, not based on a formal complaint.

Application of Section 281:

The Judicial Magistrate, with the previous sanction of the Chief Judicial Magistrate, reviews the case.

During the trial, it becomes evident that the evidence against Priya is weak and unreliable.

The Judicial Magistrate records the reasons for stopping the proceedings and decides to halt the trial without giving a final judgment.

Since the evidence of the principal witnesses has not been fully recorded, the Magistrate orders the release of Priya.

Priya's release is treated as a discharge, meaning she is no longer under any legal obligation related to this case.

Section 282: Power of Court to convert summons-cases into warrant-cases.

When in the course of the trial of a summons-case relating to an offence punishable with imprisonment for a term exceeding six months, it appears to the Magistrate that in the interests of justice, the offence should be tried in accordance with the procedure for the trial of warrant-cases, such Magistrate may proceed to re-hear the case in the manner provided by this Sanhita for the trial of warrant-cases and may recall any witness who may have been examined.

SIMPLIFIED ACTS

If during a trial for a minor crime (summons-case) that could lead to more than six months in jail, the judge thinks it's fairer to use the process for more serious crimes (warrant-cases), the judge can decide to restart the trial using the rules for serious crimes.

The judge can also call back any witnesses who have already given their testimony.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of cheating his business partner, Suresh, by forging documents to transfer property worth ₹10 lakhs to his name. The offence is initially tried as a summons-case because it is considered a less severe crime.

Application of Section 282: During the trial, the Magistrate realizes that the complexity and severity of the case, along with the potential punishment exceeding six months, necessitate a more detailed examination. To ensure justice, the Magistrate decides to convert the summons-case into a warrant-case. This allows for a more thorough investigation, including the re-examination of witnesses and additional evidence collection.

Outcome: The case is re-heard under the warrant-case procedure, ensuring a fair trial and comprehensive evaluation of all evidence.

Example 2:

Scenario: Priya is accused of causing grievous hurt to her neighbor, Anjali, during a heated argument. The initial charge is filed as a summons-case, as it was considered a minor altercation.

Application of Section 282: As the trial progresses, the Magistrate finds that the injuries sustained by Anjali are severe and the offence could lead to imprisonment for more than six months. To serve the interests of justice, the Magistrate decides to convert the summons-case into a warrant-case. This change allows for a more rigorous legal process, including the possibility of recalling witnesses and presenting additional evidence.

Outcome: The case is re-heard under the warrant-case procedure, ensuring that the gravity of the offence is adequately addressed and justice is served.

CHAPTER XXII: SUMMARY TRIALS

Section 283: Power to try summarily.

(1) Notwithstanding anything contained in this Sanhita -

(a) any Chief Judicial Magistrate;

(b) Magistrate of the first class,

shall try in a summary way all or any of the following offences:

(i) theft, under sub-section (2) of section 303, section 305 or section 306 of the Bharatiya Nyaya Sanhita, 2023 where the value of the property stolen does not exceed twenty thousand rupees;

(ii) receiving or retaining stolen property, under sub-section (2) of section 317 of the Bharatiya Nyaya Sanhita, 2023, where the value of the property does not exceed twenty thousand rupees;

(iii) assisting in the concealment or disposal of stolen property under sub-section (5) of section 317 of the Bharatiya Nyaya Sanhita, 2023, where the value of such property does not exceed twenty thousand rupees;

(iv) offences under sub-sections (2) and (3) of section 331 of the Bharatiya Nyaya Sanhita, 2023;

(v) insult with intent to provoke a breach of the peace, under section 352, and criminal intimidation, under sub-sections (2) and (3) of section 351 of the Bharatiya Nyaya Sanhita, 2023;

(vi) abetment of any of the foregoing offences;

(vii) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(viii) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871.

(2) The Magistrate may, after giving the accused a reasonable opportunity of being heard, for reasons to be recorded in writing, try in a summary way all or any of the offences not punishable with death or imprisonment for life or imprisonment for a term exceeding three years:

Provided that no appeal shall lie against the decision of a Magistrate to try a case in a summary way under this sub-section.

(3) When, in the course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undesirable to try it summarily, the Magistrate shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by this Sanhita.

SIMPLIFIED ACTS

(1) Despite anything else in this law -

(a) any Chief Judicial Magistrate;

(b) Magistrate of the first class,

can quickly handle the following types of cases:

(i) theft, under certain sections of the Bharatiya Nyaya Sanhita, 2023, if the stolen property is worth less than twenty thousand rupees;

(ii) receiving or keeping stolen property, under a specific section of the Bharatiya Nyaya Sanhita, 2023, if the property is worth less than twenty thousand rupees;

(iii) helping to hide or get rid of stolen property, under a specific section of the Bharatiya Nyaya Sanhita, 2023, if the property is worth less than twenty thousand rupees;

(iv) certain offences under specific sections of the Bharatiya Nyaya Sanhita, 2023;

(v) insulting someone to provoke a fight, under a specific section, and threatening someone, under specific sections of the Bharatiya Nyaya Sanhita, 2023;

(vi) helping someone commit any of the above offences;

(vii) trying to commit any of the above offences, if trying is also a crime;

(viii) any offence related to a complaint under the Cattle-trespass Act, 1871.

(2) The Magistrate can, after giving the accused a fair chance to speak, and writing down the reasons, quickly handle any offences that are not punishable by death, life imprisonment, or imprisonment for more than three years:

Provided that no one can appeal the Magistrate's decision to handle a case quickly under this rule.

(3) If, during a quick trial, the Magistrate thinks the case is too complicated to handle quickly, the Magistrate will call back any witnesses and re-hear the case in the usual way according to this law.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, reports that his mobile phone worth ₹15,000 has been stolen from his shop. The police catch the thief, Ramesh, and recover the stolen phone. Since the value of the stolen property does not exceed ₹20,000, the case is brought before a Chief Judicial Magistrate. Under Section 283 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate decides to try the case summarily. Ramesh is given a chance to present his defense, and the Magistrate records the reasons for the summary trial in writing. The trial is conducted quickly, and Ramesh is found guilty of theft under Section 305 of the Bharatiya Nyaya Sanhita, 2023.

Example 2:

Sita, a resident of Delhi, finds out that her neighbor, Mohan, has been hiding a stolen bicycle worth ₹10,000 in his garage. She reports this to the police, who arrest Mohan for receiving stolen property. The case is brought before a Magistrate of the first class. Since the value of the stolen property is less than ₹20,000, the Magistrate decides to try the case summarily under Section 283 of the Bharatiya Nagarik Suraksha Sanhita 2023. Mohan is given an opportunity to be heard, and the Magistrate records the reasons for the summary trial. The trial proceeds quickly, and Mohan is found guilty under Section 317(2) of the Bharatiya Nyaya Sanhita, 2023.

Example 3:

Arjun, a farmer in a village in Uttar Pradesh, finds that his neighbor's cattle have trespassed into his field and caused damage. He files a complaint under Section 20 of the Cattle-trespass Act, 1871. The case is brought before a Chief Judicial Magistrate. Since the offence is one that can be tried summarily under Section 283 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate decides to proceed with a summary trial. Arjun and his neighbor are given opportunities to present their cases. The Magistrate records the reasons for the summary trial and quickly resolves the matter, ordering the neighbor to compensate Arjun for the damage caused by the cattle.

Example 4:

Priya, a college student in Bangalore, is threatened by a classmate, Raj, who intends to provoke a fight. Priya files a complaint for criminal intimidation under Section 351(2) of the Bharatiya Nyaya Sanhita, 2023. The case is brought before a Magistrate of the first class. Since the offence can be tried summarily under Section 283 of the Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate decides to conduct a summary trial. Raj is given a chance to defend himself, and the Magistrate records the reasons for the summary trial. The trial is conducted swiftly, and Raj is found guilty of criminal intimidation.

Example 5:

Manoj, a resident of Kolkata, is caught attempting to steal a bicycle worth ₹18,000. The police arrest him and charge him with attempted theft. The case is brought before a Chief Judicial Magistrate. Since the value of the property involved is less than ₹20,000, the Magistrate decides to try the case summarily under Section 283 of the Bharatiya Nagarik Suraksha Sanhita 2023. Manoj is given an opportunity to be heard, and the Magistrate records the reasons for the summary trial. The trial proceeds quickly, and Manoj is found guilty of attempting to commit theft under the relevant sections of the Bharatiya Nyaya Sanhita, 2023.

Section 284: Summary trial by Magistrate of second class.

The High Court may confer on any Magistrate invested with the powers of a Magistrate of the second class power to try summarily any offence which is punishable only with fine or with imprisonment for a term not exceeding six months with or without fine, and any abetment of or attempt to commit any such offence.

SIMPLIFIED ACTS

The High Court can give a Magistrate, who has the authority of a second-class Magistrate, the power to quickly handle cases where the crime is only punishable by a fine or by imprisonment for up to six months, with or without a fine.

This also includes any help given to commit such a crime or any attempt to commit such a crime.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, is accused of selling expired products. The offence is punishable with a fine or imprisonment for up to three months. The High Court has given the local Magistrate of the second class the power to handle such cases quickly. Ravi's case

is brought before this Magistrate, who conducts a summary trial. After hearing the evidence, the Magistrate fines Ravi Rs. 5,000 for the offence.

Example 2:

Priya, a resident of Delhi, is caught littering in a public park, an offence punishable by a fine or imprisonment for up to one month. The High Court has authorized the local Magistrate of the second class to try such cases summarily. Priya's case is heard by this Magistrate, who quickly reviews the facts and imposes a fine of Rs. 500 on Priya for her actions.

Section 285: Procedure for summary trials.

(1) In trials under this Chapter, the procedure specified in this Sanhita for the trial of summons-case shall be followed except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

SIMPLIFIED ACTS

(1) In trials under this Chapter, the procedure used for handling summons cases, as described in this law, should be followed unless stated otherwise.

(2) If someone is found guilty under this Chapter, they cannot be sentenced to more than three months in prison.

Explanation using Example

Example 1:

Scenario: Ramesh, a shopkeeper in Delhi, is accused of selling expired food products. The police file a case against him under the relevant sections of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 285:

Summary Trial: Since the offense is minor, the court decides to conduct a summary trial as per Chapter XXII.

Procedure: The court follows the procedure for summons-cases, which involves a simpler and quicker process compared to regular trials.

Sentence Limitation: If Ramesh is found guilty, the maximum sentence the court can impose is three months of imprisonment.

Example 2:

Scenario: Priya, a resident of Mumbai, is caught driving without a valid license. The traffic police issue a challan and file a case against her.

Application of Section 285:

Summary Trial: Given the nature of the offense, the court opts for a summary trial under Chapter XXII.

Procedure: The court adheres to the procedure for summons-cases, ensuring a swift resolution.

Sentence Limitation: If Priya is convicted, the court cannot sentence her to more than three months of imprisonment.

Section 286: Record in summary trials.

In every case tried summarily, the Magistrate shall enter, in such form as the State Government may direct, the following particulars, namely:

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the date of the report or complaint;
- (d) the name of the complainant (if any);
- (e) the name, parentage and residence of the accused;
- (f) the offence complained of and the offence (if any) proved, and in cases coming under clause (i), clause (ii) or clause (iii) of sub-section (1) of section 283, the value of the property in respect of which the offence has been committed;
- (g) the plea of the accused and his examination (if any);
- (h) the finding;
- (i) the sentence or other final order;
- (j) the date on which proceedings terminated.

SIMPLIFIED ACTS

In every case that is tried quickly, the Magistrate must record the following details in a format specified by the State Government:

- (a) the case number;

- (b) the date when the crime happened;
- (c) the date when the report or complaint was made;
- (d) the name of the person who made the complaint (if there is one);
- (e) the name, parent's name, and address of the person accused of the crime;
- (f) the crime that was reported and the crime that was proven, and in certain cases under section 283(1)(i), (ii), or (iii), the value of the property involved in the crime;
- (g) the plea of the accused and any statements they made;
- (h) the decision of the court;
- (i) the punishment or final order given;
- (j) the date when the case was closed.

Explanation using Example

Example 1:

Case Summary:

Serial Number: 001

Date of Offence: 15th March 2023

Date of Report: 16th March 2023

Complainant: Rajesh Kumar

Accused: Suresh Singh, son of Ramesh Singh, residing at 123, MG Road, Delhi

Offence Complained: Theft under Section 379 of IPC

Offence Proved: Theft under Section 379 of IPC

Value of Property: ₹10,000

Plea of Accused: Guilty

Examination of Accused: The accused admitted to stealing the complainant's mobile phone.

Finding: Guilty

Sentence: 3 months of simple imprisonment

Date of Termination: 20th March 2023

Example 2:

Case Summary:

Serial Number: 002

Date of Offence: 1st April 2023

Date of Report: 2nd April 2023

Complainant: Anita Sharma

Accused: Rohan Verma, son of Mohan Verma, residing at 45, Nehru Nagar, Mumbai

Offence Complained: Public nuisance under Section 268 of IPC

Offence Proved: Public nuisance under Section 268 of IPC

Value of Property: Not applicable

Plea of Accused: Not Guilty

Examination of Accused: The accused denied causing any public nuisance.

Finding: Not Guilty

Sentence: Acquitted

Date of Termination: 5th April 2023

Section 287: Judgment in cases tried summarily.

In every case tried summarily in which the accused does not plead guilty, the Magistrate shall record the substance of the evidence and a judgment containing a brief statement of the reasons for the finding.

SIMPLIFIED ACTS

In every case that is tried quickly (summarily) where the accused person does not admit they are guilty, the Magistrate must: a. Write down the main points of the evidence. b. Provide a judgment that includes a short explanation of why they made their decision.

Explanation using Example

Example 1:

Scenario: Ramesh is accused of petty theft in a local market. The value of the stolen goods is minimal, and the case is eligible for a summary trial.

Process:

Court Proceedings: Ramesh appears before the Magistrate and pleads not guilty to the charge of theft.

Recording Evidence: The Magistrate listens to the testimonies of the shop owner, a witness, and Ramesh's statement. The Magistrate records the key points of each testimony.

Judgment: After considering the evidence, the Magistrate writes a brief judgment explaining why Ramesh is found guilty or not guilty. The judgment includes a concise statement of the reasons for the decision.

Outcome: If Ramesh is found guilty, the Magistrate may impose a fine or a short-term imprisonment as per the law. If found not guilty, Ramesh is acquitted.

Example 2:

Scenario: Priya is charged with causing a public nuisance by playing loud music late at night. The case is minor and suitable for a summary trial.

Process:

Court Proceedings: Priya appears before the Magistrate and denies the charge of causing a public nuisance.

Recording Evidence: The Magistrate hears the complaints from neighbors, the police report, and Priya's defense. The Magistrate records the essential points from each piece of evidence.

Judgment: The Magistrate then writes a brief judgment summarizing the reasons for the decision, whether Priya is guilty or not guilty of the charge.

Outcome: If Priya is found guilty, she may be fined or given a warning. If found not guilty, she is free from any penalties.

Section 288: Language of record and judgment.

(1) Every such record and judgment shall be written in the language of the Court.

(2) The High Court may authorise any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.

SIMPLIFIED ACTS

(1) Every record and judgment must be written in the language used by the Court.

(2) The High Court can allow any Magistrate who is allowed to handle cases quickly to have the record or judgment, or both, prepared by an officer chosen by the Chief Judicial Magistrate. The Magistrate must then sign the record or judgment prepared by this officer.

Explanation using Example

Example 1:

Rajesh was caught shoplifting in a local market in Mumbai. The case was taken up for a summary trial in the local Magistrate's court. According to Section 288 of The Bharatiya Nagarik Suraksha Sanhita 2023, the record of the proceedings and the judgment were written in Marathi, the language of the court. Rajesh, who only understands Hindi, requested a translation. The court provided him with a translated copy, but the official record and judgment remained in Marathi as per the law.

Example 2:

Priya was involved in a minor traffic violation in Chennai and her case was handled through a summary trial. The Magistrate, who was authorized by the High Court, had an officer appointed by the Chief Judicial Magistrate to prepare the record and judgment in Tamil, the language of the court. The officer prepared the documents, and the Magistrate signed them, making them official. Priya, who spoke Tamil, had no issues understanding the proceedings and the judgment.

CHAPTER XXIII: PLEA BARGAINING

Section 289: Application of Chapter.

Chapter Application

(1) This Chapter shall apply in respect of an accused against whom -

(a) the report has been forwarded by the officer in charge of the police station under section 193 alleging therein that an offence appears to have been committed by him other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years has been provided under the law for the time being in force; or

(b) a Magistrate has taken cognizance of an offence on complaint, other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years, has been provided under the law for the time being in force, and after examining complainant and witnesses under section 223, issued the process under section 227,

but does not apply where such offence affects the socio-economic condition of the country or has been committed against a woman, or a child.

(2) For the purposes of sub-section (1), the Central Government shall, by notification, determine the offences under the law for the time being in force which shall be the offences affecting the socio-economic condition of the country.

SIMPLIFIED ACTS

Chapter Application

(1) This Chapter applies to a person accused of a crime if -

(a) The police officer in charge has sent a report under section 193 saying that the person seems to have committed a crime, but not a crime that could lead to death, life imprisonment, or imprisonment for more than seven years; or

(b) A Magistrate has started legal proceedings based on a complaint, but not for a crime that could lead to death, life imprisonment, or imprisonment for more than seven years. The Magistrate must have examined the complainant and witnesses under section 223 and issued a process under section 227.

However, this Chapter does not apply if the crime affects the socio-economic condition of the country or is committed against a woman or a child.

(2) For the purposes of part (1), the Central Government will decide and announce which crimes affect the socio-economic condition of the country.

Explanation using Example

Example 1:

Ravi, a 30-year-old man, is accused of committing theft, which is punishable by imprisonment for up to three years under Indian law. The police have completed their investigation and forwarded the report to the Magistrate under section 193, alleging that Ravi committed the theft. Since the punishment for theft does not exceed seven years, Ravi is eligible for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. Ravi, his lawyer, and the prosecutor can negotiate a plea deal where Ravi agrees to plead guilty in exchange for a reduced sentence or other concessions.

Example 2:

Priya, a 25-year-old woman, is accused of causing grievous hurt, which is punishable by imprisonment for up to ten years under Indian law. The police have forwarded the report to the Magistrate under section 193, alleging that Priya committed the offence. Since the punishment for grievous hurt exceeds seven years, Priya is not eligible for plea bargaining

under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. Priya will have to go through the regular trial process.

Example 3:

Arjun, a 40-year-old man, is accused of cheating, which is punishable by imprisonment for up to seven years under Indian law. The Magistrate has taken cognizance of the offence on a complaint and, after examining the complainant and witnesses under section 223, has issued the process under section 227. Since the punishment for cheating does not exceed seven years, Arjun is eligible for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. Arjun, his lawyer, and the prosecutor can negotiate a plea deal where Arjun agrees to plead guilty in exchange for a reduced sentence or other concessions.

Example 4:

Sunil, a 35-year-old man, is accused of committing a financial fraud that significantly impacts the socio-economic condition of the country. The police have forwarded the report to the Magistrate under section 193, alleging that Sunil committed the offence. Even though the punishment for the offence does not exceed seven years, Sunil is not eligible for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023 because the offence affects the socio-economic condition of the country. Sunil will have to go through the regular trial process.

Example 5:

Meera, a 28-year-old woman, is accused of committing an offence of simple assault, which is punishable by imprisonment for up to one year under Indian law. The police have forwarded the report to the Magistrate under section 193, alleging that Meera committed the offence. Since the punishment for simple assault does not exceed seven years and the offence is not against a woman or a child, Meera is eligible for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. Meera, her lawyer, and the prosecutor can negotiate a plea deal where Meera agrees to plead guilty in exchange for a reduced sentence or other concessions.

Section 290: Application for plea bargaining.

Plea Bargaining Application

(1) A person accused of an offence may file an application for plea bargaining within a period of thirty days from the date of framing of charge in the Court in which such offence is pending for trial.

(2) The application under sub-section (1) shall contain a brief description of the case relating to which the application is filed including the offence to which the case relates and shall be accompanied by an affidavit sworn by the accused stating therein that he has voluntarily preferred, after understanding the nature and extent of punishment provided under the law for the offence, the plea bargaining in his case and that he has not previously been convicted by a Court in which he had been charged with the same offence.

(3) After receiving the application under sub-section (1), the Court shall issue notice to the Public Prosecutor or the complainant of the case and to the accused to appear on the date fixed for the case.

(4) When the Public Prosecutor or the complainant of the case and the accused appear on the date fixed under sub-section (3), the Court shall examine the accused in camera, where the other party in the case shall not be present, to satisfy itself that the accused has filed the application voluntarily and where -

(a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time, not exceeding sixty days, to the Public Prosecutor or the complainant of the case and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case;

(b) the Court finds that the application has been filed involuntarily by the accused or he has previously been convicted by a Court in a case in which he had been charged with the same offence, it shall proceed further in accordance with the provisions of this Sanhita from the stage such application has been filed under sub-section (1).

SIMPLIFIED ACTS

Plea Bargaining Application

(1) If you are accused of a crime, you can apply for plea bargaining within 30 days after the charges are officially made in the court where your case is being heard.

(2) Your application should include a brief summary of your case and the crime you are accused of. You also need to attach a sworn statement (affidavit) saying that you understand the punishment for the crime and that you are choosing plea bargaining voluntarily. You must also state that you have not been convicted of the same crime before.

(3) Once the court receives your application, it will notify the Public Prosecutor (the lawyer representing the state) or the person who filed the complaint, and you, to appear in court on a specified date.

(4) On the specified date, the court will talk to you privately (without the other party present) to make sure you are applying for plea bargaining voluntarily.

(a) If the court is convinced that you are applying voluntarily, it will give you and the Public Prosecutor or the complainant up to 60 days to agree on a satisfactory resolution. This resolution may include you compensating the victim and covering other expenses. The court will then set a new date for further proceedings.

(b) If the court believes you are not applying voluntarily or if you have been convicted of the same crime before, it will continue with the case as if you had not applied for plea bargaining.

Explanation using Example

Example 1:

Scenario: Rajesh, a 35-year-old businessman, is accused of cheating under Section 420 of the Indian Penal Code. The charges are framed against him on January 1, 2023. Rajesh decides to opt for plea bargaining.

Application Process:

Filing the Application: Rajesh files an application for plea bargaining on January 15, 2023, within the 30-day period from the date of framing of charges.

Contents of the Application: The application includes a brief description of the cheating case and an affidavit sworn by Rajesh stating that he understands the nature and extent of the punishment and that he has not been previously convicted for the same offence.

Court's Action: The Court receives the application and issues a notice to the Public Prosecutor and the complainant to appear on February 1, 2023.

In-Camera Examination: On February 1, 2023, the Court examines Rajesh in camera to ensure that the application was filed voluntarily.

Mutually Satisfactory Disposition: The Court is satisfied with Rajesh's voluntary application and provides 60 days for Rajesh, the Public Prosecutor, and the complainant to work out a mutually satisfactory disposition, which may include compensation to the victim.

Further Hearing: The Court fixes April 1, 2023, for the next hearing to review the mutually satisfactory disposition.

Example 2:

Scenario: Priya, a 28-year-old software engineer, is accused of causing grievous hurt under Section 325 of the Indian Penal Code. The charges are framed against her on March 1, 2023. Priya decides to opt for plea bargaining.

Application Process:

Filing the Application: Priya files an application for plea bargaining on March 20, 2023, within the 30-day period from the date of framing of charges.

Contents of the Application: The application includes a brief description of the grievous hurt case and an affidavit sworn by Priya stating that she understands the nature and extent of the punishment and that she has not been previously convicted for the same offence.

Court's Action: The Court receives the application and issues a notice to the Public Prosecutor and the complainant to appear on April 5, 2023.

In-Camera Examination: On April 5, 2023, the Court examines Priya in camera to ensure that the application was filed voluntarily.

Mutually Satisfactory Disposition: The Court is satisfied with Priya's voluntary application and provides 60 days for Priya, the Public Prosecutor, and the complainant to work out a mutually satisfactory disposition, which may include compensation to the victim.

Further Hearing: The Court fixes June 5, 2023, for the next hearing to review the mutually satisfactory disposition.

Section 291: Guidelines for mutually satisfactory disposition.

Section 290 - Procedure for Mutually Satisfactory Disposition

In working out a mutually satisfactory disposition under clause (a) of sub-section (4) of section 290, the Court shall follow the following procedure, namely:

(a) In a case instituted on a police report, the Court shall issue notice to the Public Prosecutor, the police officer who has investigated the case, the accused, and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case:

Provided that throughout such process of working out a satisfactory disposition of the case, it shall be the duty of the Court to ensure that the entire process is completed voluntarily by the parties participating in the meeting;

Provided further that the accused, if he so desires, may participate in such meeting with his advocate, if any, engaged in the case;

(b) In a case instituted otherwise than on police report, the Court shall issue notice to the accused and the victim of the case to participate in a meeting to work out a satisfactory disposition of the case:

Provided that it shall be the duty of the Court to ensure, throughout such process of working out a satisfactory disposition of the case, that it is completed voluntarily by the parties participating in the meeting;

SIMPLIFIED ACTS

Section 290 - Procedure for Mutually Satisfactory Disposition

When trying to reach an agreement that satisfies everyone involved under clause (a) of sub-section (4) of section 290, the Court must follow these steps:

(a) If the case started with a police report, the Court must notify the Public Prosecutor, the police officer who investigated the case, the accused person, and the victim to join a meeting to find a satisfactory solution:

The Court must ensure that everyone involved in the meeting is participating voluntarily;

The accused person can bring their lawyer to the meeting if they want to;

(b) If the case did not start with a police report, the Court must notify the accused person and the victim to join a meeting to find a satisfactory solution:

The Court must ensure that everyone involved in the meeting is participating voluntarily;

Explanation using Example

Example 1:

Case: Rajesh vs. State of Maharashtra

Scenario: Rajesh was accused of theft and the police filed a report against him. The case went to court, and Rajesh decided to opt for plea bargaining under Section 291 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Procedure:

The Court issued notices to the Public Prosecutor, the police officer who investigated the case, Rajesh (the accused), and the victim (the shop owner).

A meeting was scheduled where all parties were invited to discuss a mutually satisfactory disposition.

Rajesh attended the meeting with his advocate.

During the meeting, it was agreed that Rajesh would return the stolen items and pay a compensation of ₹10,000 to the shop owner.

The Court ensured that the agreement was reached voluntarily by all parties.

The case was disposed of based on the mutually agreed terms.

Example 2:

Case: Sunita vs. Ramesh

Scenario: Sunita filed a private complaint against Ramesh for defamation. The case was not based on a police report but was directly instituted by Sunita.

Procedure:

The Court issued notices to both Sunita (the complainant) and Ramesh (the accused) to participate in a meeting to work out a satisfactory disposition.

Both parties attended the meeting without any police involvement.

During the meeting, Ramesh agreed to publicly apologize to Sunita and publish a retraction in the local newspaper.

The Court ensured that the agreement was reached voluntarily by both Sunita and Ramesh.

The case was disposed of based on the mutually agreed terms.

Example 3:

Case: Anil vs. State of Karnataka

Scenario: Anil was accused of causing a minor road accident resulting in property damage. The police filed a report, and Anil opted for plea bargaining.

Procedure:

The Court issued notices to the Public Prosecutor, the investigating police officer, Anil (the accused), and the victim (the car owner).

A meeting was scheduled where all parties were invited to discuss a mutually satisfactory disposition.

Anil attended the meeting with his advocate.

During the meeting, it was agreed that Anil would pay for the repair costs of the damaged car and an additional compensation of ₹5,000 for the inconvenience caused.

The Court ensured that the agreement was reached voluntarily by all parties.

The case was disposed of based on the mutually agreed terms.

Example 4:

Case: Priya vs. Ravi

Scenario: Priya filed a private complaint against Ravi for trespassing on her property. The case was not based on a police report but was directly instituted by Priya.

Procedure:

The Court issued notices to both Priya (the complainant) and Ravi (the accused) to participate in a meeting to work out a satisfactory disposition.

Both parties attended the meeting without any police involvement.

During the meeting, Ravi agreed to apologize and promised not to trespass again. He also agreed to pay ₹2,000 as compensation for any inconvenience caused.

The Court ensured that the agreement was reached voluntarily by both Priya and Ravi.

The case was disposed of based on the mutually agreed terms.

Section 292: Report of mutually satisfactory disposition to be submitted before Court.

Where in a meeting under section 291, a satisfactory disposition of the case has been worked out, the Court shall prepare a report of such disposition which shall be signed by the presiding officer of the Court and all other persons who participated in the meeting and if no such disposition has been worked out, the Court shall record such observation and proceed further in accordance with the provisions of this Sanhita from the stage the application under sub-section (1) of section 290 has been filed in such case.

SIMPLIFIED ACTS

If, during a meeting under section 291, everyone agrees on a solution for the case, the Court will write a report about this agreement.

This report will be signed by the judge and everyone who was part of the meeting.

If no agreement is reached, the Court will note this and continue with the case according to the rules starting from when the application under section 290(1) was filed.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of a minor theft and is facing trial. He decides to opt for plea bargaining to avoid a lengthy trial.

Process:

Application for Plea Bargaining: Rajesh files an application under Section 290 for plea bargaining.

Meeting for Disposition: A meeting is held under Section 291, involving Rajesh, his lawyer, the public prosecutor, and the victim.

Mutually Satisfactory Disposition: During the meeting, all parties agree that Rajesh will plead guilty in exchange for a reduced sentence and compensation to the victim.

Report Submission: The Court prepares a report of this mutually satisfactory disposition, which is signed by the presiding officer, Rajesh, his lawyer, the public prosecutor, and the victim.

Court Approval: The Court reviews the report, and if it finds the disposition fair and just, it approves the plea bargain and passes the sentence accordingly.

Example 2:

Scenario: Priya is charged with causing a public nuisance. She opts for plea bargaining to resolve the matter quickly.

Process:

Application for Plea Bargaining: Priya files an application under Section 290 for plea bargaining.

Meeting for Disposition: A meeting is held under Section 291, involving Priya, her lawyer, the public prosecutor, and the complainant.

No Agreement Reached: During the meeting, the parties fail to reach a mutually satisfactory disposition. The complainant insists on a harsher penalty, while Priya seeks a lighter sentence.

Report Submission: The Court records that no satisfactory disposition was worked out.

Proceeding Further: The Court proceeds with the trial from the stage the application under Section 290 was filed, following the provisions of the Bharatiya Nagarik Suraksha Sanhita 2023.

Example 3:

Scenario: Sunil is accused of a minor assault. He decides to opt for plea bargaining to avoid a lengthy trial.

Process:

Application for Plea Bargaining: Sunil files an application under Section 290 for plea bargaining.

Meeting for Disposition: A meeting is held under Section 291, involving Sunil, his lawyer, the public prosecutor, and the victim.

Mutually Satisfactory Disposition: During the meeting, all parties agree that Sunil will plead guilty in exchange for community service and a formal apology to the victim.

Report Submission: The Court prepares a report of this mutually satisfactory disposition, which is signed by the presiding officer, Sunil, his lawyer, the public prosecutor, and the victim.

Court Approval: The Court reviews the report, and if it finds the disposition fair and just, it approves the plea bargain and passes the sentence accordingly.

Section 293: Disposal of case.

Where a satisfactory disposition of the case has been worked out under section 292, the Court shall dispose of the case in the following manner, namely:

(a) The Court shall award the compensation to the victim in accordance with the disposition under section 292 and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 401 or for dealing with the accused under the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force and follow the procedure specified in the succeeding clauses for imposing the punishment on the accused;

(b) After hearing the parties under clause (a), if the Court is of the view that section 401 or the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force are attracted in the case of the accused, it may release the accused on probation or provide the benefit of any such law;

(c) After hearing the parties under clause (b), if the Court finds that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment, and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-fourth of such minimum punishment;

(d) In case after hearing the parties under clause (b), the Court finds that the offence committed by the accused is not covered under clause (b) or clause (c), then, it may sentence the accused to one-fourth of the punishment provided or extendable for such offence and where the accused is a first-time offender and has not been convicted of any offence in the past, it may sentence the accused to one-sixth of the punishment provided or extendable, for such offence.

SIMPLIFIED ACTS

When a satisfactory resolution of the case has been reached under section 292, the Court will handle the case as follows:

- (a) The Court will give compensation to the victim as agreed under section 292. It will also listen to both sides about the amount of punishment, whether the accused should be released on good behavior or given a warning under section 401, or dealt with under the Probation of Offenders Act, 1958, or any other current law. The Court will then follow the steps below to decide the punishment for the accused;
- (b) After listening to both sides as mentioned in (a), if the Court thinks that section 401 or the Probation of Offenders Act, 1958, or any other current law applies to the accused, it may release the accused on probation or give them the benefits of such laws;
- (c) After listening to both sides as mentioned in (b), if the Court finds that the law requires a minimum punishment for the crime committed by the accused, it may give the accused half of that minimum punishment. If the accused is a first-time offender and has never been convicted before, the Court may give them one-fourth of the minimum punishment;
- (d) If, after listening to both sides as mentioned in (b), the Court finds that the crime committed by the accused does not fit under (b) or (c), it may give the accused one-fourth of the usual punishment for that crime. If the accused is a first-time offender and has never been convicted before, the Court may give them one-sixth of the usual punishment for that crime.

Explanation using Example

Example 1:

Rajesh, a first-time offender, is accused of theft under Section 379 of the Indian Penal Code, which carries a minimum punishment of 1 year imprisonment. Rajesh and the prosecution reach a satisfactory disposition under Section 292 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Court, under Section 293, decides to dispose of the case as follows:

- (a) The Court awards compensation to the victim for the stolen goods and hears both parties on the quantum of punishment.
- (b) The Court considers releasing Rajesh on probation under the Probation of Offenders Act, 1958, but decides against it.
- (c) Since the minimum punishment for theft is 1 year, the Court sentences Rajesh to half of the minimum punishment, which is 6 months, because he is a first-time offender.

Example 2:

Meena, a first-time offender, is accused of causing grievous hurt under Section 325 of the Indian Penal Code, which carries a minimum punishment of 3 years imprisonment. Meena

and the prosecution reach a satisfactory disposition under Section 292 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Court, under Section 293, decides to dispose of the case as follows:

(a) The Court awards compensation to the victim for medical expenses and hears both parties on the quantum of punishment.

(b) The Court considers releasing Meena on probation under the Probation of Offenders Act, 1958, but decides against it.

(c) Since the minimum punishment for causing grievous hurt is 3 years, the Court sentences Meena to one-fourth of the minimum punishment, which is 9 months, because she is a first-time offender.

Section 294: Judgment of Court.

The Court shall deliver its judgment in terms of section 293 in the open Court and the same shall be signed by the presiding officer of the Court.

SIMPLIFIED ACTS

The Court will announce its decision in public, as required by section 293.

The decision must be signed by the judge in charge of the Court.

Explanation using Example

Example 1:

Ravi was accused of a minor theft and decided to opt for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. After negotiations, Ravi agreed to plead guilty in exchange for a reduced sentence. The court, following the procedures outlined in Section 293, reviewed the plea agreement. On the day of the judgment, the judge delivered the judgment in open court, stating the terms of the plea agreement and the reduced sentence. The judgment was then signed by the presiding officer of the court, making it official.

Example 2:

Meena was charged with a non-violent offense and chose to go through the plea bargaining process. After reaching an agreement with the prosecution, the case was brought before the court. According to Section 293, the court examined the plea agreement to ensure it was fair and voluntary. During the court session, the judge announced the judgment in open court, detailing the agreed-upon sentence and conditions. The presiding officer of the court

then signed the judgment, finalizing the decision and allowing Meena to serve a lesser sentence as per the plea bargain.

Section 295: Finality of judgment.

The judgment delivered by the Court under this section shall be final and no appeal (except the special leave petition under article 136 and writ petition under articles 226 and 227 of the Constitution) shall lie in any Court against such judgment.

SIMPLIFIED ACTS

The decision made by the Court under this section is final.

You cannot appeal this decision in any Court.

The only exceptions are:

A special leave petition under Article 136 of the Constitution.

A writ petition under Articles 226 and 227 of the Constitution.

Explanation using Example

Example 1:

Rajesh was accused of a minor theft and decided to opt for plea bargaining under Chapter XXIII of The Bharatiya Nagarik Suraksha Sanhita 2023. During the plea bargaining process, Rajesh agreed to plead guilty in exchange for a reduced sentence. The court accepted his plea and delivered a judgment accordingly. Rajesh later felt that the sentence was too harsh and wanted to appeal the decision. However, under Section 295, the judgment is final, and Rajesh cannot appeal the decision in any court, except through a special leave petition under Article 136 or a writ petition under Articles 226 and 227 of the Constitution.

Example 2:

Meera was involved in a case of minor fraud and chose to go through the plea bargaining process. She admitted her guilt and negotiated a lesser punishment with the prosecution. The court issued a judgment based on the plea agreement. After some time, Meera discovered new evidence that she believed could prove her innocence. Despite this, under Section 295 of The Bharatiya Nagarik Suraksha Sanhita 2023, the judgment is final, and she cannot file an appeal in any court. Her only options would be to file a special leave petition under Article 136 or a writ petition under Articles 226 and 227 of the Constitution.

Section 296: Power of Court in plea bargaining.

A Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Sanhita.

SIMPLIFIED ACTS

A Court has all the necessary powers to handle bail, conduct trials, and manage other related matters to resolve a case under this Chapter.

Explanation using Example

Example 1:

Rajesh is accused of a non-violent financial crime, such as embezzlement. He decides to opt for plea bargaining to avoid a lengthy trial. Rajesh's lawyer and the prosecutor negotiate a deal where Rajesh agrees to plead guilty in exchange for a reduced sentence. The case is brought before the court. Under Section 296 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court has the power to accept the plea bargain, grant bail, and determine the appropriate sentence based on the agreement. The court ensures that the plea bargain is fair and that Rajesh understands the consequences of his guilty plea before finalizing the deal.

Example 2:

Meena is charged with a minor drug possession offense. She wants to avoid the stigma of a criminal record and the potential for a harsher sentence if found guilty at trial. Meena's lawyer negotiates a plea bargain with the prosecutor, where Meena agrees to attend a rehabilitation program and perform community service in exchange for a dismissal of the charges. The court reviews the plea bargain under Section 296 of The Bharatiya Nagarik Suraksha Sanhita 2023. The court has the authority to approve the agreement, set conditions for bail, and oversee the completion of the rehabilitation and community service. Once Meena fulfills her obligations, the court dismisses the charges, allowing her to move forward without a criminal record.

Section 297: Period of detention undergone by accused to be set off against sentence of imprisonment.

The provisions of section 468 shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this Chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Sanhita.

SIMPLIFIED ACTS

The rules in section 468 will be used to reduce the time an accused person has already spent in detention from their total prison sentence given under this Chapter.

This reduction will be done in the same way as it is done for prison sentences under other parts of this law.

Explanation using Example

Example 1:

Rajesh was accused of theft and was detained for 6 months while his trial was ongoing. After the trial, he was found guilty and sentenced to 2 years of imprisonment. According to Section 297 of The Bharatiya Nagarik Suraksha Sanhita 2023, the 6 months Rajesh spent in detention will be subtracted from his 2-year sentence. Therefore, Rajesh will only need to serve an additional 1 year and 6 months in prison.

Example 2:

Meena was accused of fraud and was detained for 1 year during the investigation and trial process. Eventually, she was convicted and sentenced to 3 years of imprisonment. As per Section 297, the 1 year she spent in detention will be set off against her 3-year sentence. Consequently, Meena will have to serve only 2 more years in prison.

Section 298: Savings.

The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Sanhita and nothing in such other provisions shall be construed to constrain the meaning of any provision of this Chapter.

Explanation. - For the purposes of this Chapter, the expression "Public Prosecutor" has the meaning assigned to it under clause (v) of section 2 and includes an Assistant Public Prosecutor appointed under section 19.

SIMPLIFIED ACTS

The rules in this Chapter will apply even if they conflict with other rules in this document. Other rules should not be interpreted in a way that limits the meaning of the rules in this Chapter.

Explanation. - In this Chapter, "Public Prosecutor" means what is defined in clause (v) of section 2 and also includes an Assistant Public Prosecutor appointed under section 19.

Explanation using Example

Example 1:

Ravi is accused of a minor theft and is facing trial. He decides to opt for plea bargaining to reduce his sentence. During the plea bargaining process, Ravi's lawyer and the Public Prosecutor negotiate a deal where Ravi agrees to plead guilty in exchange for a lighter sentence. Despite other sections of the Bharatiya Nagarik Suraksha Sanhita 2023 that might suggest a different procedure, Section 298 ensures that the plea bargaining process takes precedence. The court accepts the plea bargain, and Ravi receives a reduced sentence as agreed.

Example 2:

Meena is charged with a non-violent offense and is eligible for plea bargaining. Her lawyer contacts the Assistant Public Prosecutor to discuss the possibility of a plea deal. They agree that Meena will plead guilty to a lesser charge, which will result in a reduced penalty. Even though other sections of the Bharatiya Nagarik Suraksha Sanhita 2023 might have different guidelines for sentencing, Section 298 ensures that the plea bargaining agreement is honored. Meena's case is resolved quickly, and she receives a lighter sentence as per the plea deal.

Section 299: Statements of accused not to be used.

Notwithstanding anything contained in any law for the time being in force, the statements or facts stated by an accused in an application for plea bargaining filed under section 290 shall not be used for any other purpose except for the purpose of this Chapter.

SIMPLIFIED ACTS

No matter what any current law says, the information or facts that an accused person provides in a plea bargaining application (filed under section 290) cannot be used for anything other than what is specified in this Chapter.

Explanation using Example

Example 1:

Ravi is accused of theft and decides to file for plea bargaining under Section 290 of The Bharatiya Nagarik Suraksha Sanhita 2023. In his application, Ravi admits to stealing a bicycle from his neighbor. According to Section 299, this admission cannot be used against Ravi in any other legal proceedings, such as a civil lawsuit for damages filed by the neighbor. The admission is only relevant for the plea bargaining process.

Example 2:

Meena is charged with embezzlement at her workplace. She opts for plea bargaining and submits an application under Section 290, where she confesses to misappropriating funds. Later, her employer tries to use this confession to terminate her employment without

following due process. However, under Section 299, Meena's confession in the plea bargaining application cannot be used for any purpose other than the plea bargaining itself, ensuring her employment rights are protected until the plea bargaining process is concluded.

Section 300: Non-application of Chapter.

Nothing in this Chapter shall apply to any juvenile or child as defined in section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Provided further that if the victim of the case or the accused so desires, he may participate in such meeting with his advocate engaged in the case.

SIMPLIFIED ACTS

This Chapter does not apply to any juvenile or child as defined in section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

If the victim or the accused wants, they can join the meeting with their lawyer who is handling the case.

Explanation using Example

Example 1:

Rahul, a 16-year-old boy, is accused of theft. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, he is considered a juvenile. Since Section 300 of The Bharatiya Nagarik Suraksha Sanhita 2023 states that the provisions of Chapter XXIII on plea bargaining do not apply to juveniles, Rahul cannot engage in plea bargaining. Instead, his case will be handled under the Juvenile Justice Act, which focuses on rehabilitation and care rather than punishment.

Example 2:

Priya, a 25-year-old woman, is accused of a minor offense and is considering plea bargaining to receive a lesser sentence. The victim, Ramesh, wants to be involved in the plea bargaining process. According to Section 300 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ramesh has the right to participate in the plea bargaining meeting with his advocate. This ensures that the victim's interests are represented and considered during the plea bargaining process.

CHAPTER XXIV: ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

Section 301: Definitions.

In this Chapter, -

- (a) "detained" includes detained under any law providing for preventive detention;
- (b) "prison" includes, -
 - (i) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail;
 - (ii) any reformatory, Borstal institution or other institution of a like nature.

SIMPLIFIED ACTS

In this Chapter, -

- (a) "detained" means being held under any law that allows for preventive detention;
- (b) "prison" includes, -
 - (i) any place that the State Government has officially declared to be a subsidiary jail;
 - (ii) any reformatory, Borstal institution, or similar type of institution.

Explanation using Example

Example 1:

Ravi is detained under a preventive detention law due to his suspected involvement in activities that could threaten national security. His family wants him to attend a court hearing regarding a civil matter. Under Section 301 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi's detention status includes those detained under preventive detention laws. Therefore, the court can make arrangements for Ravi to attend the hearing, ensuring his presence despite his detention.

Example 2:

Sita is serving a sentence in a reformatory institution after being convicted of a minor offense. Her presence is required in a family court for a custody hearing concerning her child. According to Section 301 of The Bharatiya Nagarik Suraksha Sanhita 2023, the term "prison" includes reformatory institutions. Hence, the court can issue an order for Sita to be brought from the reformatory institution to attend the custody hearing, ensuring her participation in the legal process.

Section 302: Power to require attendance of prisoners.

Section

(1) Whenever, in the course of an inquiry, trial or proceeding under this Sanhita, it appears to a Criminal Court, -

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him; or

(b) that it is necessary for the ends of justice to examine such person as a witness,

the Court may make an order requiring the officer in charge of the prison to produce such person before the Court answering to the charge or for the purpose of such proceeding or for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate, to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

SIMPLIFIED ACTS

Section

(1) During an investigation, trial, or legal proceeding, if a Criminal Court finds that:

(a) a person who is in prison needs to be brought to court to respond to a charge or for any legal process against them; or

(b) it is important for justice to have this person testify as a witness,

the Court can order the prison officer to bring that person to court for the trial, legal process, or to give evidence.

(2) If a Magistrate of the second class makes such an order, it must be approved by the Chief Judicial Magistrate before the prison officer can act on it.

(3) When asking for approval, the Magistrate must include a statement explaining why the order is necessary. The Chief Judicial Magistrate will review this explanation and can choose not to approve the order if they do not agree with the reasons given.

Explanation using Example

Example 1:

Scenario: A Criminal Court is conducting a trial for a robbery case. During the trial, it becomes evident that a key witness, who is currently serving a sentence in a different prison for an unrelated crime, needs to testify to provide crucial evidence.

Application of Section 302:

The Criminal Court determines that the witness, who is confined in prison, should be brought before the Court to give testimony.

The Court issues an order to the officer in charge of the prison where the witness is detained, requiring the production of the witness before the Court.

If the order is issued by a Magistrate of the second class, it must be countersigned by the Chief Judicial Magistrate.

The order is accompanied by a statement of facts explaining why the witness's testimony is necessary for the trial.

The Chief Judicial Magistrate reviews the statement and, if satisfied, countersigns the order.

The officer in charge of the prison then arranges for the witness to be brought to the Court to testify.

Example 2:

Scenario: During an inquiry into a large-scale fraud case, the investigating officers discover that one of the accused, who has crucial information about the fraud, is currently detained in a different prison for a separate offense.

Application of Section 302:

The Criminal Court handling the fraud case decides that the accused, who is detained in another prison, needs to be brought before the Court to answer charges related to the fraud.

The Court issues an order to the officer in charge of the prison where the accused is detained, requiring the production of the accused before the Court.

If the order is issued by a Magistrate of the second class, it must be countersigned by the Chief Judicial Magistrate.

The order is accompanied by a statement of facts explaining why it is necessary for the accused to be present in Court for the fraud case.

The Chief Judicial Magistrate reviews the statement and, if satisfied, countersigns the order.

The officer in charge of the prison then arranges for the accused to be brought to the Court to face the charges related to the fraud.

Example 3:

Scenario: A Criminal Court is conducting a proceeding where a person accused of a serious crime claims that another individual, currently detained in a different prison, can provide an alibi that proves their innocence.

Application of Section 302:

The Criminal Court determines that the detained individual should be brought before the Court to provide testimony as a witness.

The Court issues an order to the officer in charge of the prison where the individual is detained, requiring the production of the individual before the Court.

If the order is issued by a Magistrate of the second class, it must be countersigned by the Chief Judicial Magistrate.

The order is accompanied by a statement of facts explaining why the individual's testimony is necessary for the ends of justice.

The Chief Judicial Magistrate reviews the statement and, if satisfied, countersigns the order.

The officer in charge of the prison then arranges for the individual to be brought to the Court to provide the alibi testimony.

Example 4:

Scenario: During a trial for a high-profile corruption case, the defense argues that a key piece of evidence can only be explained by a person who is currently detained in a different prison.

Application of Section 302:

The Criminal Court decides that the detained person should be brought before the Court to explain the key piece of evidence.

The Court issues an order to the officer in charge of the prison where the person is detained, requiring the production of the person before the Court.

If the order is issued by a Magistrate of the second class, it must be countersigned by the Chief Judicial Magistrate.

The order is accompanied by a statement of facts explaining why the person's explanation of the evidence is necessary for the trial.

The Chief Judicial Magistrate reviews the statement and, if satisfied, countersigns the order.

The officer in charge of the prison then arranges for the person to be brought to the Court to explain the evidence.

Section 303: Power of State Government or Central Government to exclude certain persons from operation of section 302.

(1) The State Government or the Central Government, as the case may be, may, at any time, having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 302, whether before or after the order of the State Government or the Central Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub-section (1), the State Government or the Central Government in the cases instituted by its central agency, as the case may be, shall have regard to the following matters, namely:

- (a) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;
- (b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;
- (c) the public interest, generally.

SIMPLIFIED ACTS

(1) The State Government or the Central Government can decide at any time, based on certain factors mentioned in section (2), to issue a general or special order that prevents any person or group of people from being taken out of the prison where they are currently held. As long as this order is in effect, no other order under section 302, whether made before or after this government order, will apply to those people.

(2) Before making an order under section (1), the State Government or the Central Government (in cases handled by its central agency) must consider the following factors:

- (a) The type of crime or the reasons why the person or group of people has been ordered to stay in prison.
- (b) The chance that public order might be disturbed if the person or group of people is allowed to leave the prison.

(c) The overall public interest.

Explanation using Example

Example 1:

Ravi, a notorious gang leader, is detained in a high-security prison in Maharashtra for multiple serious offenses, including murder and extortion. Under Section 302 of the Bharatiya Nagarik Suraksha Sanhita 2023, there is a court order to produce Ravi in a court in Delhi for a separate trial. However, the Maharashtra State Government, considering the nature of Ravi's offenses and the high likelihood of public disturbance if he is moved, issues a special order under Section 303. This order states that Ravi should not be removed from the prison. As a result, the court order under Section 302 to produce Ravi in Delhi becomes ineffective, and Ravi remains in the Maharashtra prison.

Example 2:

A group of political activists is detained in a prison in Uttar Pradesh for organizing large-scale protests that led to public unrest. There is a court order under Section 302 to produce these activists in a court in another state for a different case. The Central Government, taking into account the potential for further public disorder and the overall public interest, issues a general order under Section 303. This order specifies that these activists should not be removed from the Uttar Pradesh prison. Consequently, the court order under Section 302 is rendered ineffective, and the activists remain detained in Uttar Pradesh.

Section 304: Officer in charge of prison to abstain from carrying out order in certain contingencies.

Where the person in respect of whom an order is made under section 302 -

- (a) is by reason of sickness or infirmity unfit to be removed from the prison; or
- (b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or
- (c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or
- (d) is a person to whom an order made by the State Government or the Central Government under section 303 applies,

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining:

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distance from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (b).

SIMPLIFIED ACTS

If a person has an order made against them under section 302, the officer in charge of the prison should not follow the court's order and must send a statement to the court explaining why, if any of the following conditions apply:

- (a) The person is too sick or weak to be moved from the prison.
- (b) The person is waiting for their trial to start, or is on remand (temporary custody) while waiting for their trial or a preliminary investigation.
- (c) The person is in custody for a period that will end before there is enough time to follow the order and bring them back to the prison.
- (d) The person is subject to an order made by the State Government or the Central Government under section 303.

However, if the person needs to attend a place to give evidence and that place is within 25 kilometers from the prison, the officer in charge of the prison cannot use the reason mentioned in clause (b) to avoid following the court's order.

Explanation using Example

Example 1:

Scenario: Ramesh is an inmate in a prison in Mumbai. The court issues an order under Section 302 for Ramesh to be present in a court hearing in Pune.

Application of Section 304:

Clause (a): Ramesh has contracted a severe illness and is unfit to travel. The officer in charge of the prison, after consulting the prison doctor, decides that Ramesh cannot be moved due to his health condition. The officer sends a statement to the court explaining that Ramesh is too sick to be transported.

Clause (b): Ramesh is currently under remand pending trial for another case. Since his trial is ongoing, the officer in charge of the prison abstains from carrying out the court's order and sends a statement to the court explaining that Ramesh is under remand.

Clause (c): Ramesh is serving a short sentence that will end in two days. The officer in charge of the prison determines that the time required to comply with the court's order and

bring Ramesh back would exceed his remaining sentence. Therefore, the officer abstains from carrying out the order and informs the court.

Clause (d): The State Government has issued an order under Section 303 that applies to Ramesh, restricting his movement. The officer in charge of the prison abstains from carrying out the court's order and sends a statement to the court explaining the government order.

Example 2:

Scenario: Sita is an inmate in a prison in Delhi. The court issues an order under Section 302 for Sita to be present in a court hearing in Noida, which is 20 kilometers away from the prison.

Application of Section 304:

Clause (a): Sita has a minor health issue but is not unfit to travel. The officer in charge of the prison cannot use this clause to abstain from carrying out the court's order.

Clause (b): Sita is under remand pending trial for another case. However, since the court hearing is within 25 kilometers from the prison, the officer in charge of the prison cannot abstain from carrying out the order based on this clause.

Clause (c): Sita is in custody for a period that will expire in a week, but the court hearing is scheduled for the next day. The officer in charge of the prison cannot use this clause to abstain from carrying out the court's order.

Clause (d): There is no specific order from the State Government or the Central Government under Section 303 that applies to Sita. Therefore, the officer in charge of the prison cannot use this clause to abstain from carrying out the court's order.

In this scenario, the officer in charge of the prison must comply with the court's order and ensure Sita's attendance at the court hearing in Noida.

Section 305: Prisoner to be brought to Court in custody.

Subject to the provisions of section 304, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 302 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.

SIMPLIFIED ACTS

If section 304 allows it, the prison officer must follow these steps when they receive an order under section 302:

The order must be properly signed as required.

The officer must make sure the person named in the order is taken to the Court where they need to be.

The person must arrive at the Court at the time specified in the order.

The officer must keep the person in custody at or near the Court until:

The person has been examined by the Court, or

The Court says the person can be taken back to the prison.

Explanation using Example

Example 1:

Rajesh is currently serving a sentence in Tihar Jail for a theft conviction. The court has scheduled a hearing for a new case in which Rajesh is a witness. The judge issues an order under Section 302(1) of The Bharatiya Nagarik Suraksha Sanhita 2023, requiring Rajesh's presence in court on a specific date. The order is countersigned as required by Section 302(2).

The officer in charge of Tihar Jail receives this order and ensures that Rajesh is transported to the court on the specified date. Rajesh is kept in custody near the courtroom until he is called to testify. After his testimony, the court authorizes that Rajesh be taken back to Tihar Jail. The officer in charge ensures that Rajesh is safely returned to the prison.

Example 2:

Meena is detained in a women's correctional facility in Mumbai for a pending trial. She is also involved in a separate civil case as a plaintiff, and her presence is required in a family court. The family court issues an order under Section 302(1) of The Bharatiya Nagarik Suraksha Sanhita 2023, demanding Meena's attendance on a particular date. The order is duly countersigned as per Section 302(2).

The officer in charge of the women's correctional facility receives the order and arranges for Meena to be taken to the family court on the specified date. Meena is kept in custody near the courtroom until her case is heard. After the court proceedings, the judge authorizes that Meena be taken back to the correctional facility. The officer ensures that Meena is returned to the facility without any issues.

Section 306: Power to issue commission for examination of witness in prison.

The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 319, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXV shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person.

SIMPLIFIED ACTS

This Chapter does not affect the Court's power to issue a commission under section 319 to examine a person who is in prison as a witness.

The rules in Part B of Chapter XXV about examining people on commission also apply to examining people in prison in the same way they apply to examining anyone else.

Explanation using Example

Example 1:

Ravi, a key witness in a high-profile corruption case, is currently serving a sentence in Tihar Jail for an unrelated offense. The court handling the corruption case needs Ravi's testimony to proceed. Under Section 306 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court can issue a commission to examine Ravi as a witness while he is still in prison. This means that a judge or a designated officer can go to Tihar Jail to record Ravi's testimony, ensuring that his imprisonment does not hinder the judicial process in the corruption case.

Example 2:

Meena, who is detained in a women's correctional facility in Mumbai, has crucial information regarding a murder trial. The defense attorney believes her testimony could exonerate the accused. The court, recognizing the importance of her testimony, issues a commission under Section 306 to examine Meena in the prison. A judicial officer is sent to the correctional facility to record her statement, which is then used in the ongoing murder trial. This process ensures that Meena's detention does not prevent her from contributing valuable information to the case.

CHAPTER XXV: EVIDENCE IN INQUIRIES AND TRIALS

A - MODE OF TAKING AND RECORDING EVIDENCE

Section 307: Language of Courts.

The State Government may determine what shall be, for purposes of this Sanhita, the language of each Court within the State other than the High Court.

SIMPLIFIED ACTS

The State Government can decide what language will be used in each court within the state, except for the High Court.

Explanation using Example

Example 1:

Ravi is a resident of Maharashtra and is involved in a legal dispute over property ownership. The case is being heard in a District Court in Pune. According to Section 307 of The Bharatiya Nagarik Suraksha Sanhita 2023, the State Government of Maharashtra has determined that Marathi shall be the language of the court for all proceedings. Therefore, all court documents, evidence, and testimonies are presented in Marathi. Ravi, who is fluent in Marathi, finds it easier to understand the proceedings and communicate with his lawyer and the judge.

Example 2:

Priya, a businesswoman from Tamil Nadu, is facing a criminal trial in a Sessions Court in Chennai. The State Government of Tamil Nadu has decided that Tamil will be the language of the court as per Section 307 of The Bharatiya Nagarik Suraksha Sanhita 2023. Priya, who primarily speaks English, requests a translator to ensure she fully understands the proceedings and can effectively participate in her defense. The court provides a translator, and all legal documents are translated into English for her benefit, while the official court language remains Tamil.

Section 308: Evidence to be taken in presence of accused.

Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his advocate including through audio-video electronic means at the designated place to be notified by the State Government:

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

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

SIMPLIFIED ACTS

Normally, all evidence during a trial or other legal proceeding must be presented while the accused person is there. If the accused person doesn't need to be there in person, their lawyer must be present, and this can include using audio-video technology at a place specified by the State Government.

If a woman under 18 years old, who is claimed to be a victim of rape or another sexual crime, is giving evidence, the Court can take steps to make sure she doesn't have to face the accused person directly. However, the accused still has the right to have their lawyer question her.

Explanation. - In this section, "accused" also means anyone involved in a legal process under Chapter IX of this law.

Explanation using Example

Example 1:

Rajesh is accused of theft and is on trial in a court in Mumbai. According to Section 308 of The Bharatiya Nagarik Suraksha Sanhita 2023, all evidence against Rajesh must be presented in his presence. During the trial, the prosecution presents a witness who claims to have seen Rajesh committing the theft. Rajesh and his lawyer are both present in the courtroom, and Rajesh's lawyer cross-examines the witness to challenge the testimony. This ensures that Rajesh has the opportunity to hear the evidence against him and to defend himself.

Example 2:

Priya, a 17-year-old girl, is a victim of a sexual assault case. The accused, Ramesh, is on trial. According to the proviso in Section 308, the court takes special measures to ensure Priya is not confronted by Ramesh during her testimony. The court arranges for Priya to give her testimony via video conferencing from a separate room, ensuring she does not have to face Ramesh directly. However, Ramesh's lawyer is still allowed to cross-examine Priya through the video link, ensuring Ramesh's right to a fair trial is maintained while also protecting Priya from potential trauma.

Example 3:

Sunil is accused of fraud and is unable to attend the court proceedings in person due to a severe medical condition. The court allows Sunil to attend the trial through video conferencing from his hospital bed. During the trial, evidence is presented, and witnesses are cross-examined in Sunil's virtual presence. This arrangement ensures that Sunil's rights are protected, and he is able to participate in his defense despite his inability to be physically present in the courtroom.

Example 4:

Anita is accused of embezzlement and has hired a lawyer to represent her. Due to her work commitments, the court has excused her from attending every session in person. Instead, her lawyer is present in the courtroom to represent her. During the trial, evidence is presented, and witnesses are cross-examined in the presence of Anita's lawyer. This ensures that Anita's defense is adequately represented, even though she is not physically present at every hearing.

Section 309: Record in summons-cases and inquiries.

(1) In all summons-cases tried before a Magistrate, in all inquiries under sections 164 to 167 (both inclusive), and in all proceedings under section 491 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court:

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

SIMPLIFIED ACTS

(1) In all cases where a person is summoned to court, in all investigations under sections 164 to 167, and in all proceedings under section 491 that are not part of a trial, the Magistrate must write down a summary of what each witness says in the language used in the court:

However, if the Magistrate cannot write this summary himself, he must explain why he can't and then have someone else write it down or dictate it in open court.

(2) This summary must be signed by the Magistrate and will become part of the official record.

Explanation using Example

Example 1:

Scenario: A theft case in a small town.

Situation: Ramesh is accused of stealing a bicycle from his neighbor, Suresh. The case is a summons-case and is being tried before a Magistrate.

Application of Section 309:

Witness Examination: During the trial, Suresh and other witnesses are called to testify.

Memorandum Creation: As each witness, including Suresh, gives their testimony, the Magistrate makes a memorandum of the substance of their evidence in Hindi, which is the language of the Court.

Inability to Write: If the Magistrate is unable to write the memorandum himself due to a hand injury, he records the reason for his inability.

Dictation: The Magistrate then dictates the memorandum in open Court, and it is written down by a court clerk.

Signature: The Magistrate signs the memorandum, and it becomes part of the official court record.

Example 2:

Scenario: An inquiry into a public disturbance.

Situation: There is an inquiry under Section 165 regarding a public disturbance during a local festival. The inquiry is conducted by a Magistrate.

Application of Section 309:

Witness Examination: Several local residents are called to provide their accounts of the disturbance.

Memorandum Creation: As each resident testifies, the Magistrate makes a memorandum of the substance of their evidence in the local language, Marathi.

Inability to Write: If the Magistrate is unable to write the memorandum due to a heavy caseload, he records the reason for his inability.

Dictation: The Magistrate then dictates the memorandum in open Court, and it is written down by a stenographer.

Signature: The Magistrate signs the memorandum, and it becomes part of the official record of the inquiry.

Example 3:

Scenario: A proceeding under Section 491 for the recovery of a minor.

Situation: A petition is filed under Section 491 for the recovery of a minor child who is allegedly being wrongfully detained by a relative.

Application of Section 309:

Witness Examination: The parents of the minor and the relative are called to testify.

Memorandum Creation: As each person gives their testimony, the Magistrate makes a memorandum of the substance of their evidence in English, which is the language of the Court.

Inability to Write: If the Magistrate is unable to write the memorandum due to a temporary disability, he records the reason for his inability.

Dictation: The Magistrate then dictates the memorandum in open Court, and it is written down by a court assistant.

Signature: The Magistrate signs the memorandum, and it becomes part of the official record of the proceeding.

Section 310: Record in warrant-cases.

Warrant-Cases Tried Before a Magistrate

(1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf:

Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

SIMPLIFIED ACTS

Warrant-Cases Tried Before a Magistrate

(1) In all serious cases that require a warrant and are tried before a Magistrate, the testimony of each witness must be written down as they speak. This can be done by the Magistrate himself, by someone writing it down as the Magistrate dictates in open court, or by a court officer if the Magistrate can't do it due to physical or other reasons:

The witness's testimony can also be recorded using audio-video technology, as long as the accused person's lawyer is present.

(2) If the Magistrate has someone else write down the testimony, he must include a note explaining why he couldn't do it himself, as mentioned in point (1).

(3) Normally, the testimony should be written down as a continuous story, but the Magistrate can choose to write it down as a series of questions and answers if he thinks it's better.

(4) The written testimony must be signed by the Magistrate and will become part of the official court record.

Explanation using Example

Example 1:

Case: Theft in a Local Market

Scenario: Ramesh is accused of stealing goods from a local market. The case is being tried before a Magistrate.

Witness Examination: The shop owner, Mr. Sharma, is called as a witness. As Mr. Sharma gives his testimony, the Magistrate writes down his statements in the courtroom.

Physical Incapacity: The Magistrate has a temporary hand injury and cannot write. He dictates Mr. Sharma's testimony to a court officer, who writes it down under the Magistrate's supervision.

Audio-Video Recording: Mr. Sharma's testimony is also recorded using audio-video electronic means in the presence of Ramesh's advocate.

Certification: The Magistrate records a certificate stating that he could not write down the testimony himself due to his hand injury.

Narrative Form: The testimony is recorded in a narrative form, but when Mr. Sharma is asked specific questions, the Magistrate records those parts in a question-and-answer format.

Signature: After the testimony is recorded, the Magistrate signs the document, making it an official part of the case record.

Example 2:

Case: Assault in a Residential Area

Scenario: Sita is accused of assaulting her neighbor, Geeta. The case is being tried before a Magistrate.

Witness Examination: Geeta is called as a witness. As she describes the incident, the Magistrate writes down her statements in the courtroom.

Physical Incapacity: The Magistrate has no physical incapacity and writes down the testimony himself.

Audio-Video Recording: Geeta's testimony is also recorded using audio-video electronic means in the presence of Sita's advocate.

Certification: Since the Magistrate wrote down the testimony himself, no additional certification is needed.

Narrative Form: The testimony is recorded in a narrative form, but when Geeta is asked specific questions by the prosecution and defense, those parts are recorded in a question-and-answer format.

Signature: After the testimony is recorded, the Magistrate signs the document, making it an official part of the case record.

Section 311: Record in trial before Court of Session.

(1) In all trials before a Court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court, or under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

(2) Such evidence shall ordinarily be taken down in the form of a narrative, but the presiding Judge may, in his discretion, take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

SIMPLIFIED ACTS

(1) In all trials in a Court of Session, the testimony of each witness must be written down as they speak. This can be done by the judge himself, by someone writing it down as the judge says it out loud in court, or by a court officer chosen by the judge.

(2) Usually, this testimony is written down as a story, but the judge can choose to write it down as a series of questions and answers if he thinks it's better.

(3) The written testimony must be signed by the judge and will become part of the official court record.

Explanation using Example

Example 1:

Scenario: A high-profile murder case is being tried in a Court of Session in Mumbai.

Details:

The prosecution calls a key witness, Mr. Sharma, who claims to have seen the accused near the crime scene on the night of the murder.

As Mr. Sharma testifies, the presiding Judge, Judge Rao, listens carefully and dictates Mr. Sharma's statements to the court stenographer in open court.

Mr. Sharma describes the events in a narrative form, explaining how he saw the accused at around 10 PM near the victim's house.

At one point, Judge Rao decides that a specific part of Mr. Sharma's testimony needs to be recorded in a question-and-answer format for clarity.

Judge Rao: "Mr. Sharma, what time did you see the accused?"

Mr. Sharma: "It was exactly 10 PM."

Judge Rao: "Where exactly were you when you saw the accused?"

Mr. Sharma: "I was standing at the corner of the street, about 50 meters from the victim's house."

After Mr. Sharma finishes his testimony, Judge Rao reviews the written record, signs it, and it becomes part of the official court record.

Example 2:

Scenario: A financial fraud case is being tried in a Court of Session in Delhi.

Details:

The defense calls an expert witness, Ms. Gupta, a forensic accountant, to testify about the financial transactions in question.

As Ms. Gupta explains the complex financial data, the presiding Judge, Judge Verma, directs the court officer to take down her testimony in writing.

Ms. Gupta provides a detailed narrative of how the funds were allegedly misappropriated, including dates, amounts, and the parties involved.

Judge Verma decides that certain technical details need to be recorded in a question-and-answer format to ensure accuracy.

Judge Verma: "Ms. Gupta, can you explain the significance of the transaction on March 15th?"

Ms. Gupta: "The transaction on March 15th involved a transfer of ₹50 lakhs from the company's account to a personal account, which is highly irregular."

Judge Verma: "And who authorized this transaction?"

Ms. Gupta: "The authorization came from the accused, Mr. Kapoor."

Once Ms. Gupta's testimony is complete, Judge Verma reviews the written record, signs it, and it is added to the official court record.

Section 312: Language of record of evidence.

In every case where evidence is taken down under section 310 or section 311, -

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form part of the record;

(c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

Provided that when under clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

SIMPLIFIED ACTS

Whenever evidence is recorded under section 310 or section 311, -

(a) If the witness speaks in the language of the Court, the evidence will be recorded in that language.

(b) If the witness speaks in a different language, the evidence can be recorded in that language if possible. If it's not possible, a true translation into the Court's language will be made as the witness speaks, signed by the Magistrate or Judge, and included in the record.

(c) If the evidence is recorded in a language other than the Court's language, a true translation into the Court's language will be made as soon as possible, signed by the Magistrate or Judge, and included in the record:

However, if the evidence is recorded in English and no party requires a translation into the Court's language, the Court can skip the translation.

Explanation using Example

Example 1:

Ravi is a witness in a theft case being tried in a court in Mumbai, where the official language of the court is Marathi. Ravi gives his testimony in Marathi. According to Section 312 of The Bharatiya Nagarik Suraksha Sanhita 2023, his testimony will be recorded in Marathi, the language of the court.

Example 2:

Ayesha is a witness in a fraud case being tried in a court in Delhi, where the official language of the court is Hindi. Ayesha, however, gives her testimony in Bengali. Since it is not practicable to record her testimony in Bengali, a true translation of her testimony in Hindi is prepared as she speaks. This translation is signed by the presiding Judge and forms part of the official record.

Example 3:

John is a witness in a cybercrime case being tried in a court in Chennai, where the official language of the court is Tamil. John gives his testimony in English. Since English is not the language of the court, a true translation of his testimony in Tamil is prepared and signed by the presiding Judge. However, if none of the parties require a translation into Tamil, the court may dispense with the translation and keep the testimony in English as part of the official record.

Example 4:

Priya is a witness in a domestic violence case being tried in a court in Kolkata, where the official language of the court is Bengali. Priya gives her testimony in Hindi. The court finds it practicable to record her testimony in Hindi directly. Therefore, her testimony is recorded in Hindi, and a true translation in Bengali is prepared as soon as possible, signed by the presiding Judge, and included in the official record.

Section 313: Procedure in regard to such evidence when completed.

(1) As the evidence of each witness taken under section 310 or section 311 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his advocate, if he appears by an advocate, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary.

(3) If the record of the evidence is in a language different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands.

SIMPLIFIED ACTS

(1) After each witness gives their testimony under section 310 or 311, it will be read back to them in front of the accused person (if they are there) or their lawyer (if they have one). If needed, any mistakes will be fixed.

(2) If the witness says that any part of the testimony is wrong when it is read back to them, the judge can choose not to change the testimony. Instead, the judge can write down the witness's objection and add any comments they think are necessary.

(3) If the testimony is recorded in a different language than the one the witness used, and the witness does not understand that language, the testimony will be translated for them into the language they used or a language they understand.

Explanation using Example

Example 1:

Scenario: A theft case in Mumbai.

Details: Ravi is accused of stealing a laptop from a local electronics store. During the trial, the store owner, Mr. Sharma, is called as a witness. Mr. Sharma gives his testimony in Hindi.

Application of Section 313:

Reading Evidence: After Mr. Sharma finishes his testimony, the judge reads the recorded evidence back to him in Hindi, in the presence of Ravi and his advocate.

Correction: Mr. Sharma notices that a part of his statement was incorrectly recorded. He points out that he said the theft occurred at 3 PM, not 4 PM.

Memorandum: The judge makes a note of Mr. Sharma's objection and adds a remark explaining the correction.

Language Interpretation: If Mr. Sharma had given his testimony in Marathi and the court records were in English, the judge would ensure the record is interpreted back to Mr. Sharma in Marathi to confirm its accuracy.

Example 2:

Scenario: A fraud case in Delhi.

Details: Priya is accused of committing fraud by forging documents to obtain a loan. During the trial, her former colleague, Ms. Gupta, is called as a witness. Ms. Gupta gives her testimony in English.

Application of Section 313:

Reading Evidence: After Ms. Gupta finishes her testimony, the judge reads the recorded evidence back to her in English, in the presence of Priya and her advocate.

Correction: Ms. Gupta realizes that the recorded statement incorrectly mentions the date of the alleged forgery. She clarifies that the forgery took place on 15th March, not 25th March.

Memorandum: The judge notes Ms. Gupta's objection and adds a remark to explain the correction.

Language Interpretation: If Ms. Gupta had given her testimony in Hindi and the court records were in English, the judge would ensure the record is interpreted back to Ms. Gupta in Hindi to confirm its accuracy.

Section 314: Interpretation of evidence to accused or his advocate.

Interpretation of Evidence

- (1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him.
- (2) If he appears by an advocate and the evidence is given in a language other than the language of the Court, and not understood by the advocate, it shall be interpreted to such advocate in that language.
- (3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

SIMPLIFIED ACTS

Interpretation of Evidence

(1) If any evidence is presented in a language that the accused person does not understand, and the accused is present in court, the evidence must be translated for them in open court into a language they understand.

(2) If the accused is represented by a lawyer and the evidence is in a language that the lawyer does not understand, the evidence must be translated for the lawyer into a language they understand.

(3) When documents are presented for formal proof, the court has the discretion to decide how much of the document needs to be translated.

Explanation using Example

Example 1:

Rajesh, a resident of Tamil Nadu, is accused of theft and is present in a court in Maharashtra. The evidence against him is presented in Marathi, a language he does not understand. According to Section 314 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court must ensure that the evidence is interpreted to Rajesh in Tamil, a language he understands, in open court. This ensures that Rajesh fully comprehends the evidence being presented against him and can effectively participate in his defense.

Example 2:

Priya, an advocate from Kerala, is representing her client in a court in Gujarat. The evidence is presented in Gujarati, which Priya does not understand. According to Section 314, since Priya is appearing on behalf of her client, the court must ensure that the evidence is interpreted to her in a language she understands, such as English or Malayalam. This allows Priya to effectively understand the evidence and provide a proper defense for her client.

Example 3:

In a fraud case, several documents in Hindi are submitted for formal proof in a court in Karnataka. The accused, Ravi, understands Hindi, but his advocate does not. According to Section 314, the court has the discretion to interpret as much of the documents as necessary to ensure that both Ravi and his advocate understand the critical parts of the evidence. This might involve translating key sections of the documents into English or Kannada, ensuring that the defense can adequately address the evidence presented.

Example 4:

Sunita, who only speaks Bengali, is accused of a crime in a court in Delhi where the evidence is presented in Hindi. Sunita's advocate understands Hindi, but Sunita does not. According to Section 314, the court must ensure that the evidence is interpreted to Sunita

in Bengali in open court. This ensures that Sunita can follow the proceedings and understand the evidence against her, allowing her to instruct her advocate properly.

Example 5:

A court in Punjab is handling a case where the evidence is presented in Punjabi, but the accused, Ahmed, only understands Urdu. Ahmed's advocate understands Punjabi. According to Section 314, the court must ensure that the evidence is interpreted to Ahmed in Urdu in open court. This ensures that Ahmed can understand the evidence and participate in his defense, even though his advocate already understands the evidence.

Section 315: Remarks respecting demeanour of witness.

When a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

SIMPLIFIED ACTS

When a Judge or Magistrate in charge listens to a witness's testimony, they must also write down any important comments about how the witness behaved while being questioned.

Explanation using Example

Example 1:

During a criminal trial for theft, the prosecution calls a key witness who claims to have seen the accused stealing from a shop. While the witness is testifying, the Judge notices that the witness is avoiding eye contact, fidgeting nervously, and frequently changing their story. After recording the witness's testimony, the Judge also notes these observations about the witness's demeanor in the official court record. This helps the Judge and any reviewing courts to assess the credibility of the witness's testimony.

Example 2:

In a civil case involving a property dispute, a witness is called to testify about the ownership of a piece of land. The witness appears confident and consistent in their statements, providing clear and detailed answers. The Magistrate, after recording the witness's testimony, also notes in the record that the witness appeared confident and consistent, which may lend credibility to their testimony. This recorded observation can be crucial if the case is appealed or if the witness's credibility is later questioned.

Section 316: Record of examination of accused.

Examination of Accused

(1) Whenever the accused is examined by any Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(2) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable, in the language of the Court.

(3) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(4) It shall thereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused:

Provided that where the accused is in custody and is examined through electronic communication, his signature shall be taken within seventy-two hours of such examination.

(5) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

SIMPLIFIED ACTS

Examination of Accused

(1) When the accused person is questioned by a Magistrate or a higher court, everything that is asked and answered must be written down completely by the Judge or Magistrate. If the Judge or Magistrate can't do it because of a physical issue or other reason, someone else from the court, chosen by the Judge or Magistrate, will write it down under their supervision.

(2) The written record should be in the language the accused speaks, if possible. If that's not possible, it should be in the language used by the court.

(3) The written record must be shown or read to the accused. If the accused doesn't understand the language it is written in, it must be translated into a language they understand. The accused can then explain or add to their answers if they want.

(4) After this, the accused and the Judge or Magistrate must sign the record. The Judge or Magistrate will also certify that the examination happened in their presence and that the record is a complete and accurate account of what the accused said:

If the accused is in custody and the examination happens through electronic communication, their signature must be taken within seventy-two hours.

(5) This section does not apply to the examination of an accused person during a quick, summary trial.

Explanation using Example

Example 1:

Rajesh is accused of theft and is brought before a Magistrate in Mumbai. During his examination, the Magistrate asks Rajesh several questions about his whereabouts on the night of the theft. Rajesh answers each question in Hindi, his native language. The Magistrate records every question and answer in Hindi. After the examination, the record is read back to Rajesh in Hindi to ensure accuracy. Rajesh confirms that the record is accurate and signs it. The Magistrate also signs the record, certifying that the examination was conducted in his presence and that the record is a true account of Rajesh's statements.

Example 2:

Priya is accused of fraud and is examined by a Court of Session in Delhi. The presiding Judge, due to a recent injury, is unable to write. He directs a court officer to record the examination under his supervision. Priya answers the questions in English, but the court's language is Hindi. The officer records the examination in Hindi. After the examination, the record is read to Priya in English, which she understands. Priya is given the opportunity to make any corrections or additions. She then signs the record, and the Judge also signs, certifying that the examination was conducted in his presence and that the record is accurate.

Example 3:

Amit is accused of assault and is in custody. Due to the COVID-19 pandemic, his examination is conducted via video conferencing. The Magistrate asks Amit questions, and Amit responds in Marathi. The Magistrate records the examination in Marathi. The record is then read back to Amit in Marathi to ensure it is accurate. Amit confirms the accuracy and, within seventy-two hours, his signature is obtained on the record. The Magistrate also signs the record, certifying that the examination was conducted in his presence and that the record is a true account of Amit's statements.

Example 4:

Sunita is accused of a minor traffic violation and is undergoing a summary trial. During the trial, the Magistrate asks her a few questions about the incident. Since this is a summary trial, the detailed recording of every question and answer as specified in Section 316 does not apply. The Magistrate makes brief notes of Sunita's responses and proceeds with the trial.

Section 317: Interpreter to be bound to interpret truthfully.

When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

SIMPLIFIED ACTS

If a Criminal Court needs an interpreter to translate any evidence or statement, the interpreter must give an accurate and truthful translation of that evidence or statement.

Explanation using Example

Example 1:

Scenario: A criminal trial is taking place in a court in Mumbai. The accused, Mr. Ramesh, is a native of Tamil Nadu and speaks only Tamil. The court proceedings are conducted in Hindi, which Mr. Ramesh does not understand.

Application of Section 317: The court appoints an interpreter, Ms. Priya, who is fluent in both Tamil and Hindi. During the trial, a key witness gives testimony in Hindi. Ms. Priya is required to translate the witness's testimony into Tamil for Mr. Ramesh. According to Section 317 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ms. Priya is legally bound to provide a truthful and accurate translation of the witness's testimony. If she intentionally distorts or misinterprets the testimony, she could face legal consequences for not adhering to her duty to interpret truthfully.

Example 2:

Scenario: In a criminal case in Delhi, the victim, Ms. Fatima, is a foreign national from France and speaks only French. The court proceedings are conducted in English.

Application of Section 317: The court appoints Mr. Arjun, who is proficient in both French and English, as the interpreter. During the trial, Ms. Fatima provides her statement in French. Mr. Arjun is responsible for translating her statement into English for the court. Under Section 317 of The Bharatiya Nagarik Suraksha Sanhita 2023, Mr. Arjun must ensure that his translation is accurate and truthful. If he fails to do so, either by omission

or deliberate misrepresentation, he would be violating the legal requirement to interpret truthfully, which could lead to legal repercussions for him.

Section 318: Record in High Court.

Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it, and such evidence and examination shall be taken down in accordance with such rule.

SIMPLIFIED ACTS

Every High Court can make general rules about how to record the evidence of witnesses and the questioning of the accused in cases that come before it.

The evidence and questioning must be recorded according to these rules.

Explanation using Example

Example 1:

Scenario: A high-profile corruption case is being heard in the High Court of Delhi. The court has established specific rules for recording witness testimonies and the examination of the accused.

Application: According to the rules set by the High Court, all witness testimonies must be recorded verbatim using audio-visual equipment. During the trial, a key witness provides crucial evidence against the accused. The court ensures that the testimony is recorded exactly as spoken, without any alterations, and the recording is stored securely for future reference.

Outcome: The accurate recording of the witness's testimony helps maintain the integrity of the evidence, ensuring that there is no dispute about what was said during the trial. This adherence to the prescribed manner of recording evidence strengthens the case against the accused.

Example 2:

Scenario: In a murder trial in the High Court of Mumbai, the accused is being examined by the prosecution and defense attorneys. The court has a rule that all examinations must be transcribed by a certified court stenographer.

Application: During the examination, the accused provides an alibi for the time of the murder. The stenographer transcribes every word spoken by the accused and the attorneys. The transcription is then reviewed by the judge and both legal teams to ensure accuracy.

Outcome: The precise transcription of the accused's examination allows the court to have a clear and accurate record of the statements made. This helps in cross-referencing the accused's statements with other evidence presented in the trial, aiding in the pursuit of justice.

Example 3:

Scenario: A financial fraud case is being heard in the High Court of Karnataka. The court has a rule that all evidence must be documented in both written and digital formats.

Application: During the trial, several financial experts testify about the fraudulent activities. Their testimonies are recorded in written form by court clerks and simultaneously captured on digital devices. The digital recordings are then stored in a secure database.

Outcome: The dual-format documentation ensures that there is a backup in case one format is compromised. This comprehensive approach to recording evidence helps in maintaining a robust and reliable record, which is crucial for the appellate process if the case is challenged in a higher court.

B - COMMISSIONS FOR THE EXAMINATION OF WITNESSES

Section 319: When attendance of witness may be dispensed with and commission issued.

Examination of Witnesses

(1) Whenever, in the course of any inquiry, trial or other proceeding under this Sanhita, it appears to a Court or Magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union territory as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness.

(2) The Court may, when issuing a commission for the examination of a witness for the prosecution, direct that such amount as the Court considers reasonable to meet the expenses of the accused, including the advocate's fees, be paid by the prosecution.

SIMPLIFIED ACTS

Examination of Witnesses

(1) During any investigation, trial, or other legal process, if a Court or Magistrate believes that talking to a witness is crucial for justice, but getting the witness to come in person would cause too much delay, cost, or trouble, the Court or Magistrate can allow the witness to be questioned without being there in person. Instead, they can arrange for the witness to be questioned through other means as described in this Chapter:

However, if the witness is the President, Vice-President of India, a State Governor, or an Administrator of a Union territory, and their testimony is necessary for justice, the Court must arrange for their questioning through these other means.

(2) When the Court arranges for a witness to be questioned for the prosecution, it can also order that the prosecution pays a reasonable amount to cover the accused's expenses, including their lawyer's fees.

Explanation using Example

Example 1:

Scenario: A high-profile corruption case is being tried in a court in Mumbai. One of the key witnesses is a senior government official who is currently posted in a remote area of Arunachal Pradesh. The official's testimony is crucial for the case, but traveling to Mumbai would cause significant delay and expense.

Application of Section 319: The court in Mumbai determines that the examination of the senior government official is necessary for the ends of justice. However, considering the unreasonable delay, expense, and inconvenience involved in bringing the official to Mumbai, the court decides to dispense with the physical attendance of the witness. Instead, the court issues a commission to examine the witness in Arunachal Pradesh. The testimony is recorded via video conferencing, ensuring that the trial proceeds without unnecessary delays.

Example 2:

Scenario: During a criminal trial in Delhi, the defense wants to call a witness who is the Governor of a state. The Governor's testimony is critical to establish an alibi for the accused. However, due to the Governor's official duties and the impracticality of traveling to Delhi, the defense faces challenges in securing the Governor's attendance.

Application of Section 319: The court acknowledges that the Governor's testimony is essential for the ends of justice. Given the high office held by the Governor and the impracticality of personal attendance, the court issues a commission for the examination of the Governor. The commission arranges for the Governor's testimony to be recorded at the Governor's official residence, ensuring that the trial can proceed with the necessary evidence without causing undue inconvenience to the Governor.

Example 3:

Scenario: In a fraud case being heard in a court in Chennai, a key witness for the prosecution is an elderly woman who is bedridden and unable to travel. Her testimony is vital to establish the fraudulent activities of the accused.

Application of Section 319: The court in Chennai finds that the elderly woman's testimony is necessary for the ends of justice. Given her medical condition, it would be unreasonable to expect her to attend the court in person. The court decides to dispense with her attendance and issues a commission to examine her at her residence. A judicial officer visits her home, and her testimony is recorded, ensuring that her evidence is included in the trial without causing her undue hardship.

Example 4:

Scenario: A business dispute case in a court in Bengaluru involves a witness who is the Vice-President of India. The witness's testimony is crucial to resolve the dispute, but due to the high office held by the Vice-President, it is impractical for him to attend the court proceedings in person.

Application of Section 319: Recognizing the importance of the Vice-President's testimony and the impracticality of his personal attendance, the court issues a commission for his examination. The commission arranges for the Vice-President's testimony to be recorded at his official residence, ensuring that the necessary evidence is obtained without disrupting his official duties.

Example 5:

Scenario: In a narcotics case in a court in Hyderabad, the prosecution needs to examine a foreign national who is a key witness but is currently residing in the United States. The witness's testimony is critical to establish the chain of custody of the narcotics.

Application of Section 319: The court in Hyderabad determines that the foreign national's testimony is necessary for the ends of justice. Considering the unreasonable delay, expense, and inconvenience of bringing the witness to India, the court decides to dispense with his physical attendance. The court issues a commission to examine the witness via video conferencing from the United States, ensuring that the trial can proceed with the necessary evidence without unnecessary delays.

Section 320: Commission to whom to be issued.

(1) If the witness is within the territories to which this Sanhita extends, the commission shall be directed to the Chief Judicial Magistrate within whose local jurisdiction the witness is to be found.

(2) If the witness is in India, but in a State or an area to which this Sanhita does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as the Central Government may, by notification, prescribe in this behalf.

SIMPLIFIED ACTS

(1) If the witness is in the area where this law applies, the request to take their testimony should be sent to the Chief Judicial Magistrate in the area where the witness is located.

(2) If the witness is in India but in a state or area where this law does not apply, the request should be sent to the court or officer specified by the Central Government.

(3) If the witness is in another country and there is an agreement between the Indian government and that country to take witness testimonies for criminal cases, the request should be sent in the form and to the court or officer specified by the Central Government, and then sent to the appropriate authority for further processing.

Explanation using Example

Example 1:

Scenario: A criminal trial is ongoing in Mumbai, Maharashtra. A key witness, Mr. Rajesh, resides in Kolkata, West Bengal, which is within the territories to which the Bharatiya Nagarik Suraksha Sanhita 2023 extends.

Application of Section 320(1): The court in Mumbai needs Mr. Rajesh's testimony. Since Kolkata is within the territories covered by the Sanhita, the commission for Mr. Rajesh's examination will be directed to the Chief Judicial Magistrate of Kolkata. The Chief Judicial Magistrate will then arrange for Mr. Rajesh's testimony to be recorded and sent back to the court in Mumbai.

Example 2:

Scenario: A criminal case is being tried in Delhi, but a crucial witness, Ms. Anjali, is currently residing in a remote area of Arunachal Pradesh, which is not covered by the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 320(2): The court in Delhi needs Ms. Anjali's testimony. Since Arunachal Pradesh is not covered by the Sanhita, the commission for Ms. Anjali's examination will be directed to a court or officer specified by the Central Government

through a notification. This specified court or officer will then take Ms. Anjali's testimony and send it to the court in Delhi.

Example 3:

Scenario: A criminal investigation in Chennai, Tamil Nadu, requires the testimony of a witness, Mr. Ahmed, who is currently residing in London, United Kingdom.

Application of Section 320(3): The court in Chennai needs Mr. Ahmed's testimony. Since Mr. Ahmed is outside India, and assuming there is an arrangement between the Indian Government and the UK Government for taking evidence in criminal matters, the commission will be issued in the form prescribed by the Central Government. It will be directed to the appropriate court or officer in the UK and sent to the designated authority for transmission. The testimony will then be recorded and sent back to the court in Chennai.

Section 321: Execution of commissions.

Upon receipt of the commission, the Chief Judicial Magistrate or such Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Sanhita.

SIMPLIFIED ACTS

When the Chief Judicial Magistrate or a Magistrate he appoints gets the commission, they must call the witness to come before them or go to where the witness is.

They will record the witness's statement in the same way as they do in warrant-case trials under this law.

For this, they can use the same powers they have in warrant-case trials.

Explanation using Example

Example 1:

Scenario: A key witness in a high-profile corruption case is bedridden due to a severe illness and cannot travel to the court.

Application: The court issues a commission to record the witness's testimony. The Chief Judicial Magistrate appoints a local Magistrate to handle the commission. The appointed Magistrate travels to the witness's home, summons the witness, and records the testimony in the same manner as it would be done in a court trial. The Magistrate ensures that all legal procedures are followed, including the administration of an oath and the presence of legal representatives from both sides.

Example 2:

Scenario: In a complex financial fraud case, a crucial witness resides in a remote village with no means to travel to the city where the trial is being held.

Application: The court issues a commission to facilitate the examination of the witness. The Chief Judicial Magistrate designates a nearby Magistrate to execute the commission. The designated Magistrate travels to the remote village, summons the witness, and records the witness's statement. The process is conducted with the same legal formalities as a trial, ensuring the witness's testimony is accurately documented and can be used in court proceedings.

Section 322: Parties may examine witnesses.

(1) The parties to any proceeding under this Sanhita in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate, Court or Officer by an advocate, or if not in custody, in person, and may examine, cross-examine and re-examine the said witness.

SIMPLIFIED ACTS

(1) In any legal case where a commission (a formal request to gather evidence) is issued, both sides can send written questions they think are important to the case. The judge or officer handling the commission can then ask these questions to the witness.

(2) Either side in the case can have a lawyer represent them in front of the judge or officer, or they can represent themselves if they are not in jail. They can ask the witness questions, challenge their answers, and ask follow-up questions.

Explanation using Example

Example 1:

Scenario: A property dispute case in a civil court in Mumbai.

Details:

Parties Involved: Mr. Sharma (Plaintiff) and Mr. Verma (Defendant)

Issue: Ownership of a piece of land.

Action Taken: The court issues a commission to examine a key witness, Mr. Gupta, who resides in a remote village in Himachal Pradesh and cannot travel to Mumbai.

Application of Section 322:

Interrogatories: Both Mr. Sharma and Mr. Verma submit written questions (interrogatories) to the court that they want Mr. Gupta to answer.

Examination: The Magistrate in Himachal Pradesh, to whom the commission is directed, receives these interrogatories and examines Mr. Gupta based on them.

Representation: Mr. Sharma's lawyer and Mr. Verma's lawyer travel to Himachal Pradesh to be present during Mr. Gupta's examination. They are allowed to ask additional questions, cross-examine, and re-examine Mr. Gupta in person.

Example 2:

Scenario: A criminal trial in a Sessions Court in Delhi.

Details:

Parties Involved: State (Prosecution) vs. Mr. Khan (Accused)

Issue: Alleged embezzlement of funds by Mr. Khan.

Action Taken: The court issues a commission to examine a crucial witness, Ms. Reddy, who is currently residing in the United States and cannot attend the trial in Delhi.

Application of Section 322:

Interrogatories: The prosecution and the defense submit written questions to the court that they want Ms. Reddy to answer.

Examination: The commission is directed to a legal officer in the Indian Consulate in the United States, who receives these interrogatories and examines Ms. Reddy based on them.

Representation: Both the prosecution and Mr. Khan's defense lawyer can participate in the examination via video conferencing. They are allowed to ask additional questions, cross-examine, and re-examine Ms. Reddy during the session.

Example 3:

Scenario: A family court case in Bangalore regarding child custody.

Details:

Parties Involved: Mrs. Rao (Mother) and Mr. Rao (Father)

Issue: Custody of their minor child.

Action Taken: The court issues a commission to examine a child psychologist, Dr. Mehta, who is currently on a research trip in Japan.

Application of Section 322:

Interrogatories: Both Mrs. Rao and Mr. Rao submit written questions to the court that they want Dr. Mehta to answer regarding the child's well-being and preferences.

Examination: The commission is directed to a legal officer in the Indian Embassy in Japan, who receives these interrogatories and examines Dr. Mehta based on them.

Representation: Both parties' lawyers can participate in the examination via video conferencing. They are allowed to ask additional questions, cross-examine, and re-examine Dr. Mehta during the session.

Example 4:

Scenario: A commercial dispute in a High Court in Chennai.

Details:

Parties Involved: ABC Pvt. Ltd. (Plaintiff) and XYZ Ltd. (Defendant)

Issue: Breach of contract.

Action Taken: The court issues a commission to examine a technical expert, Mr. Singh, who is currently hospitalized and unable to attend the court.

Application of Section 322:

Interrogatories: Both ABC Pvt. Ltd. and XYZ Ltd. submit written questions to the court that they want Mr. Singh to answer.

Examination: The commission is directed to a Magistrate near the hospital, who receives these interrogatories and examines Mr. Singh based on them.

Representation: Both parties' lawyers can be present during the examination at the hospital. They are allowed to ask additional questions, cross-examine, and re-examine Mr. Singh in person.

Section 323: Return of commission.

(1) After any commission issued under section 319 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions specified by section 27 of the Bharatiya Sakshya Adhiniyam, 2023, may also be received in evidence at any subsequent stage of the case before another Court.

SIMPLIFIED ACTS

(1) After a commission issued under section 319 has been properly carried out, it must be sent back along with the witness's statement to the Court or Magistrate who issued it. The commission, the return, and the witness's statement should be available for both parties to look at during reasonable times. Either party can use these documents as evidence in the case, and they will become part of the official record.

(2) Any witness statement taken this way, if it meets the conditions specified by section 27 of the Bharatiya Sakshya Adhiniyam, 2023, can also be used as evidence later in the case, even if it is before a different Court.

Explanation using Example

Example 1:

Scenario: A high-profile corruption case is being tried in a court in Mumbai. One of the key witnesses, Mr. Sharma, is currently residing in the United States and is unable to travel to India due to health issues.

Application of Section 323:

The court in Mumbai issues a commission under Section 319 to a legal authority in the United States to record Mr. Sharma's deposition.

The commission is duly executed in the United States, and Mr. Sharma's deposition is recorded.

The recorded deposition, along with the executed commission, is sent back to the court in Mumbai.

Upon receipt, the court makes the deposition available for inspection by both the prosecution and the defense at reasonable times.

During the trial, either party can read Mr. Sharma's deposition as evidence, subject to any valid objections.

The deposition becomes part of the official court record.

Example 2:

Scenario: In a murder trial in Delhi, a crucial witness, Ms. Gupta, is in a remote village in Himachal Pradesh and cannot travel to Delhi due to severe weather conditions.

Application of Section 323:

The Delhi court issues a commission under Section 319 to a local magistrate in Himachal Pradesh to record Ms. Gupta's deposition.

The magistrate in Himachal Pradesh executes the commission and records Ms. Gupta's testimony.

The recorded deposition and the executed commission are sent back to the Delhi court.

The Delhi court allows both the prosecution and the defense to inspect the deposition at reasonable times.

During the trial, either party can read Ms. Gupta's deposition as evidence, subject to any valid objections.

The deposition is included in the official court record.

Example 3:

Scenario: A business dispute case in Bangalore involves a witness, Mr. Reddy, who is currently in Singapore for an extended business trip.

Application of Section 323:

The Bangalore court issues a commission under Section 319 to a legal authority in Singapore to record Mr. Reddy's deposition.

The commission is duly executed in Singapore, and Mr. Reddy's deposition is recorded.

The recorded deposition, along with the executed commission, is sent back to the Bangalore court.

The court in Bangalore makes the deposition available for inspection by both parties at reasonable times.

During the trial, either party can read Mr. Reddy's deposition as evidence, subject to any valid objections.

The deposition becomes part of the official court record.

Example 4:

Scenario: In a fraud case in Kolkata, a witness, Mrs. Banerjee, is bedridden and cannot attend court due to a severe illness.

Application of Section 323:

The Kolkata court issues a commission under Section 319 to a local magistrate to record Mrs. Banerjee's deposition at her residence.

The magistrate executes the commission and records Mrs. Banerjee's testimony at her home.

The recorded deposition and the executed commission are sent back to the Kolkata court.

The court allows both the prosecution and the defense to inspect the deposition at reasonable times.

During the trial, either party can read Mrs. Banerjee's deposition as evidence, subject to any valid objections.

The deposition is included in the official court record.

Section 324: Adjournment of proceeding.

In every case in which a commission is issued under section 319, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

SIMPLIFIED ACTS

Whenever a commission is issued under section 319, the inquiry, trial, or other proceeding can be paused for a reasonable amount of time to allow for the commission to be completed and returned.

Explanation using Example

Example 1:

Rajesh is accused of fraud and is currently on trial in a district court in Mumbai. During the trial, a key witness, who resides in Delhi, is unable to travel to Mumbai due to health issues. The court decides to issue a commission under Section 319 to record the witness's testimony in Delhi. As a result, the trial in Mumbai is adjourned for a period of two weeks, which is deemed sufficient time for the commission to be executed and the testimony to be returned to the court in Mumbai.

Example 2:

In a high-profile corruption case, the prosecution needs to examine a foreign expert witness who resides in the United States. The court issues a commission under Section 319 to take the expert's testimony via video conferencing. The court adjourns the trial for one month to allow for the necessary arrangements to be made and for the testimony to be recorded and

submitted. This adjournment ensures that the trial can proceed with all relevant evidence without undue delay.

Section 325: Execution of foreign commissions.

(1) The provisions of section 321 and so much of section 322 and section 323 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 319.

(2) The Courts, Judges and Magistrates referred to in sub-section (1) are -

(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Sanhita does not extend, as the Central Government may, by notification, specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.

SIMPLIFIED ACTS

(1) The rules in section 321 and parts of sections 322 and 323 about how to carry out and return a commission (a formal written order) also apply to commissions issued by the Courts, Judges, or Magistrates mentioned below, just like they apply to commissions issued under section 319.

(2) The Courts, Judges, and Magistrates mentioned in part (1) are:

(a) Any Court, Judge, or Magistrate working in an area in India where this law does not apply, as specified by the Central Government through a notification.

(b) Any Court, Judge, or Magistrate working in a country or place outside India, as specified by the Central Government through a notification, and who has the legal authority in that country or place to issue commissions for examining witnesses in criminal cases.

Explanation using Example

Example 1:

Scenario: A criminal case is ongoing in a court in Mumbai, India. A key witness resides in a country outside India, say the United Kingdom. The court in Mumbai needs the testimony of this witness to proceed with the trial.

Application of Section 325:

The Mumbai court issues a commission to a court in the United Kingdom to examine the witness.

The provisions of sections 321, 322, and 323 regarding the execution and return of the commission apply to this commission.

The court in the United Kingdom, having the authority under its local laws to issue commissions for the examination of witnesses in criminal matters, conducts the examination of the witness.

The testimony is recorded and sent back to the Mumbai court as per the procedures outlined in the relevant sections.

Outcome: The Mumbai court receives the witness's testimony from the UK court, which is then used as evidence in the ongoing trial.

Example 2:

Scenario: A criminal investigation is being conducted in a court in Chennai, India. A crucial witness is located in a region within India where the Bharatiya Nagarik Suraksha Sanhita 2023 does not extend, such as a special autonomous region.

Application of Section 325:

The Chennai court issues a commission to a local court in the autonomous region to examine the witness.

The provisions of sections 321, 322, and 323 regarding the execution and return of the commission apply to this commission.

The local court in the autonomous region, specified by the Central Government through a notification, conducts the examination of the witness.

The testimony is recorded and sent back to the Chennai court as per the procedures outlined in the relevant sections.

Outcome: The Chennai court receives the witness's testimony from the local court in the autonomous region, which is then used as evidence in the investigation.

Example 3:

Scenario: A case is being tried in a court in Delhi, India. A witness who has crucial information resides in a neighboring country, say Nepal. The court in Delhi needs to obtain the witness's testimony to proceed with the trial.

Application of Section 325:

The Delhi court issues a commission to a court in Nepal to examine the witness.

The provisions of sections 321, 322, and 323 regarding the execution and return of the commission apply to this commission.

The court in Nepal, having the authority under its local laws to issue commissions for the examination of witnesses in criminal matters, conducts the examination of the witness.

The testimony is recorded and sent back to the Delhi court as per the procedures outlined in the relevant sections.

Outcome: The Delhi court receives the witness's testimony from the Nepalese court, which is then used as evidence in the ongoing trial.

Section 326: Deposition of medical witness.

(1) The deposition of a civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Sanhita, although the deponent is not called as a witness.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

SIMPLIFIED ACTS

(1) The written statement of a civil surgeon or other medical expert, taken and confirmed by a Magistrate in front of the accused, or taken through a special process under this Chapter, can be used as evidence in any investigation, trial, or other legal proceeding under this law, even if the person who made the statement is not present as a witness.

(2) The Court can, if it wants to, and must, if asked by the prosecution or the accused, call and question the person who made the statement about what they said in their written statement.

Explanation using Example

Example 1:

Scenario: A criminal trial involving an assault case.

Situation: Rajiv is accused of assaulting his neighbor, Suresh, causing severe injuries. Suresh was taken to the hospital, where Dr. Mehta, a civil surgeon, treated him and documented the injuries. Dr. Mehta's deposition was taken by a Magistrate in the presence of Rajiv.

Application of Section 326:

During the trial, Dr. Mehta is unavailable to testify in person because he is attending a medical conference abroad.

The prosecution submits Dr. Mehta's deposition, which was taken and attested by the Magistrate, as evidence in the trial.

The court accepts the deposition as valid evidence under Section 326(1), even though Dr. Mehta is not present to testify.

Rajiv's defense lawyer requests the court to summon Dr. Mehta for cross-examination once he returns, as per Section 326(2).

The court agrees and schedules a future date for Dr. Mehta's examination.

Example 2:

Scenario: A murder investigation.

Situation: Priya is accused of poisoning her husband, Arjun. The post-mortem examination was conducted by Dr. Sharma, a medical expert, who provided a detailed report on the cause of death. Dr. Sharma's deposition was taken on commission under Chapter XXV.

Application of Section 326:

During the inquiry, Dr. Sharma is unable to attend the court proceedings due to a medical emergency.

The prosecution presents Dr. Sharma's deposition, which was taken on commission, as evidence in the inquiry.

The court admits the deposition as evidence under Section 326(1), despite Dr. Sharma's absence.

Priya's defense counsel applies to the court to summon Dr. Sharma for further questioning regarding the post-mortem findings, as allowed by Section 326(2).

The court mandates Dr. Sharma's presence for examination at a later date when he is available.

Example 3:

Scenario: A road accident case.

Situation: Sunita is accused of causing a road accident that resulted in serious injuries to a pedestrian, Anil. Anil was treated by Dr. Kapoor, who provided a medical report detailing the injuries. Dr. Kapoor's deposition was recorded by a Magistrate in Sunita's presence.

Application of Section 326:

During the trial, Dr. Kapoor is on a medical mission in a remote area and cannot attend the court proceedings.

The prosecution submits Dr. Kapoor's deposition, which was recorded by the Magistrate, as evidence.

The court accepts the deposition as evidence under Section 326(1), even though Dr. Kapoor is not present.

Sunita's lawyer requests the court to summon Dr. Kapoor for cross-examination once he returns, as per Section 326(2).

The court agrees and schedules a future date for Dr. Kapoor's examination.

Example 4:

Scenario: A domestic violence case.

Situation: Meena is accused of domestic violence against her husband, Ramesh. Ramesh was examined by Dr. Verma, who documented the injuries and provided a medical report. Dr. Verma's deposition was taken on commission.

Application of Section 326:

During the trial, Dr. Verma is unavailable due to a family emergency.

The prosecution presents Dr. Verma's deposition, which was taken on commission, as evidence.

The court admits the deposition as evidence under Section 326(1), despite Dr. Verma's absence.

Meena's defense lawyer applies to the court to summon Dr. Verma for further questioning regarding the injuries, as allowed by Section 326(2).

The court mandates Dr. Verma's presence for examination at a later date when he is available.

Section 327: Identification report of Magistrate.

(1) Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Sanhita, although such Magistrate is not called as a witness:

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 19, section 26, section 27, section 158 or section 160 of the Bharatiya Sakshya Adhiniyam, 2023, apply, such statement shall not be used under this sub-section except in accordance with the provisions of those sections.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject-matter of the said report.

SIMPLIFIED ACTS

(1) Any document that looks like an identification report signed by an Executive Magistrate about a person or property can be used as evidence in any investigation, trial, or other legal proceeding under this law, even if the Magistrate is not called to testify:

However, if the report includes a statement from any suspect or witness that falls under sections 19, 26, 27, 158, or 160 of the Bharatiya Sakshya Adhiniyam, 2023, that statement cannot be used unless it follows the rules in those sections.

(2) The Court can, if it wants to, and must, if asked by the prosecution or the accused, call and question the Magistrate about the report.

Explanation using Example

Example 1:

Scenario: Identification of a Stolen Vehicle

Context: A car was reported stolen in Mumbai. The police recovered a vehicle matching the description and brought it to the police station. The owner was called to identify the vehicle.

Application of Section 327:

An Executive Magistrate was present during the identification process.

The owner identified the vehicle as theirs, and the Magistrate prepared an identification report.

This report, signed by the Magistrate, stated that the owner positively identified the vehicle as the stolen one.

Legal Use:

During the trial of the accused for vehicle theft, the identification report prepared by the Magistrate was submitted as evidence.

The Magistrate was not required to be present in court to testify about the identification process.

However, if the defense or prosecution requested, the court could summon the Magistrate to testify about the report.

Example 2:

Scenario: Identification of a Suspect in a Robbery Case

Context: A robbery occurred in a Delhi jewelry store. The police apprehended a suspect based on CCTV footage and witness descriptions. The witnesses were called to identify the suspect in a lineup.

Application of Section 327:

An Executive Magistrate oversaw the identification lineup.

The witnesses identified the suspect from the lineup, and the Magistrate documented this in an identification report.

The report included statements from the witnesses about their identification of the suspect.

Legal Use:

The identification report was used as evidence in the trial against the suspect.

The statements of the witnesses in the report were subject to the provisions of sections 19, 26, 27, 158, or 160 of the Bharatiya Sakshya Adhiniyam, 2023.

If the defense or prosecution wanted to challenge the identification process, they could request the court to summon the Magistrate to testify about the report.

Example 3:

Scenario: Identification of Confiscated Property

Context: During a raid in a suspected smuggler's warehouse in Chennai, the police confiscated several items believed to be stolen goods. The rightful owners were called to identify their property.

Application of Section 327:

An Executive Magistrate was present during the identification of the confiscated items.

The owners identified their property, and the Magistrate prepared an identification report documenting these identifications.

The report included details of the items and the owners' statements confirming their ownership.

Legal Use:

The identification report was presented as evidence in the trial against the smuggler.

The Magistrate's presence during the identification process ensured the report's credibility, even though the Magistrate was not required to testify in court.

If necessary, the court could summon the Magistrate to provide further details about the identification process.

Example 4:

Scenario: Identification of a Deceased Person

Context: A body was found in a remote area in Kolkata, and the police suspected foul play. The family of a missing person was called to identify the body.

Application of Section 327:

An Executive Magistrate was present during the identification of the deceased.

The family identified the body as their missing relative, and the Magistrate documented this in an identification report.

The report included the family's statements and the identification details.

Legal Use:

The identification report was used as evidence in the investigation and any subsequent trial related to the death.

The Magistrate's report was admissible as evidence without the Magistrate needing to testify.

If the prosecution or defense required, the court could summon the Magistrate to discuss the identification process and the report's contents.

Section 328: Evidence of officers of Mint.

(1)

Any document purporting to be a report under the hand of a gazetted officer of any Mint or of any Note Printing Press or of any Security Printing Press (including the officer of the Controller of Stamps and Stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Sanhita, may be used as evidence in any

inquiry, trial or other proceeding under this Sanhita, although such officer is not called as a witness.

(2)

The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(3)

Without prejudice to the provisions of sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023, no such officer shall, except with the permission of the General Manager or any officer in charge of any Mint or of any Note Printing Press or of any Security Printing Press or of any Forensic Department or any officer in charge of the Forensic Science Laboratory or of the Government Examiner of Questioned Documents Organisation or of the State Examiner of Questioned Documents Organisation be permitted -

(a) to give any evidence derived from any unpublished official records on which the report is based; or

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

SIMPLIFIED ACTS

(1)

Any document that looks like a report signed by a high-ranking officer from a Mint, Note Printing Press, Security Printing Press, Forensic Department, or any other specified government office can be used as evidence in any legal case under this law, even if the officer who made the report is not present in court.

(2)

The Court can call and question the officer who made the report if it wants to, but the officer does not have to bring the records that the report is based on.

(3)

According to sections 129 and 130 of the Indian Evidence Act, 2023, an officer cannot:

(a) give any evidence from unpublished official records that the report is based on, or

(b) reveal details about any tests they did during their examination,

unless they have permission from the General Manager or the officer in charge of the relevant department.

Explanation using Example

Example 1:

Scenario: A counterfeit currency case in Mumbai.

Details:

The Mumbai Police arrest a suspect for allegedly circulating counterfeit currency notes.

The seized notes are sent to the Note Printing Press for examination.

A gazetted officer from the Note Printing Press examines the notes and prepares a report confirming that the notes are counterfeit.

This report is submitted to the court as evidence during the trial.

Application of Section 328:

The report from the gazetted officer of the Note Printing Press is used as evidence in the trial without the officer being called as a witness.

The court, however, has the discretion to summon the officer if it deems necessary to examine the subject matter of the report.

The officer cannot be compelled to produce the records on which the report is based or disclose the specifics of the tests conducted without permission from the General Manager of the Note Printing Press.

Example 2:

Scenario: A forgery case involving government documents in Delhi.

Details:

A suspect is accused of forging government documents.

The documents are sent to the Forensic Science Laboratory for examination.

A report is prepared by a government examiner of questioned documents, confirming the forgery.

This report is presented as evidence in the court proceedings.

Application of Section 328:

The report from the government examiner is admissible as evidence in the trial without the examiner being called to testify.

The court may decide to summon the examiner to discuss the report's findings if necessary.

The examiner cannot be forced to produce the underlying records or reveal the details of the tests conducted without authorization from the officer in charge of the Forensic Science Laboratory.

Example 3:

Scenario: A case of tampered postage stamps in Kolkata.

Details:

A suspect is accused of tampering with postage stamps to defraud the postal service.

The tampered stamps are sent to the Controller of Stamps and Stationery for analysis.

A gazetted officer from the Controller's office examines the stamps and prepares a report indicating tampering.

This report is submitted as evidence in the court proceedings.

Application of Section 328:

The report from the gazetted officer of the Controller of Stamps and Stationery is used as evidence in the trial without the officer being called as a witness.

The court has the option to summon the officer if it needs further clarification on the report.

The officer cannot be compelled to produce the records or disclose the specifics of the examination without permission from the Controller of Stamps and Stationery.

Section 329: Reports of certain Government scientific experts.

(1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Sanhita, may be used as evidence in any inquiry, trial or other proceeding under this Sanhita.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court, and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:

- (a) any Chemical Examiner or Assistant Chemical Examiner to Government;
- (b) the Chief Controller of Explosives;
- (c) the Director of the Finger Print Bureau;
- (d) the Director, Haffkeine Institute, Bombay;
- (e) the Director, Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;
- (f) the Serologist to the Government;
- (g) any other scientific expert specified or certified, by notification, by the State Government or the Central Government for this purpose.

SIMPLIFIED ACTS

(1) Any document that looks like a report signed by a Government scientific expert, who this section applies to, about any matter or thing given to him for examination or analysis during any legal proceeding under this law, can be used as evidence in any investigation, trial, or other legal proceeding under this law.

(2) The Court can, if it wants to, call and question any such expert about the content of his report.

(3) If the Court calls such an expert and he cannot attend in person, he can send a responsible officer who works with him to attend the Court, as long as this officer knows the facts of the case and can speak about it in Court on his behalf, unless the Court specifically asks the expert to appear in person.

(4) This section applies to the following Government scientific experts:

- (a) any Chemical Examiner or Assistant Chemical Examiner to the Government;
- (b) the Chief Controller of Explosives;
- (c) the Director of the Finger Print Bureau;
- (d) the Director of the Haffkeine Institute, Bombay;

(e) the Director, Deputy Director, or Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(f) the Serologist to the Government;

(g) any other scientific expert specified or certified by notification by the State Government or the Central Government for this purpose.

Explanation using Example

Example 1:

Scenario: A murder case in Mumbai.

Details:

A murder has taken place in Mumbai, and the police have collected blood samples from the crime scene.

These samples are sent to the Director of the Haffkine Institute, Bombay, for analysis.

The Director prepares a report indicating that the blood samples match the blood type of the suspect.

Application of Section 329:

The report prepared by the Director of the Haffkine Institute can be used as evidence in the trial without the Director having to appear in court.

However, if the court deems it necessary, it can summon the Director to testify about the report.

If the Director is unable to attend, he can send a responsible officer from the institute who is familiar with the case to testify on his behalf.

Example 2:

Scenario: A case of illegal explosives possession in Delhi.

Details:

The police have seized a large quantity of explosives from a warehouse in Delhi.

The explosives are sent to the Chief Controller of Explosives for examination.

The Chief Controller prepares a report confirming that the seized materials are indeed illegal explosives.

Application of Section 329:

The report by the Chief Controller of Explosives can be used as evidence in the trial against the accused.

The court has the discretion to summon the Chief Controller to testify about the report.

If the Chief Controller cannot attend, he can send a responsible officer who is knowledgeable about the case to testify in his place, unless the court specifically requires his personal appearance.

Example 3:

Scenario: A case of forgery involving fingerprints in Kolkata.

Details:

A document suspected to be forged is found, and fingerprints on the document are sent to the Director of the Finger Print Bureau for analysis.

The Director prepares a report indicating that the fingerprints on the document match those of the accused.

Application of Section 329:

The report from the Director of the Finger Print Bureau can be used as evidence in the trial.

The court may decide to summon the Director to provide further testimony regarding the report.

If the Director is unable to attend, he can send a responsible officer from the Finger Print Bureau who is well-versed with the case details to testify on his behalf, unless the court specifically requires the Director's presence.

Example 4:

Scenario: A drug trafficking case in Chennai.

Details:

The police have seized a large quantity of suspected narcotics from a suspect in Chennai.

The samples are sent to the Central Forensic Science Laboratory for analysis.

The Assistant Director of the laboratory prepares a report confirming that the substances are illegal narcotics.

Application of Section 329:

The report by the Assistant Director of the Central Forensic Science Laboratory can be used as evidence in the trial.

The court may summon the Assistant Director to testify about the report.

If the Assistant Director is unable to attend, he can send a responsible officer from the laboratory who is familiar with the case to testify on his behalf, unless the court specifically requires his personal appearance.

Section 330: No formal proof of certain documents.

(1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused or the advocate for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document soon after supply of such documents and in no case later than thirty days after such supply :

Provided that the Court may, in its discretion, relax the time limit with reasons to be recorded in writing :

Provided further that no expert shall be called to appear before the Court unless the report of such expert is disputed by any of the parties to the trial.

(2) The list of documents shall be in such form as the State Government may, by rules, provide.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Sanhita without proof of the signature of the person by whom it purports to be signed :

Provided that the Court may, in its discretion, require such signature to be proved.

SIMPLIFIED ACTS

(1) When either the prosecution or the accused submits any document to the Court, they must list all these documents. The prosecution, the accused, or their lawyers must then confirm whether each document is genuine or not. This must be done soon after the documents are provided and no later than thirty days after receiving them:

However, the Court can extend this time limit if it provides written reasons for doing so:

Additionally, no expert will be required to appear in Court unless their report is challenged by either party in the trial.

(2) The list of documents must follow the format set by the State Government through its rules.

(3) If no one disputes the authenticity of a document, it can be used as evidence in any investigation, trial, or other legal proceeding without needing to prove the signature of the person who signed it:

However, the Court can still ask for the signature to be verified if it chooses to do so.

Explanation using Example

Example 1:

Scenario: A theft case in Mumbai.

Details:

The prosecution submits a list of documents including CCTV footage, a police report, and a witness statement.

The defense (accused) receives these documents and is asked to admit or deny their genuineness within 30 days.

The defense admits the genuineness of the police report and witness statement but disputes the CCTV footage.

The court records the defense's admission and dispute.

Since the CCTV footage is disputed, the court may call an expert to verify its authenticity.

The police report and witness statement, whose genuineness is not disputed, are read into evidence without needing further proof of the signatures.

Example 2:

Scenario: A property dispute in Delhi.

Details:

The accused submits a list of documents including property sale deeds, tax receipts, and a valuation report.

The prosecution receives these documents and is asked to admit or deny their genuineness within 30 days.

The prosecution admits the genuineness of the tax receipts but disputes the property sale deeds and valuation report.

The court records the prosecution's admission and dispute.

Since the property sale deeds and valuation report are disputed, the court may call experts to verify their authenticity.

The tax receipts, whose genuineness is not disputed, are read into evidence without needing further proof of the signatures.

Example 3:

Scenario: A fraud case in Bangalore.

Details:

The prosecution submits a list of documents including bank statements, email correspondences, and an auditor's report.

The defense (accused) receives these documents and is asked to admit or deny their genuineness within 30 days.

The defense admits the genuineness of the bank statements but disputes the email correspondences and auditor's report.

The court records the defense's admission and dispute.

Since the email correspondences and auditor's report are disputed, the court may call experts to verify their authenticity.

The bank statements, whose genuineness is not disputed, are read into evidence without needing further proof of the signatures.

Section 331: Affidavit in proof of conduct of public servants.

When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Sanhita, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

SIMPLIFIED ACTS

If someone makes a request to a Court during an investigation, trial, or any other legal process under this law, and they make claims about a public servant in that request, the person making the request can provide proof of their claims through a written statement (affidavit).

The Court has the option to allow this written statement as evidence if it believes it is appropriate.

Explanation using Example

Example 1:

Scenario: A citizen files a complaint in court alleging that a government officer has been taking bribes to expedite certain public services.

Application: The citizen submits an application to the court during the trial, alleging that the officer has been involved in corrupt practices.

Affidavit: The citizen provides an affidavit detailing specific instances where the officer demanded and received bribes.

Court's Decision: The court reviews the affidavit and decides that the evidence provided in the affidavit is sufficient to proceed with the case. The court orders that the evidence relating to the officer's conduct be accepted as given in the affidavit.

Example 2:

Scenario: A journalist files a petition in court claiming that a police officer has been unlawfully detaining individuals without proper cause.

Application: The journalist submits an application during the inquiry, alleging that the police officer has been abusing his power.

Affidavit: The journalist submits an affidavit containing detailed accounts from multiple witnesses who have experienced or observed the unlawful detentions.

Court's Decision: The court examines the affidavit and determines that the evidence is credible. The court orders that the evidence regarding the police officer's conduct be accepted as provided in the affidavit, allowing the inquiry to proceed based on the affidavit's contents.

Section 332: Evidence of formal character on affidavit.

(1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Sanhita.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit.

SIMPLIFIED ACTS

(1) If someone needs to provide formal evidence, they can do it through a written statement called an affidavit. This written statement can be used as evidence in any investigation, trial, or other legal process under this law, unless there are valid reasons to object to it.

(2) The Court has the option, and must if asked by either the prosecution or the accused, to call and question the person who made the affidavit about the information in it.

Explanation using Example

Example 1:

Scenario: A police officer, Inspector Sharma, is required to provide evidence regarding the chain of custody of a piece of evidence (a knife) in a murder trial.

Application of Section 332:

Affidavit Submission: Inspector Sharma submits an affidavit detailing the chain of custody of the knife, including when and where it was collected, how it was stored, and when it was presented to the forensic lab.

Court's Acceptance: The court accepts the affidavit as evidence because it is of a formal character, detailing procedural aspects rather than substantive facts of the case.

Summoning for Examination: The defense attorney, suspecting discrepancies, requests the court to summon Inspector Sharma for cross-examination regarding the affidavit's contents.

Court's Decision: The court, considering the request just, summons Inspector Sharma to testify in person and clarify any doubts about the affidavit's details.

Example 2:

Scenario: A bank manager, Mr. Verma, needs to provide evidence about the account statements of an accused in a financial fraud case.

Application of Section 332:

Affidavit Submission: Mr. Verma submits an affidavit that includes certified copies of the accused's bank statements, explaining the transactions and account activities relevant to the case.

Court's Acceptance: The court reads the affidavit as evidence since it pertains to formal records maintained by the bank.

Summoning for Examination: The prosecution, aiming to establish a clear link between the transactions and the fraudulent activities, requests the court to summon Mr. Verma for further questioning.

Court's Decision: The court, finding the request reasonable, summons Mr. Verma to provide additional testimony and answer specific questions about the account statements and banking procedures.

Example 3:

Scenario: A medical officer, Dr. Mehta, is required to provide evidence regarding the post-mortem report in a suspicious death case.

Application of Section 332:

Affidavit Submission: Dr. Mehta submits an affidavit containing the post-mortem report, detailing the cause of death, time of death, and any injuries observed.

Court's Acceptance: The court accepts the affidavit as evidence since it is a formal document prepared in the course of Dr. Mehta's official duties.

Summoning for Examination: The accused's lawyer, questioning the findings, requests the court to summon Dr. Mehta for a detailed examination of the post-mortem report.

Court's Decision: The court, considering the importance of the post-mortem findings, summons Dr. Mehta to testify in person and provide further clarification on the report's conclusions.

Example 4:

Scenario: A government official, Mr. Rao, needs to provide evidence about the issuance of a land ownership certificate in a property dispute case.

Application of Section 332:

Affidavit Submission: Mr. Rao submits an affidavit that includes the land ownership certificate and explains the process of its issuance.

Court's Acceptance: The court reads the affidavit as evidence since it pertains to formal records maintained by the government office.

Summoning for Examination: The plaintiff, alleging forgery, requests the court to summon Mr. Rao for further questioning about the certificate's authenticity.

Court's Decision: The court, finding the request justified, summons Mr. Rao to provide additional testimony and answer specific questions about the issuance process and verification of the certificate.

Section 333: Authorities before whom affidavits may be sworn.

Affidavits

(1) Affidavits to be used before any Court under this Sanhita may be sworn or affirmed before -

(a) any Judge or Judicial or Executive Magistrate; or

(b) any Commissioner of Oaths appointed by a High Court or Court of Session; or

(c) any notary appointed under the Notaries Act, 1952.

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

SIMPLIFIED ACTS

Affidavits

(1) Affidavits that are to be used in any Court under this law can be sworn or affirmed in front of:

(a) any Judge or Judicial or Executive Magistrate; or

(b) any Commissioner of Oaths appointed by a High Court or Court of Session; or

(c) any notary appointed under the Notaries Act, 1952.

(2) Affidavits should only include facts that the person making the affidavit (the deponent) knows personally and facts that they have a good reason to believe are true. For the latter, the deponent must clearly explain why they believe those facts to be true.

(3) The Court has the power to remove or change any scandalous or irrelevant information in the affidavit.

Explanation using Example

Example 1:

Scenario: Ramesh wants to submit an affidavit in a property dispute case in the District Court of Delhi.

Application:

Swearing the Affidavit: Ramesh can swear or affirm his affidavit before:

A Judge or Judicial Magistrate at the District Court.

An Executive Magistrate in his locality.

A Commissioner of Oaths appointed by the High Court of Delhi.

A notary appointed under the Notaries Act, 1952.

Content of the Affidavit: Ramesh's affidavit must include:

Facts that Ramesh personally knows, such as his ownership of the property.

Facts that Ramesh reasonably believes to be true, such as the history of the property ownership, and he must state the grounds for his belief, like documents or witness statements.

Court's Authority: If Ramesh includes any scandalous or irrelevant information, such as personal attacks on the opposing party, the court can order that these parts be removed or amended.

Example 2:

Scenario: Priya needs to submit an affidavit in a criminal trial where she is a witness to a robbery.

Application:

Swearing the Affidavit: Priya can swear or affirm her affidavit before:

A Judge or Judicial Magistrate at the court where the trial is taking place.

An Executive Magistrate in her area.

A Commissioner of Oaths appointed by the Court of Session handling the trial.

A notary appointed under the Notaries Act, 1952.

Content of the Affidavit: Priya's affidavit must include:

Facts that Priya personally witnessed, such as the description of the robber and the sequence of events during the robbery.

Facts that Priya reasonably believes to be true, such as the identity of the robber based on police information, and she must state the grounds for her belief, like police reports or identification parades.

Court's Authority: If Priya's affidavit contains any irrelevant or scandalous information, such as unrelated personal opinions about the accused, the court can order these parts to be struck out or amended.

Section 334: Previous conviction or acquittal how proved.

In any inquiry, trial or other proceeding under this Sanhita, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force, -

(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 the identity of the accused person with the person so convicted or acquitted.

SIMPLIFIED ACTS

In any investigation, trial, or other legal process under this law, a previous conviction (being found guilty) or acquittal (being found not guilty) can be proven in addition to any other method allowed by current laws, by:

(a) a certified copy of the sentence or order from the officer who keeps the court records where the conviction or acquittal happened; or

(b) in the case of a conviction, either by a certificate signed by the officer in charge of the jail where the punishment was served, or by showing the warrant of commitment under which the punishment was served,

along with, in each case, evidence that the accused person is the same person who was previously convicted or acquitted.

Explanation using Example

Example 1:

Scenario: Rajesh is on trial for theft in a Mumbai court. The prosecution wants to prove that Rajesh has a history of similar offenses to establish a pattern of behavior.

Application of Section 334:

Certified Extract from Court Records:

The prosecution obtains a certified extract from the records of the Delhi court where Rajesh was previously convicted of theft. This extract is certified by the officer in charge of the court records.

The extract includes details of the sentence and the order of conviction.

Certificate from Jail Officer:

Additionally, the prosecution obtains a certificate from the officer in charge of Tihar Jail, where Rajesh served his sentence for the previous theft conviction.

The certificate confirms that Rajesh underwent the punishment as per the court's order.

Evidence of Identity:

The prosecution presents evidence, such as photographs, fingerprints, or witness testimony, to establish that the Rajesh on trial is the same person who was previously convicted in Delhi.

Outcome: The court accepts the certified extract and the jail officer's certificate as proof of Rajesh's previous conviction, along with the evidence of his identity. This information is used to support the prosecution's case.

Example 2:

Scenario: Priya is acquitted of fraud charges in a Bangalore court. Later, she faces similar charges in a Chennai court, and her defense wants to prove her previous acquittal to argue that she is being wrongfully accused again.

Application of Section 334:

Certified Extract from Court Records:

Priya's defense team obtains a certified extract from the records of the Bangalore court where she was acquitted of fraud. This extract is certified by the officer in charge of the court records.

The extract includes details of the order of acquittal.

Evidence of Identity:

The defense presents evidence, such as Priya's identification documents, photographs, or witness testimony, to establish that the Priya on trial in Chennai is the same person who was acquitted in Bangalore.

Outcome: The court accepts the certified extract as proof of Priya's previous acquittal, along with the evidence of her identity. This information is used to support Priya's defense that she is being wrongfully accused of a similar crime.

Example 3:

Scenario: Sunil is on trial for assault in a Kolkata court. The prosecution wants to prove that Sunil has a history of violent behavior by presenting his previous conviction for assault in a Hyderabad court.

Application of Section 334:

Certified Extract from Court Records:

The prosecution obtains a certified extract from the records of the Hyderabad court where Sunil was previously convicted of assault. This extract is certified by the officer in charge of the court records.

The extract includes details of the sentence and the order of conviction.

Certificate from Jail Officer:

Additionally, the prosecution obtains a certificate from the officer in charge of Chanchalguda Jail, where Sunil served his sentence for the previous assault conviction.

The certificate confirms that Sunil underwent the punishment as per the court's order.

Evidence of Identity:

The prosecution presents evidence, such as photographs, fingerprints, or witness testimony, to establish that the Sunil on trial is the same person who was previously convicted in Hyderabad.

Outcome: The court accepts the certified extract and the jail officer's certificate as proof of Sunil's previous conviction, along with the evidence of his identity. This information is used to support the prosecution's case.

Section 335: 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 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.

SIMPLIFIED ACTS

(1) If it is proven that a person accused of a crime has run away and there is no immediate chance of catching them, the court that has the authority to try or commit the person for trial can, in their absence, listen to the witnesses brought by the prosecution and record their statements. These recorded statements can be used as evidence against the accused when they are caught, especially if the witness has died, is unable to give evidence, cannot be found, or it would be too difficult, costly, or inconvenient to bring them to court.

(2) If it seems that a crime punishable by death or life imprisonment has been committed by someone unknown, the High Court or the Sessions Judge can order a first-class Magistrate to investigate and question any witnesses who might know about the crime. The statements taken during this investigation can be used as evidence against anyone later accused of the crime, if the witness has died, is unable to give evidence, or is outside of India.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of committing a serious fraud in Mumbai. However, before the police could arrest him, he absconds and his whereabouts are unknown.

Application of Section 335:

The court, recognizing that Rajesh has absconded and there is no immediate prospect of arresting him, decides to proceed with the examination of witnesses.

The prosecution produces several witnesses who testify about Rajesh's involvement in the fraud.

The court records the depositions of these witnesses.

Months later, Rajesh is finally arrested. During his trial, the prosecution uses the previously recorded depositions as evidence against him because one of the key witnesses has since passed away and another has moved abroad and cannot be located.

Example 2:

Scenario: A murder occurs in a remote village in Uttar Pradesh, and the identity of the murderer is unknown. The crime is punishable by death or life imprisonment.

Application of Section 335:

The High Court directs a Magistrate of the first class to hold an inquiry into the murder.

The Magistrate examines several villagers who witnessed suspicious activities around the time of the murder.

The depositions of these witnesses are recorded.

Six months later, the police arrest a suspect, Ramesh, based on new evidence.

During Ramesh's trial, the prosecution uses the previously recorded depositions as evidence because one of the witnesses has since become mentally incapacitated and another has moved to a different country and cannot be brought back without significant delay and expense.

Section 336: Evidence of public servants, experts, police officers in certain cases.

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

- (i) such public servant, expert or officer is either transferred, retired, or died; or
- (ii) such public servant, expert or officer cannot be found or is incapable of giving deposition; or
- (iii) securing presence of such public servant, expert or officer is likely to cause delay in holding the inquiry, trial or other proceeding,

the Court shall secure presence of successor officer of such public servant, expert, or officer who is holding that post at the time of such deposition to give deposition on such document or report:

Provided that no public servant, scientific expert or medical officer shall be called to appear before the Court unless the report of such public servant, scientific expert or medical officer is disputed by any of the parties of the trial or other proceedings:

Provided further that the deposition of such successor public servant, expert or officer may be allowed through audio-video electronic means.

SIMPLIFIED ACTS

If a document or report made by a public servant, scientific expert, or medical officer is needed as evidence in an investigation, trial, or other legal proceeding under this law, and -

- (i) the public servant, expert, or officer has been transferred, retired, or has died; or
- (ii) the public servant, expert, or officer cannot be found or is unable to testify; or
- (iii) bringing the public servant, expert, or officer to court would cause a delay in the investigation, trial, or other proceeding,

the Court will arrange for the current person in that position to testify about the document or report:

However, no public servant, scientific expert, or medical officer will be required to appear in court unless their report is challenged by any party involved in the trial or other proceedings:

Additionally, the testimony of the current public servant, expert, or officer can be given through audio-video electronic means.

Explanation using Example

Example 1:

Scenario: A police officer, Inspector Sharma, prepared a detailed report on a robbery case, including forensic evidence and witness statements. Before the trial could commence, Inspector Sharma was transferred to another state.

Application of Section 336:

Since Inspector Sharma has been transferred, the court can call upon the officer who succeeded him in his post to present the report and give deposition.

If the defense disputes the report, the successor officer can be called to testify, possibly through audio-video electronic means to avoid delays.

Example 2:

Scenario: Dr. Mehta, a medical officer, conducted a post-mortem examination in a murder case and prepared a report. Unfortunately, Dr. Mehta passed away before the trial began.

Application of Section 336:

Given that Dr. Mehta has died, the court can summon the current medical officer who holds Dr. Mehta's position to present the post-mortem report and provide deposition.

If the defense challenges the findings in the report, the successor medical officer can be called to testify, potentially through audio-video electronic means to expedite the process.

Example 3:

Scenario: A scientific expert, Dr. Rao, analyzed DNA evidence in a high-profile criminal case. Dr. Rao has since retired and moved abroad, making it difficult to secure his presence for the trial.

Application of Section 336:

Since Dr. Rao has retired and is not easily reachable, the court can call upon the current scientific expert who has taken over Dr. Rao's responsibilities to present the DNA analysis report and give deposition.

If the report is contested by any party, the successor expert can testify, possibly through audio-video electronic means to prevent delays in the trial.

Example 4:

Scenario: A public servant, Mr. Verma, prepared a land survey report for a property dispute case. Mr. Verma is now unwell and incapable of giving a deposition.

Application of Section 336:

As Mr. Verma is incapable of giving a deposition due to his illness, the court can summon the current officer in his position to present the land survey report and provide deposition.

If the report is disputed by any party involved in the case, the successor officer can be called to testify, potentially through audio-video electronic means to avoid unnecessary delays.

CHAPTER XXVI: GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

Section 337: Person once convicted or acquitted not to be tried for same offence.

(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 244, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 243.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 281 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 or of section 208 of this Sanhita.

Explanation. - The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(c) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of this section.

(e) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

(f) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

SIMPLIFIED ACTS

(1) If someone has been tried by a proper court for a crime and found guilty or not guilty, they cannot be tried again for the same crime or for any other crime based on the same facts, as long as the original decision stands.

(2) If someone is found guilty or not guilty of a crime, they can be tried again for a different crime related to the same incident, but only if the State Government agrees.

(3) If someone is found guilty of a crime, but later new consequences of their actions come to light that could constitute a different crime, they can be tried for this new crime.

- (4) If someone is found guilty or not guilty of a crime, they can still be tried for a different crime based on the same actions if the first court was not authorized to try the new crime.
- (5) If someone is released from trial under section 281, they cannot be tried again for the same crime unless the court that released them or a higher court agrees.
- (6) This section does not change the rules in section 26 of the General Clauses Act, 1897, or section 208 of this code.

Explanation. - Dismissing a complaint or releasing the accused is not the same as finding them not guilty for the purposes of this section.

Examples

- (a) If A is tried for stealing as a servant and found not guilty, A cannot be charged again for stealing as a servant, or for simple theft, or for criminal breach of trust based on the same facts.
- (b) If A is tried for causing serious injury and found guilty, and the injured person later dies, A can be tried again for causing death.
- (c) If A is tried and found guilty of causing the death of B, A cannot be tried again for murder of B based on the same facts.
- (d) If A is tried and found guilty of causing hurt to B by a first-class magistrate, A cannot be tried again for causing serious hurt to B based on the same facts, unless new consequences are discovered.
- (e) If A is tried and found guilty of stealing from B by a second-class magistrate, A can be tried again for robbery based on the same facts.
- (f) If A, B, and C are tried and found guilty of robbing D by a first-class magistrate, they can be tried again for dacoity (a more serious form of robbery) based on the same facts.

Explanation using Example

Example 1:

Ravi is accused of stealing a laptop from his office. He is tried in a court of competent jurisdiction and acquitted of the charge of theft. Later, new evidence surfaces that suggests Ravi might have committed criminal breach of trust by misusing his position as an employee to take the laptop. However, since Ravi was already acquitted of theft, he cannot be tried again for theft or for criminal breach of trust based on the same facts.

Example 2:

Sunita is tried and convicted for causing grievous hurt to her neighbor during a fight. A few weeks after the conviction, the neighbor succumbs to the injuries and dies. Sunita can now

be tried again for culpable homicide because the consequence (the neighbor's death) was not known at the time of her initial conviction for grievous hurt.

Example 3:

Arjun is charged and acquitted by a Magistrate of the first class for voluntarily causing hurt to his colleague during an altercation. Later, it is discovered that the colleague suffered more severe injuries than initially thought, constituting grievous hurt. Arjun cannot be tried again for grievous hurt on the same facts unless the case falls under the exceptions provided in sub-section (3) of Section 337.

Example 4:

Meera is tried and convicted by a Magistrate of the second class for stealing a wallet from a passerby. Later, it is found that she used force during the theft, which qualifies as robbery. Meera can be subsequently charged with and tried for robbery on the same facts.

Example 5:

Ramesh, Suresh, and Mahesh are tried and convicted by a Magistrate of the first class for robbing a shopkeeper. Later, it is revealed that they were part of a larger gang involved in dacoity (armed robbery by a group). Ramesh, Suresh, and Mahesh can be subsequently charged with and tried for dacoity on the same facts.

Example 6:

Priya is discharged under Section 281 for a charge of embezzlement due to lack of evidence. Later, new evidence is found that strongly implicates her in the crime. Priya can only be tried again for the same offence with the consent of the court that discharged her or a higher court to which the first court is subordinate.

Section 338: Appearance by Public Prosecutors.

(1) The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(2) If in any such case any private person instructs his advocate to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the advocate so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case.

SIMPLIFIED ACTS

(1) The main government lawyer or their assistant handling a case can show up and argue in any court without needing special written permission.

(2) If a private person hires their own lawyer to prosecute someone in court, the main government lawyer or their assistant will still lead the case. The hired lawyer must follow the directions of the main government lawyer or their assistant. With the court's permission, the hired lawyer can also submit written arguments after all the evidence has been presented.

Explanation using Example

Example 1:

Scenario: A high-profile corruption case is being tried in a Sessions Court in Mumbai. The accused is a senior government official.

Application of Section 338:

Public Prosecutor's Role: The Public Prosecutor, Mr. Sharma, is in charge of the case. He appears in court and presents the evidence against the accused without needing any written authority.

Private Advocate's Role: A private citizen, Mr. Verma, who is directly affected by the corruption, hires an advocate, Ms. Rao, to assist in the prosecution.

Coordination: Ms. Rao must follow the directions of Mr. Sharma, the Public Prosecutor, during the trial. She cannot independently prosecute the case.

Written Arguments: After all the evidence has been presented, Ms. Rao seeks the court's permission to submit written arguments. The court grants permission, and she submits her arguments, which are considered along with the Public Prosecutor's submissions.

Example 2:

Scenario: A murder case is under trial in a District Court in Delhi. The victim's family is keen on ensuring that the accused is prosecuted to the fullest extent of the law.

Application of Section 338:

Public Prosecutor's Role: The Assistant Public Prosecutor, Ms. Gupta, is handling the case. She appears in court and leads the prosecution without needing any written authority.

Private Advocate's Role: The victim's family hires an advocate, Mr. Singh, to assist in the prosecution.

Coordination: Mr. Singh must act under the directions of Ms. Gupta, the Assistant Public Prosecutor. He cannot take independent actions in the prosecution.

Written Arguments: After the evidence is closed, Mr. Singh requests the court's permission to submit written arguments. The court allows it, and Mr. Singh submits his written arguments, which are then considered by the court along with those of the Assistant Public Prosecutor.

Example 3:

Scenario: A case of financial fraud is being appealed in the High Court of Karnataka. The accused is a prominent businessman.

Application of Section 338:

Public Prosecutor's Role: The Public Prosecutor, Mr. Nair, is in charge of the appeal. He appears in the High Court and argues the case without needing any written authority.

Private Advocate's Role: A group of investors who were defrauded hires an advocate, Ms. Desai, to assist in the prosecution during the appeal.

Coordination: Ms. Desai must follow the directions of Mr. Nair, the Public Prosecutor, during the appeal process. She cannot independently argue the case.

Written Arguments: After the evidence and arguments are presented, Ms. Desai seeks the court's permission to submit written arguments. The court grants permission, and she submits her written arguments, which are considered along with the Public Prosecutor's arguments.

Example 4:

Scenario: A case of domestic violence is under inquiry in a Magistrate's Court in Chennai. The accused is the husband of the victim.

Application of Section 338:

Public Prosecutor's Role: The Assistant Public Prosecutor, Mr. Reddy, is handling the inquiry. He appears in court and conducts the inquiry without needing any written authority.

Private Advocate's Role: The victim hires an advocate, Ms. Iyer, to assist in the prosecution.

Coordination: Ms. Iyer must act under the directions of Mr. Reddy, the Assistant Public Prosecutor. She cannot independently conduct the inquiry.

Written Arguments: After the evidence is closed, Ms. Iyer requests the court's permission to submit written arguments. The court allows it, and Ms. Iyer submits her written arguments, which are then considered by the court along with those of the Assistant Public Prosecutor.

Section 339: 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 no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by an advocate.

SIMPLIFIED ACTS

(1) A Magistrate handling a case can allow someone to lead the prosecution, as long as that person is not a police officer below the rank of inspector. However, only the Advocate-General, Government Advocate, Public Prosecutor, or Assistant Public Prosecutor can do this without needing special permission:

But, if a police officer was involved in investigating the crime, they cannot be allowed to lead the prosecution.

(2) The person leading the prosecution can either do it themselves or have a lawyer do it for them.

Explanation using Example

Example 1:

Scenario: A theft case in a small town in Maharashtra.

Details:

A local shopkeeper, Mr. Sharma, reports a theft in his shop.

The police investigate the case, and Sub-Inspector Patil is in charge of the investigation.

The case is brought before the Magistrate for trial.

Application of Section 339:

The Magistrate permits Mr. Verma, a senior lawyer, to conduct the prosecution.

Sub-Inspector Patil, who investigated the case, is not allowed to conduct the prosecution because he was involved in the investigation.

Mr. Verma, as the permitted prosecutor, can either handle the case himself or appoint another advocate to represent the prosecution in court.

Example 2:

Scenario: A high-profile corruption case in Delhi.

Details:

A government official, Mr. Gupta, is accused of accepting bribes.

The Anti-Corruption Bureau (ACB) conducts a detailed investigation, led by Inspector Mehta.

The case is brought to trial in a Delhi court.

Application of Section 339:

The Magistrate allows Ms. Rao, a well-known Public Prosecutor, to conduct the prosecution.

Inspector Mehta, who led the investigation, is not permitted to conduct the prosecution due to his involvement in the investigation.

Ms. Rao, as the Public Prosecutor, can either handle the case herself or appoint another advocate to assist her in the prosecution.

Example 3:

Scenario: A domestic violence case in Bangalore.

Details:

Mrs. Reddy files a complaint against her husband for domestic violence.

The local police, led by Inspector Kumar, investigate the case and gather evidence.

The case is brought before the Magistrate for trial.

Application of Section 339:

The Magistrate permits Ms. Iyer, an Assistant Public Prosecutor, to conduct the prosecution.

Inspector Kumar, who investigated the case, is not allowed to conduct the prosecution because of his involvement in the investigation.

Ms. Iyer, as the Assistant Public Prosecutor, can either handle the case herself or appoint another advocate to represent the prosecution in court.

Section 340: Right of person against whom proceedings are instituted to be defended.

Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Sanhita, may of right be defended by an advocate of his choice.

SIMPLIFIED ACTS

If someone is accused of a crime in a Criminal Court, or if legal action is taken against them under this law, they have the right to be defended by a lawyer of their choice.

Explanation using Example

Example 1:

Ravi is accused of theft and is summoned to appear before a criminal court in Mumbai. Under Section 340 of the Bharatiya Nagarik Suraksha Sanhita 2023, Ravi has the right to hire an advocate of his choice to defend him in court. Ravi chooses to hire Advocate Mehta, a well-known criminal lawyer, to represent him during the trial. This ensures that Ravi's legal rights are protected and he receives a fair trial.

Example 2:

Priya is facing charges of fraud and is required to attend a trial in a Delhi criminal court. According to Section 340 of the Bharatiya Nagarik Suraksha Sanhita 2023, Priya can select any advocate she prefers to defend her case. Priya decides to engage Advocate Sharma, who specializes in financial crimes, to ensure she has the best possible defense. This provision allows Priya to have a fair opportunity to present her case and challenge the prosecution's evidence.

Section 341: Legal aid to accused at State expense in certain cases.

(1) Where, in a trial or appeal before a Court, the accused is not represented by an advocate, and where it appears to the Court that the accused has not sufficient means to engage an advocate, the Court shall assign an advocate for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government, make rules providing for -

- (a) the mode of selecting advocates for defence under sub-section (1);
- (b) the facilities to be allowed to such advocates by the Courts;

(c) the fees payable to such advocates by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session.

SIMPLIFIED ACTS

(1) If someone is on trial or appealing a case in court and they don't have a lawyer because they can't afford one, the court will provide a lawyer for them at the government's expense.

(2) The High Court, with the State Government's approval, can make rules about:

(a) How to choose lawyers for people who can't afford one;

(b) What help these lawyers will get from the courts;

(c) How much the government will pay these lawyers, and other details to make sure people get a lawyer if they can't afford one.

(3) The State Government can announce that from a certain date, the rules in sections (1) and (2) will also apply to other types of trials in the state, not just the ones in higher courts.

Explanation using Example

Example 1:

Scenario: Ramesh, a daily wage laborer, is accused of theft and is brought to trial in a Sessions Court. Ramesh does not have the financial means to hire a lawyer.

Application of Section 341:

During the trial, the judge notices that Ramesh is not represented by an advocate.

The judge inquires about Ramesh's financial situation and finds that he cannot afford to hire a lawyer.

Under Section 341(1) of The Bharatiya Nagarik Suraksha Sanhita 2023, the judge assigns a state-appointed advocate to defend Ramesh at the expense of the State.

The advocate represents Ramesh throughout the trial, ensuring that he receives a fair defense.

Example 2:

Scenario: Priya, a single mother with limited income, is accused of fraud and is appealing her conviction in the High Court. She cannot afford legal representation for her appeal.

Application of Section 341:

Priya files an appeal in the High Court but does not have an advocate to represent her.

The High Court reviews her financial status and determines that she lacks sufficient means to engage an advocate.

Following Section 341(1), the High Court assigns an advocate to represent Priya at the State's expense.

The High Court, with the approval of the State Government, has established rules under Section 341(2) for selecting advocates, providing necessary facilities, and determining the fees payable to these advocates.

The state-appointed advocate assists Priya in her appeal, ensuring her right to legal representation is upheld.

Example 3:

Scenario: The State Government of Maharashtra decides to extend the provisions of Section 341 to all Magistrate Courts in the state for cases involving serious offenses.

Application of Section 341:

The State Government issues a notification specifying that from a certain date, the provisions of Section 341(1) and (2) will apply to trials in Magistrate Courts.

This means that any accused person in a Magistrate Court in Maharashtra who cannot afford an advocate will be provided one at the State's expense.

The High Court of Maharashtra, with the State Government's approval, creates rules for selecting advocates, providing facilities, and determining fees for these advocates in Magistrate Courts.

As a result, individuals facing serious charges in Magistrate Courts across Maharashtra will have access to legal representation, ensuring fair trials.

Example 4:

Scenario: An NGO working for prisoners' rights discovers that many undertrial prisoners in a district jail are not represented by advocates due to their inability to afford legal fees.

Application of Section 341:

The NGO brings this issue to the attention of the District Court.

The District Court, upon verifying the financial status of these undertrial prisoners, finds that they do not have sufficient means to engage advocates.

Invoking Section 341(1), the District Court assigns state-appointed advocates to represent these undertrial prisoners at the State's expense.

The High Court, with the State Government's approval, has already established rules under Section 341(2) for the selection and remuneration of these advocates.

The undertrial prisoners now have legal representation, which helps in ensuring their right to a fair trial and potentially expedites their cases.

Section 342: Procedure when corporation or registered society is an accused.

Section on Corporations

(1) In this section, "corporation" means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860.

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any requirement of this Sanhita that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined.

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person duly authorised by him (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the Court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or trial before a Court is or is not such representative, the question shall be determined by the Court.

SIMPLIFIED ACTS

Section on Corporations

(1) In this section, "corporation" means any company or organization that is officially registered, including societies registered under the Societies Registration Act, 1860.

(2) If a corporation is being accused in a legal case, it can choose someone to represent it during the trial. This appointment does not need to be officially stamped by the corporation.

(3) If the corporation's representative shows up, anything that needs to be done in front of the accused person, or needs to be read, stated, or explained to the accused, should be done in front of the representative instead. If the accused needs to be questioned, the representative will be questioned instead.

(4) If the corporation's representative does not show up, the requirements mentioned in point (3) do not apply.

(5) If a written statement, signed by the managing director or an authorized person of the corporation, says that a certain person is appointed as the representative, the Court will assume this is true unless proven otherwise.

(6) If there is any doubt about whether the person appearing as the representative of the corporation is actually the representative, the Court will decide on this matter.

Explanation using Example

Example 1:

Scenario: A large manufacturing company, XYZ Ltd., is accused of violating environmental regulations by discharging pollutants into a river.

Application of Section 342:

Appointment of Representative: XYZ Ltd. appoints its Chief Legal Officer, Mr. Sharma, as its representative for the trial.

Court Proceedings: During the trial, all legal requirements such as reading charges, presenting evidence, and examining the accused are conducted in the presence of Mr. Sharma.

Written Statement: A written statement signed by the Managing Director of XYZ Ltd. is submitted to the court, stating that Mr. Sharma is the appointed representative. The court presumes Mr. Sharma's appointment unless proven otherwise.

Non-Appearance: If Mr. Sharma fails to appear in court, the legal requirements to perform actions in the presence of the accused do not apply.

Example 2:

Scenario: A registered society, Green Earth Society, is accused of financial mismanagement and embezzlement of funds.

Application of Section 342:

Appointment of Representative: Green Earth Society appoints its Treasurer, Ms. Gupta, as its representative for the inquiry.

Court Proceedings: During the inquiry, all necessary legal actions such as explaining charges, presenting documents, and examining the accused are carried out in the presence of Ms. Gupta.

Written Statement: A written statement signed by the President of Green Earth Society is filed in court, indicating that Ms. Gupta is the appointed representative. The court accepts this unless there is evidence to the contrary.

Non-Appearance: If Ms. Gupta does not appear for the inquiry, the requirements to perform actions in the presence of the accused are waived.

Example 3:

Scenario: A tech startup, InnovateTech Pvt. Ltd., is accused of data privacy violations under the Information Technology Act.

Application of Section 342:

Appointment of Representative: InnovateTech Pvt. Ltd. appoints its Chief Technology Officer (CTO), Mr. Verma, as its representative for the trial.

Court Proceedings: All trial procedures, including reading out the charges, presenting evidence, and examining the accused, are conducted in the presence of Mr. Verma.

Written Statement: A written statement signed by the CEO of InnovateTech Pvt. Ltd. is submitted, confirming Mr. Verma's appointment as the representative. The court presumes the validity of this appointment unless challenged.

Non-Appearance: If Mr. Verma does not appear in court, the legal requirements to perform actions in the presence of the accused do not apply.

Example 4:

Scenario: A cooperative society, Farmers' Cooperative Society, is accused of not adhering to the cooperative laws and regulations.

Application of Section 342:

Appointment of Representative: Farmers' Cooperative Society appoints its Secretary, Mr. Patel, as its representative for the trial.

Court Proceedings: During the trial, all necessary legal actions such as reading charges, presenting evidence, and examining the accused are conducted in the presence of Mr. Patel.

Written Statement: A written statement signed by the Chairman of Farmers' Cooperative Society is filed in court, indicating that Mr. Patel is the appointed representative. The court accepts this unless there is evidence to the contrary.

Non-Appearance: If Mr. Patel does not appear for the trial, the requirements to perform actions in the presence of the accused are waived.

Section 343: Tender of pardon to accomplice.

(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to -

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under any other law for the time being in force;

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record -

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1) -

(a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case -

(a) commit it for trial -

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(ii) to a Court of Special Judge appointed under any other law for the time being in force, if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

SIMPLIFIED ACTS

(1) To get evidence from someone who might be involved in a crime, the Chief Judicial Magistrate or a Magistrate of the first class can offer a pardon at any point during the investigation, inquiry, or trial. This pardon is given on the condition that the person fully and truthfully reveals everything they know about the crime and everyone involved in it.

(2) This section applies to:

(a) Any crime that can only be tried by the Court of Session or a Special Judge appointed under any current law.

(b) Any crime that can be punished with up to seven years in prison or a more severe sentence.

(3) Every Magistrate who offers a pardon under section (1) must record:

(a) The reasons for offering the pardon.

(b) Whether the person accepted the pardon or not.

The accused can request a free copy of this record.

(4) Anyone who accepts a pardon under section (1):

(a) Must testify as a witness in the Magistrate's Court and in any later trial.

(b) Will be kept in custody until the trial ends, unless they are already out on bail.

(5) If someone accepts a pardon and testifies under section (4), the Magistrate handling the case must, without further inquiry:

(a) Send the case for trial:

(i) To the Court of Session if the crime can only be tried there or if the Magistrate is the Chief Judicial Magistrate.

(ii) To a Special Judge's Court if the crime can only be tried there.

(b) In any other situation, hand the case over to the Chief Judicial Magistrate, who will then try the case.

Explanation using Example

Example 1:

Scenario: A major robbery has taken place in a jewelry store in Mumbai. The police have arrested three suspects: Raj, Simran, and Aman. During the investigation, it becomes clear that Aman has lesser involvement compared to Raj and Simran, who are the main perpetrators.

Application of Section 343:

The Chief Judicial Magistrate decides to offer Aman a pardon in exchange for his full and true disclosure of the crime and the involvement of Raj and Simran.

Aman accepts the pardon and provides detailed information about the planning and execution of the robbery, implicating Raj and Simran as the masterminds.

The Magistrate records the reasons for offering the pardon and Aman's acceptance.

Aman is then examined as a witness in the court and provides testimony against Raj and Simran.

Aman is detained in custody until the trial concludes, as he is not on bail.

Based on Aman's testimony, the Magistrate commits the case for trial to the Court of Session, as the robbery is a serious offense triable exclusively by that court.

Example 2:

Scenario: A large-scale drug trafficking operation is uncovered in Delhi. The police arrest several individuals, including a minor player named Ravi, who was responsible for transporting the drugs.

Application of Section 343:

The Magistrate of the first class, during the inquiry, offers Ravi a pardon on the condition that he makes a full and true disclosure of the drug trafficking network and the key players involved.

Ravi accepts the pardon and reveals critical information about the drug cartel, including the names of the leaders and the operational details.

The Magistrate records the reasons for offering the pardon and Ravi's acceptance.

Ravi is examined as a witness in the court and provides crucial evidence against the main traffickers.

Since Ravi is not on bail, he is detained in custody until the trial is over.

The Magistrate, without further inquiry, commits the case for trial to the Court of Special Judge appointed under the Narcotic Drugs and Psychotropic Substances Act, as the offense is triable exclusively by that court.

Example 3:

Scenario: A high-profile corruption case involving a government official, Mr. Sharma, is under investigation. The police have arrested Mr. Sharma and his assistant, Mr. Verma.

Application of Section 343:

The Chief Judicial Magistrate offers Mr. Verma a pardon in exchange for his full and true disclosure of the corruption scheme and Mr. Sharma's involvement.

Mr. Verma accepts the pardon and provides detailed information about the corruption activities, including how bribes were taken and distributed.

The Magistrate records the reasons for offering the pardon and Mr. Verma's acceptance.

Mr. Verma is examined as a witness in the court and provides testimony against Mr. Sharma.

Mr. Verma is detained in custody until the trial concludes, as he is not on bail.

Based on Mr. Verma's testimony, the Magistrate commits the case for trial to the Court of Session, as the corruption case is a serious offense triable exclusively by that court.

Section 344: 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.

SIMPLIFIED ACTS

At any time after a case has been officially started but before a decision is made, the Court handling the case can offer a pardon to someone.

This pardon can be offered to a person who is believed to be involved in the crime, either directly or indirectly.

The purpose of offering this pardon is to get that person's testimony during the trial.

The pardon is given under certain conditions that the person must agree to.

Explanation using Example

Example 1:

Ravi and Suresh are accused of being involved in a large-scale financial fraud. The case has been committed to the Sessions Court for trial. During the trial, the prosecution realizes that Ravi has crucial information about the entire operation, including the involvement of other key players. To strengthen their case, the Court decides to offer Ravi a pardon on the condition that he provides full and truthful testimony against Suresh and the other accused. Ravi accepts the pardon and testifies, leading to the conviction of Suresh and others involved in the fraud.

Example 2:

Meena and Priya are arrested for their involvement in a drug trafficking ring. The case is committed to the Sessions Court. The prosecution believes that Meena has detailed knowledge about the drug network and its operations. To dismantle the entire network, the Court offers Meena a pardon if she agrees to testify against the ring leaders and provide comprehensive information about the trafficking operations. Meena agrees to the terms, and her testimony helps law enforcement agencies to arrest and convict the main perpetrators of the drug trafficking ring.

Section 345: Trial of person not complying with conditions of pardon.

Section on Tender of Pardon

(1) Where, in regard to a person who has accepted a tender of pardon made under section 343 or section 344, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 215 or section 379 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 183 or by a Court under sub-section (4) of section 343 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Court shall -

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

(b) if it is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken, ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Sanhita, pass judgment of acquittal.

SIMPLIFIED ACTS

Section on Tender of Pardon

(1) If a person has accepted a pardon offered under section 343 or section 344, and the Public Prosecutor believes that this person has either hidden important information on purpose or lied, the person can be put on trial for the crime they were pardoned for or any other related crime, as well as for lying:

However, this person cannot be tried together with other accused people.

Also, this person cannot be tried for lying without the approval of the High Court, and sections 215 or 379 do not apply to this situation.

(2) Any statement made by the person who accepted the pardon and recorded by a Magistrate under section 183 or by a Court under section 343(4) can be used as evidence against them in the trial.

(3) During the trial, the accused person can claim that they followed the conditions of the pardon. If they do, the prosecution must prove that the conditions were not followed.

(4) During the trial, the Court must:

(a) If it is a Court of Session, ask the accused if they followed the conditions of the pardon before reading out the charges.

(b) If it is a Magistrate's Court, ask the accused if they followed the conditions of the pardon before hearing the prosecution's witnesses.

(5) If the accused claims they followed the conditions, the Court will record this and continue with the trial. Before giving a final judgment, the Court must decide if the accused

followed the conditions of the pardon. If the Court finds that the accused did follow the conditions, it must acquit the accused, regardless of anything else in this law.

Explanation using Example

Example 1:

Ravi was involved in a large-scale financial fraud case. To gather more evidence and prosecute the main culprits, the Public Prosecutor offered Ravi a pardon under Section 343 of The Bharatiya Nagarik Suraksha Sanhita 2023, on the condition that he would provide truthful testimony against the other accused. Ravi accepted the pardon and testified in court.

However, during the trial, it was discovered that Ravi had deliberately concealed crucial information about the fraud and had given false evidence. The Public Prosecutor certified that Ravi had not complied with the conditions of the pardon. As a result, Ravi was put on trial for the original financial fraud, any other related offenses, and the offense of giving false evidence.

Before the trial began, the court asked Ravi if he pleaded that he had complied with the conditions of the pardon. Ravi claimed he had complied, so the prosecution had to prove that he had not. The court found that Ravi had indeed failed to comply with the conditions and proceeded with the trial, ultimately convicting him for the offenses.

Example 2:

Sunita was a member of a criminal gang involved in drug trafficking. To dismantle the gang, the Public Prosecutor offered her a pardon under Section 344 of The Bharatiya Nagarik Suraksha Sanhita 2023, provided she would fully disclose all information about the gang's operations and testify against the gang leaders. Sunita accepted the pardon and gave a statement to the Magistrate under Section 183.

Later, it was revealed that Sunita had lied about the locations of drug stashes and had hidden the involvement of certain key members. The Public Prosecutor certified that Sunita had not complied with the conditions of the pardon. Consequently, Sunita was tried for her involvement in drug trafficking and for giving false evidence.

During the trial, the court asked Sunita if she pleaded that she had complied with the conditions of the pardon. Sunita insisted she had complied, so the burden was on the prosecution to prove otherwise. The court found that Sunita had not complied with the conditions and proceeded with the trial, leading to her conviction for the offenses.

Example 3:

Ajay was involved in a high-profile corruption case. To secure his cooperation in testifying against senior officials, the Public Prosecutor offered him a pardon under Section 343 of

The Bharatiya Nagarik Suraksha Sanhita 2023. Ajay accepted the pardon and provided a detailed statement to the court under sub-section (4) of Section 343.

During the trial, it was found that Ajay had omitted significant details about the involvement of a key official. The Public Prosecutor certified that Ajay had not complied with the conditions of the pardon. Ajay was then tried for the original corruption charges and for giving false evidence.

Before the trial commenced, the court asked Ajay if he pleaded that he had complied with the conditions of the pardon. Ajay claimed compliance, so the prosecution had to prove non-compliance. The court determined that Ajay had not met the conditions and proceeded with the trial, resulting in his conviction for the offenses.

Section 346: Power to postpone or adjourn proceedings.

(1)

In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet.

(2)

If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him:

Provided also that -

- (a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;
- (b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the reasons to be recorded in writing;
- (c) the fact that the advocate of a party is engaged in another Court, shall not be a ground for adjournment;
- (d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1

If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2

The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

SIMPLIFIED ACTS

(1)

In every investigation or trial, the process should continue every day until all the witnesses present have been questioned, unless the Court finds it necessary to delay it for a reason that must be written down:

However, if the investigation or trial is about an offence under sections 64, 65, 66, 67, 68, 70, or 71 of the Bharatiya Nyaya Sanhita, 2023, it must be finished within two months from the date the chargesheet is filed.

(2)

If the Court, after starting to look into an offence or beginning a trial, thinks it needs to delay or pause the investigation or trial, it can do so for a reasonable amount of time, as long as it writes down the reasons. The Court can also send the accused back to custody with a warrant if they are already in custody:

However, the Court cannot send an accused person back to custody for more than fifteen days at a time:

Also, if witnesses are present, the Court cannot delay or pause the trial without questioning them, unless there is a special reason written down:

Additionally, no delay should be given just to allow the accused person to argue against the sentence they might receive:

Furthermore -

(a) No delay should be given at the request of a party, unless the situation is out of that party's control;

(b) If the situation is out of a party's control, the Court can only give two delays after hearing the other party's objections and writing down the reasons;

(c) The fact that a party's lawyer is busy in another Court is not a valid reason for a delay;

(d) If a witness is present in Court but a party or their lawyer is not, or if they are present but not ready to question the witness, the Court can record the witness's statement and make decisions without the questioning.

Explanation 1

If there is enough evidence to suspect that the accused might have committed an offence, and it seems likely that more evidence can be found by keeping the accused in custody longer, this is a good reason to keep them in custody.

Explanation 2

The conditions for granting a delay or pause can include, in some cases, the payment of costs by either the prosecution or the accused.

Explanation using Example

Example 1:

Rajesh is accused of theft under Section 64 of the Bharatiya Nyaya Sanhita, 2023. The chargesheet is filed on January 1, 2023. The court starts the trial on January 10, 2023. According to Section 346 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the trial must be completed within two months from the date of filing the chargesheet. Therefore, the court must conclude the trial by March 1, 2023. The court schedules daily hearings to ensure all witnesses are examined promptly. However, on January 20, 2023, a key witness falls ill and cannot attend the court. The court records the reason and adjourns the trial for three days, resuming on January 23, 2023. The trial is completed by February 28, 2023, within the stipulated two-month period.

Example 2:

Priya is accused of fraud under Section 65 of the Bharatiya Nyaya Sanhita, 2023. The trial begins, and the court schedules daily hearings. On the third day of the trial, Priya's lawyer requests an adjournment because he is engaged in another court. The court denies the request, stating that the engagement of the advocate in another court is not a valid ground for adjournment under Section 346. The trial continues, and all witnesses present are examined. Later, Priya's lawyer requests another adjournment due to unforeseen personal circumstances. The court grants the adjournment but records the reasons in writing and ensures that no more than two adjournments are granted for reasons beyond the control of the party. The trial proceeds without unnecessary delays, ensuring a fair and timely process.

Section 347: Local inspection.

Inspection by Judge or Magistrate

(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

SIMPLIFIED ACTS

Inspection by Judge or Magistrate

(1) A Judge or Magistrate can, at any point during an investigation, trial, or other legal process, after informing the involved parties, visit and inspect the place where a crime is said to have happened, or any other place they think is important to see to understand the evidence better. They must quickly write down any important details they notice during this visit.

(2) This written record will become part of the case file. If the prosecutor, the person who made the complaint, the accused, or any other party involved in the case wants a copy of this record, they can get it for free.

Explanation using Example

Example 1:

Scenario: A burglary case in a residential area.

Details: A burglary is reported in a house in Mumbai. During the trial, the defense argues that the layout of the house makes it impossible for the accused to have committed the crime in the manner described by the prosecution.

Application of Section 347:

The Judge decides to visit the house to inspect the layout and understand the evidence better.

The Judge notifies both the prosecution and the defense about the visit.

During the inspection, the Judge observes the layout, entry points, and other relevant details.

The Judge records a memorandum noting the observations, such as the visibility from the street, the distance between the entry points, and any obstacles that might affect the prosecution's claims.

This memorandum is added to the case record.

Both the prosecution and the defense are provided with a copy of this memorandum free of cost.

Example 2:

Scenario: A land dispute involving alleged encroachment.

Details: Two neighbors in Delhi are involved in a legal dispute over a piece of land. One neighbor claims that the other has encroached on their property by building a wall that extends into their land.

Application of Section 347:

The Magistrate handling the case decides that an inspection of the disputed land is necessary to understand the claims and counterclaims.

The Magistrate informs both parties about the planned visit.

During the inspection, the Magistrate measures the land, examines the wall, and notes the positions of various landmarks mentioned in the evidence.

The Magistrate records a memorandum detailing the measurements, the position of the wall, and any other relevant observations.

This memorandum is included in the case record.

Both neighbors receive a copy of the memorandum free of cost, ensuring transparency and fairness in the proceedings.

Section 348: Power to summon material witness, or examine person present.

Any Court may, at any stage of any inquiry, trial or other proceeding under this Sanhita, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or re-call and re-examine any person already examined; and the Court shall summon and examine or re-call and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

SIMPLIFIED ACTS

Any Court can, at any point during an investigation, trial, or other legal process under this law, do the following:

Call any person to be a witness.

Question any person who is present, even if they were not called as a witness.

Call back and question again any person who has already been questioned.

The Court must call, question, or call back and question again any person if their testimony seems important for making a fair decision in the case.

Explanation using Example

Example 1:

Scenario: A theft case is being tried in a district court in Mumbai. During the trial, the defense lawyer realizes that a key witness, who was present at the scene of the crime but was not initially summoned, could provide crucial information.

Application of Section 348: The defense lawyer requests the court to summon this key witness. The judge, recognizing the importance of the witness's testimony for a fair decision, uses the power granted under Section 348 to summon the witness to testify in court.

Example 2:

Scenario: In a fraud case in Delhi, a witness who had already testified is found to have additional information that could significantly impact the outcome of the trial. This information comes to light after the witness has been excused.

Application of Section 348: The prosecution requests the court to re-call and re-examine the witness. The judge, understanding that the new information is essential for a just decision, exercises the power under Section 348 to re-call the witness for further examination.

Example 3:

Scenario: During a murder trial in Bangalore, a person who was attending the court proceedings as a spectator is overheard discussing details of the case that suggest they have firsthand knowledge of the crime.

Application of Section 348: The judge, upon hearing this, decides to examine the person present in the courtroom, even though they were not initially summoned as a witness. The judge uses the authority under Section 348 to question the person to ensure all relevant information is considered in the trial.

Example 4:

Scenario: In a corruption case in Chennai, midway through the trial, new evidence surfaces indicating that a previously unexamined government official has critical information about the accused's activities.

Application of Section 348: The court, recognizing the importance of this new evidence, decides to summon the government official as a witness. The judge uses the power under Section 348 to ensure the official's testimony is included in the proceedings for a fair and just decision.

Section 349: Power of Magistrate to order person to give specimen signatures or handwriting, etc.

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

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

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

SIMPLIFIED ACTS

If a first-class Magistrate believes it is necessary for an investigation or legal process, they can order any person, including someone accused of a crime, to provide samples of their signature, fingerprints, handwriting, or voice.

The person who receives this order must show up at the specified time and place to provide the requested samples.

However, this order can only be given if the person has been arrested at some point in connection with the investigation or legal process.

Additionally, the Magistrate can order someone to provide these samples even if they haven't been arrested, but they must write down the reasons for doing so.

Explanation using Example

Example 1:

Scenario: A bank robbery has occurred, and the police have arrested a suspect named Rajesh. During the investigation, the police find a note at the crime scene with handwriting that they believe belongs to the robber. To confirm this, they need a handwriting sample from Rajesh.

Application of Section 349: The police approach a Magistrate of the first class and present their case, explaining why they believe Rajesh's handwriting sample is crucial for the investigation. The Magistrate, satisfied with the necessity of the sample for the investigation, issues an order directing Rajesh to provide a specimen of his handwriting. Rajesh is then required to attend at the specified time and place to give his handwriting sample.

Example 2:

Scenario: A high-profile corruption case is under investigation, and the police suspect that a government official named Priya has been involved in the scandal. They have several voice recordings of conversations related to the case and need to match these with Priya's voice to confirm her involvement.

Application of Section 349: The police request the Magistrate to order Priya to provide a voice sample. The Magistrate, after reviewing the evidence and the necessity of the voice sample for the investigation, issues an order for Priya to give her voice sample. Priya, who has not been arrested but is under investigation, is required to comply with the order and provide her voice sample at the specified time and place.

Example 3:

Scenario: During an investigation into a forgery case, the police have arrested a suspect named Anil. They have several documents with forged signatures and need to compare these with Anil's signature to establish a link.

Application of Section 349: The police present their request to a Magistrate of the first class, explaining the importance of obtaining Anil's specimen signatures for the investigation. The Magistrate, convinced of the necessity, issues an order directing Anil to provide his specimen signatures. Anil is then required to attend at the specified time and place to give his specimen signatures.

Example 4:

Scenario: In a cybercrime investigation, the police suspect that a person named Sunita has been sending threatening emails. They need her fingerprint impressions to match with those found on the keyboard used to send the emails.

Application of Section 349: The police approach the Magistrate and explain the need for Sunita's fingerprint impressions to further their investigation. The Magistrate, satisfied with the necessity, issues an order for Sunita to provide her fingerprint impressions. Sunita, who has been arrested in connection with the investigation, is required to comply with the order and provide her fingerprint impressions at the specified time and place.

Section 350: 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 the Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Sanhita.

SIMPLIFIED ACTS

If the State Government has set any rules, a Criminal Court can decide to pay reasonable expenses for any complainant or witness who comes to the court for an inquiry, trial, or other legal proceeding.

The payment will be made by the Government.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, witnesses a robbery in his neighborhood. He reports the incident to the police, and the case goes to trial. Ravi is called to testify as a witness. The trial takes place in a court located far from his shop, causing him to incur travel expenses and lose a day's earnings. Under Section 350 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court may order the government to reimburse Ravi for his travel expenses and compensate him for the loss of earnings, ensuring that he is not financially burdened for fulfilling his civic duty.

Example 2:

Meena, a resident of Delhi, files a complaint against her landlord for illegal eviction. The case is taken up by the local criminal court. Meena has to attend multiple hearings, which require her to take leave from work and spend money on transportation. The court, recognizing the financial strain on Meena, decides to order the government to cover her reasonable expenses for attending the court proceedings. This ensures that Meena can pursue her case without worrying about the financial implications of attending the hearings.

Section 351: Power to examine accused.

Inquiry or Trial Procedures

(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court -

(a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case:

Provided that in a summons case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.

SIMPLIFIED ACTS

Inquiry or Trial Procedures

(1) During any investigation or trial, to help the accused person explain any evidence against them, the Court -

(a) can ask the accused questions at any time without giving prior notice if the Court thinks it's necessary;

(b) must ask the accused general questions about the case after the prosecution witnesses have been questioned and before the accused presents their defense:

However, in minor cases where the Court has allowed the accused not to be present, it can also skip questioning the accused under clause (b).

(2) The accused will not be required to take an oath when answering questions under section (1).

(3) The accused will not be punished for refusing to answer these questions or for giving false answers.

(4) The answers given by the accused can be used in the current investigation or trial and can also be used as evidence in any other investigation or trial for any other crime that the answers might suggest the accused has committed.

(5) The Court can get help from the Prosecutor and Defense Counsel to prepare relevant questions for the accused, and the Court may allow the accused to submit a written statement instead of answering questions directly.

Explanation using Example

Example 1:

Scenario: Raj is accused of theft in a local market. During the trial, several witnesses testify that they saw Raj near the scene of the crime.

Application of Section 351:

Court's Power to Question: The judge, without prior warning, asks Raj directly, "Were you present at the market on the day of the theft?" This is done to allow Raj to explain his presence.

General Questioning: After the prosecution's witnesses have been examined, the judge questions Raj generally about the case, asking, "Can you explain why multiple witnesses saw you at the market?"

No Oath: Raj is not required to take an oath before answering these questions.

Refusal to Answer: Raj refuses to answer some questions. He is not punished for this refusal.

Consideration of Answers: Raj's answers, where he claims he was at the market to meet a friend, are considered by the court in the trial. If Raj's answers suggest involvement in another crime, this information can be used in a separate trial.

Assistance from Counsel: The judge consults with both the prosecutor and Raj's defense lawyer to frame relevant questions. Raj is also allowed to submit a written statement explaining his side of the story.

Example 2:

Scenario: Priya is accused of fraud in a business deal. The prosecution presents documents and witness testimonies against her.

Application of Section 351:

Court's Power to Question: The judge asks Priya, "Did you sign these documents knowing they contained false information?" without prior warning.

General Questioning: After the prosecution's witnesses are done testifying, the judge asks Priya, "Can you explain your role in the business deal?"

No Oath: Priya is not required to take an oath before answering.

Refusal to Answer: Priya chooses to remain silent on some questions. She is not penalized for this.

Consideration of Answers: Priya's answers, where she claims she was misled by her business partner, are taken into account by the court. If her answers indicate she committed another offense, this can be used in a different trial.

Assistance from Counsel: The judge works with both the prosecutor and Priya's defense lawyer to prepare questions. Priya is permitted to submit a written statement as her explanation.

Example 3:

Scenario: Anil is accused of assault during a neighborhood dispute. Witnesses testify that Anil was seen hitting the victim.

Application of Section 351:

Court's Power to Question: The judge asks Anil, "Did you have a physical altercation with the victim?" without prior warning.

General Questioning: After the prosecution's witnesses have been examined, the judge questions Anil, "What led to the altercation with the victim?"

No Oath: Anil is not required to take an oath before answering.

Refusal to Answer: Anil refuses to answer some questions. He is not punished for this refusal.

Consideration of Answers: Anil's answers, where he claims self-defense, are considered by the court. If his answers suggest involvement in another crime, this information can be used in a separate trial.

Assistance from Counsel: The judge consults with both the prosecutor and Anil's defense lawyer to frame relevant questions. Anil is also allowed to submit a written statement explaining his side of the story.

Section 352: Oral arguments and memorandum of arguments.

(1) Any party to a proceeding may, as soon as may be, after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the Court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.

(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

SIMPLIFIED ACTS

(1) After finishing presenting their evidence, any party in a case can give a short speech to explain their arguments. Before finishing this speech, they can also give the Court a written summary of their arguments, clearly organized. This written summary will be included in the official records of the case.

(2) A copy of this written summary must be given to the other party at the same time.

(3) The Court will not delay the case just to allow time for writing these arguments, unless the Court writes down specific reasons why it is necessary to do so.

(4) If the Court thinks the spoken arguments are too long or not relevant, it can control and limit these arguments.

Explanation using Example

Example 1:

Scenario: Rajesh is involved in a civil dispute over property ownership with his neighbor, Suresh. After presenting all his evidence in court, Rajesh wants to make sure his arguments are clearly understood by the judge.

Application of Section 352:

Oral Arguments: Rajesh, after presenting his evidence, addresses the court with concise oral arguments summarizing why he believes the property belongs to him.

Memorandum Submission: Before concluding his oral arguments, Rajesh submits a written memorandum to the court, clearly outlining his key points under distinct headings.

Copy to Opposite Party: Rajesh ensures that a copy of this memorandum is simultaneously given to Suresh.

No Adjournment for Written Arguments: The court does not grant any adjournment for filing written arguments unless it finds a valid reason to do so and records it in writing.

Regulation of Oral Arguments: If Rajesh's oral arguments are too lengthy or irrelevant, the court may intervene to ensure they are concise and pertinent.

Example 2:

Scenario: Priya is defending herself in a criminal trial where she is accused of theft. After presenting her defense evidence, she wants to make a strong closing argument.

Application of Section 352:

Oral Arguments: Priya, after closing her evidence, addresses the court with concise oral arguments, emphasizing her innocence and pointing out flaws in the prosecution's case.

Memorandum Submission: Before finishing her oral arguments, Priya submits a memorandum to the court, listing her arguments under clear headings, such as "Alibi Evidence," "Lack of Motive," and "Witness Credibility."

Copy to Opposite Party: Priya provides a copy of this memorandum to the prosecution team at the same time.

No Adjournment for Written Arguments: The court does not allow any delay in the proceedings for the purpose of filing written arguments unless it finds a compelling reason and documents it.

Regulation of Oral Arguments: If Priya's oral arguments start to deviate from the main points or become too verbose, the court may step in to ensure they remain focused and relevant.

Section 353: Accused person to be competent witness.

(1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that -

- (a) he shall not be called as a witness except on his own request in writing;
- (b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

(2) Any person against whom proceedings are instituted in any Criminal Court under section 101, or section 126, or section 127, or section 128, or section 129, or under Chapter X or under Part B, Part C or Part D of Chapter XI, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 127, section 128, or section 129, the failure of such person to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry.

SIMPLIFIED ACTS

(1) If someone is accused of a crime in a Criminal Court, they can choose to be a witness for their own defense and can testify under oath to disprove the charges against them or anyone else charged with them in the same trial:

Provided that -

- (a) they can only be a witness if they ask to be in writing;
- (b) if they decide not to testify, no one (including the parties involved or the Court) can comment on their decision or assume they are guilty because of it.

(2) If someone is facing legal proceedings in a Criminal Court under section 101, 126, 127, 128, 129, or under Chapter X or Parts B, C, or D of Chapter XI, they can choose to be a witness in those proceedings:

Provided that in proceedings under section 127, 128, or 129, if they decide not to testify, no one (including the parties involved or the Court) can comment on their decision or assume they are guilty because of it.

Explanation using Example

Example 1:

Ravi is accused of theft and is being tried in a criminal court. According to Section 353 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi has the right to be a witness for his own defense. Ravi decides to give evidence on oath to disprove the charges against him. He submits a written request to the court expressing his desire to testify. During the trial, Ravi takes the stand and provides his testimony, explaining his whereabouts and actions during the time the theft occurred. The court considers his testimony along with other evidence before making a judgment.

Example 2:

Sita and her friend Meera are both accused of cheating in a business deal and are being tried together. Sita wants to testify in her defense to disprove the charges. She submits a written request to the court to be called as a witness. During the trial, Sita gives evidence on oath, explaining her version of events and providing documents to support her claims. Meera, on the other hand, chooses not to testify. According to the provisions of Section 353, the court and the parties involved are not allowed to comment on Meera's decision not to testify, and no negative presumption can be made against her for not giving evidence.

Example 3:

Arjun is facing proceedings in a criminal court under Section 127 for failing to provide maintenance to his elderly parents. Arjun decides not to testify in his defense. According to Section 353(2) of The Bharatiya Nagarik Suraksha Sanhita 2023, his failure to give evidence cannot be commented upon by any party or the court, and no presumption can be made against him for not testifying. The court will make its decision based on the other evidence presented during the proceedings.

Example 4:

Priya is accused of public nuisance under Chapter X of The Bharatiya Nagarik Suraksha Sanhita 2023. She decides to testify in her defense and submits a written request to the court. During the trial, Priya provides her testimony, explaining that she was not present at the location where the nuisance occurred. The court considers her testimony along with other evidence before reaching a verdict. Priya's decision to testify is entirely voluntary, and her testimony is treated as part of the defense evidence.

Section 354: No influence to be used to induce disclosure.

Except as provided in sections 343 and 344, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

SIMPLIFIED ACTS

Except for the situations described in sections 343 and 344, no one is allowed to use promises, threats, or any other means to make an accused person reveal or hide any information they know.

Explanation using Example

Example 1:

Ravi is accused of theft and is being interrogated by the police. During the interrogation, the police officer promises Ravi that if he confesses to the crime, he will receive a lighter sentence. According to Section 354 of The Bharatiya Nagarik Suraksha Sanhita 2023, this promise is considered an influence and is not allowed. Ravi's confession under such a promise would be inadmissible in court.

Example 2:

Priya is suspected of being involved in a fraud case. During her questioning, the investigating officer threatens her with severe consequences if she does not reveal the names of her accomplices. Under Section 354 of The Bharatiya Nagarik Suraksha Sanhita 2023, such a threat is prohibited. Any information Priya provides under this threat cannot be used against her in the trial, as it was obtained through undue influence.

Section 355: Provision for inquiries and trial being held in absence of accused in certain cases.

(1) At any stage of an inquiry or trial under this Sanhita, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by an advocate, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by an advocate, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

Explanation. - For the purpose of this section, personal attendance of the accused includes attendance through audio-video electronic means.

SIMPLIFIED ACTS

Section

(1) During any investigation or trial under this law, if the Judge or Magistrate believes, and writes down the reasons, that the accused person does not need to be present in court for justice to be served, or if the accused keeps disrupting the court proceedings, the Judge or Magistrate can allow the trial to continue without the accused being there, as long as the accused has a lawyer representing them. The Judge or Magistrate can also later require the accused to attend in person if needed.

(2) If the accused does not have a lawyer, or if the Judge or Magistrate thinks the accused needs to be there in person, the Judge or Magistrate can either postpone the trial or decide to handle the accused's case separately, and must write down the reasons for this decision.

Explanation. - For this section, being present in court includes attending through video or audio electronic means.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of a minor theft and is currently out on bail. He is represented by his advocate, Mr. Sharma. During the trial, Rajesh repeatedly disrupts the court proceedings by shouting and refusing to follow the court's instructions.

Application of Section 355: The Judge, noting Rajesh's persistent disturbances, decides that his personal attendance is not necessary for the interests of justice. The Judge records the reasons for this decision and allows the trial to proceed in Rajesh's absence, as long as Mr. Sharma continues to represent him. The Judge also notes that Rajesh can be called to attend personally at any subsequent stage if required.

Example 2:

Scenario: Priya is accused of a serious fraud case and is not represented by an advocate. She has been attending all court hearings diligently. However, due to a medical emergency, she is unable to attend the next scheduled hearing.

Application of Section 355: The Magistrate, considering the necessity of Priya's personal attendance for the trial and the fact that she is not represented by an advocate, decides to adjourn the trial to a later date. The Magistrate records the reasons for this adjournment, ensuring that Priya's right to a fair trial is maintained.

Example 3:

Scenario: Anil is accused of a traffic violation and is represented by his advocate, Ms. Kapoor. Anil is a businessman who frequently travels abroad for work. He requests the court to allow the trial to proceed in his absence as his presence is not crucial for the minor nature of the case.

Application of Section 355: The Judge, after reviewing the case details and Anil's request, is satisfied that Anil's personal attendance is not necessary in the interests of justice. The Judge records the reasons and permits the trial to continue in Anil's absence, with Ms. Kapoor representing him. The Judge also notes that Anil can be required to attend personally if needed at any later stage of the trial.

Example 4:

Scenario: Sunita is accused of domestic violence and is represented by her advocate, Mr. Verma. During the trial, Sunita falls ill and is hospitalized. Her advocate requests the court to proceed with the trial in her absence.

Application of Section 355: The Magistrate, considering Sunita's medical condition and the fact that she is represented by an advocate, decides that her personal attendance is not necessary at this stage. The Magistrate records the reasons and allows the trial to proceed in Sunita's absence, with Mr. Verma representing her. The Magistrate also notes that Sunita can be called to attend personally if her presence becomes necessary later in the trial.

Section 356: Inquiry, trial or judgment in absentia of proclaimed offender.

(1) Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment:

Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.

(2) The Court shall ensure that the following procedure has been complied with before proceeding under sub-section (1), namely:

- (i) issuance of two consecutive warrants of arrest within the interval of at least thirty days;
- (ii) publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;
- (iii) inform his relative or friend, if any, about the commencement of the trial; and

(iv) affix information about the commencement of the trial on some conspicuous part of the house or homestead in which such person ordinarily resides and display in the police station of the district of his last known address of residence.

(3) Where the proclaimed offender is not represented by any advocate, he shall be provided with an advocate for his defence at the expense of the State.

(4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:

Provided that if the proclaimed offender is arrested and produced or appears before the Court during such trial, the Court may, in the interest of justice, allow him to examine any evidence which may have been taken in his absence.

(5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio-video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct.

(6) In prosecution for offences under this Sanhita, voluntary absence of accused after the trial has commenced under sub-section (1) shall not prevent continuing the trial including the pronouncement of the judgment even if he is arrested and produced or appears at the conclusion of such trial.

(7) No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal:

Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.

(8) The State may, by notification, extend the provisions of this section to any absconder mentioned in sub-section (1) of section 84.

SIMPLIFIED ACTS

(1) Even if other laws say otherwise, if someone is declared a proclaimed offender (a person who is avoiding trial), and they have run away to avoid being caught, the court can continue with the trial without them being there. The court must write down the reasons for this decision and can proceed as if the person was present. However, the trial cannot start until 90 days after the charges were made.

(2) Before the court can proceed without the person, it must do the following:

(i) Issue two arrest warrants at least 30 days apart.

(ii) Publish a notice in a national or local newspaper where the person last lived, telling them to come to court and warning that the trial will start without them if they don't show up within 30 days.

(iii) Inform a relative or friend of the person about the trial starting.

(iv) Post information about the trial on a noticeable part of the person's house and at the local police station.

(3) If the person does not have a lawyer, the state will provide one for them.

(4) If the court has already heard from witnesses and recorded their statements, these statements can be used against the person during the trial. If the person is caught or shows up during the trial, the court may allow them to review the evidence taken in their absence.

(5) The court should try to record witness statements using audio or video, preferably with a mobile phone, and keep these recordings as directed by the court.

(6) If the person voluntarily stays away after the trial has started, the trial can continue and a judgment can be made even if they are caught or show up at the end of the trial.

(7) The person cannot appeal the judgment unless they present themselves in the appeal court. No appeal against a conviction can be made after three years from the judgment date.

(8) The state can extend these rules to any absconder mentioned in section 84 by issuing a notification.

Explanation using Example

Example 1:

Ravi is accused of a serious crime and is declared a proclaimed offender by the court. Despite multiple attempts to arrest him, Ravi absconds and evades trial. The court issues two consecutive warrants for his arrest, each 30 days apart, and publishes a notice in a local newspaper requiring Ravi to appear before the court within 30 days. The court also informs Ravi's brother and posts the notice on Ravi's house and at the local police station.

After 90 days from the date of framing the charge, Ravi still has not appeared. The court decides to proceed with the trial in Ravi's absence, recording the reasons in writing. During the trial, the court appoints a state-funded advocate to defend Ravi. Witnesses testify, and their depositions are recorded. The trial continues, and a judgment is pronounced as if Ravi were present.

Example 2:

Sunita is accused of fraud and declared a proclaimed offender. She flees to avoid trial. The court issues two arrest warrants 30 days apart and publishes a notice in a national newspaper. The notice informs Sunita that she must appear within 30 days or the trial will proceed without her. The court also informs Sunita's friend and posts the notice at her last known residence and the local police station.

After 90 days, Sunita has not appeared. The court proceeds with the trial in her absence, appointing a state-funded advocate for her defense. Witnesses' testimonies are recorded via audio-video means. During the trial, Sunita is arrested and brought to court. The court allows her to examine the evidence presented in her absence. The trial continues, and a judgment is pronounced.

Example 3:

Ajay is accused of theft and declared a proclaimed offender. He absconds, and the court issues two arrest warrants 30 days apart. A notice is published in a local newspaper, and Ajay's cousin is informed. The notice is also posted at Ajay's last known residence and the local police station.

After 90 days, Ajay has not appeared. The court proceeds with the trial in his absence, appointing a state-funded advocate for his defense. Witnesses testify, and their depositions are recorded. The trial continues, and a judgment is pronounced. Ajay later appears before the court of appeal but is informed that he cannot appeal the judgment as more than three years have passed since the judgment date.

Section 357: Procedure where accused does not understand proceedings.

If the accused, though not a person of unsound mind, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

SIMPLIFIED ACTS

If the accused person is not mentally ill but still cannot understand the court proceedings, the Court can continue with the inquiry or trial.

If a lower court (not a High Court) finds the accused guilty, it must send the case details and a report to the High Court.

The High Court will then review the case and decide what to do next.

Explanation using Example

Example 1:

Scenario: Ramesh, a villager from a remote area, is accused of theft. He speaks only a rare dialect and has no formal education. During the trial, it becomes evident that Ramesh cannot understand the legal proceedings despite not being of unsound mind.

Application of Section 357: The court decides to proceed with the trial. Ramesh is found guilty based on the evidence presented. Since the trial court is not a High Court, the proceedings, along with a detailed report explaining Ramesh's inability to understand the proceedings, are forwarded to the High Court. The High Court reviews the case and decides whether to uphold the conviction, order a retrial, or take any other appropriate action.

Example 2:

Scenario: Meena, a migrant worker from a different state, is accused of assault. She does not understand the local language and is unfamiliar with the legal system. Despite efforts to explain the proceedings, she remains confused and unable to follow the trial.

Application of Section 357: The court continues with the trial, ensuring that all legal protocols are followed. Meena is convicted based on the evidence. Since the trial court is a lower court, the case, along with a report detailing Meena's inability to comprehend the proceedings, is sent to the High Court. The High Court examines the circumstances and decides on the appropriate course of action, which could include confirming the conviction, ordering a new trial, or any other suitable order.

Section 358: Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then -

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

SIMPLIFIED ACTS

(1) If, during an investigation or trial of a crime, the evidence shows that someone other than the accused person has also committed a crime that could be tried together with the accused, the Court can take action against that person for the crime they seem to have committed.

(2) If that person is not present in Court, they can be arrested or summoned to appear, depending on what the situation requires.

(3) If that person is present in Court, even if they are not under arrest or have not been summoned, the Court can keep them there for the investigation or trial of the crime they seem to have committed.

(4) If the Court decides to take action against someone under point (1), then -

(a) the legal process for that person will start over, and the witnesses will be heard again;

(b) except for the restart mentioned in (a), the case will continue as if that person had been an accused from the beginning when the Court first started the investigation or trial.

Explanation using Example

Example 1:

Scenario: During a trial for a robbery case, the evidence presented in court suggests that another person, Rajesh, who is not currently an accused, was also involved in the crime.

Application of Section 358:

Court's Observation: The court notices from the evidence that Rajesh appears to have committed an offence related to the robbery.

Proceeding Against Rajesh: The court decides to proceed against Rajesh for his involvement in the robbery.

Rajesh's Attendance: Rajesh is not present in the court. The court issues a summons for Rajesh to appear before it.

Fresh Proceedings: Once Rajesh appears in court, the proceedings against him commence afresh, and the witnesses are re-heard.

Continuation of Case: The case continues as if Rajesh had been an accused from the beginning of the trial.

Example 2:

Scenario: During an inquiry into a fraud case, it becomes evident that another individual, Priya, who is attending the court as a witness, has also committed an offence related to the fraud.

Application of Section 358:

Court's Observation: The court finds from the evidence that Priya appears to have committed an offence related to the fraud.

Detaining Priya: Since Priya is already attending the court as a witness, the court detains her for the purpose of the inquiry into the offence she appears to have committed.

Fresh Proceedings: The court initiates fresh proceedings against Priya, and the witnesses are re-heard.

Continuation of Case: The case proceeds as if Priya had been an accused person from the start of the inquiry.

Example 3:

Scenario: During a trial for a drug trafficking case, evidence suggests that another person, Anil, who is not currently an accused, was involved in the trafficking operation.

Application of Section 358:

Court's Observation: The court observes from the evidence that Anil appears to have committed an offence related to drug trafficking.

Proceeding Against Anil: The court decides to proceed against Anil for his involvement in the drug trafficking.

Anil's Attendance: Anil is not present in the court. The court issues an arrest warrant for Anil to ensure his presence.

Fresh Proceedings: Once Anil is brought to court, the proceedings against him commence afresh, and the witnesses are re-heard.

Continuation of Case: The case continues as if Anil had been an accused from the beginning of the trial.

Section 359: Compounding of offences.

(1) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:

Section	Offence	Person by whom offence may be compounded
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Sections

SIMPLIFIED ACTS

(1) The crimes listed under the sections of the Bharatiya Nyaya Sanhita, 2023, which are shown in the first two columns of the Table below, can be settled or resolved by the people mentioned in the third column of that Table:

Section	Crime	Person who can settle the crime
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Explanation using Example

Example 1:

Scenario: Raj and Mohan are neighbors. One day, Raj accidentally damages Mohan's car while reversing his vehicle. Mohan files a complaint against Raj under Section 426 of the Bharatiya Nyaya Sanhita, 2023 for causing mischief.

Application of Section 359:

Offence: Mischief (Section 426)

Person by whom offence may be compounded: The person whose property is damaged (Mohan)

Outcome: Mohan decides to forgive Raj after Raj apologizes and agrees to pay for the car repairs. Mohan informs the court that he wishes to compound the offence. The court allows the compounding, and the case is closed without further legal proceedings.

Example 2:

Scenario: Priya and Anjali are colleagues. During a heated argument, Priya slaps Anjali. Anjali files a complaint against Priya under Section 323 of the Bharatiya Nyaya Sanhita, 2023 for voluntarily causing hurt.

Application of Section 359:

Offence: Voluntarily causing hurt (Section 323)

Person by whom offence may be compounded: The person hurt (Anjali)

Outcome: Priya apologizes to Anjali and they agree to settle the matter amicably. Anjali informs the court that she wishes to compound the offence. The court permits the compounding, and the case is dismissed.

Example 3:

Scenario: Ramesh borrows Rs. 50,000 from Suresh but fails to repay the amount on time. Suresh files a complaint under Section 406 of the Bharatiya Nyaya Sanhita, 2023 for criminal breach of trust.

Application of Section 359:

Offence: Criminal breach of trust (Section 406)

Person by whom offence may be compounded: The person to whom the trust is breached (Suresh)

Outcome: Ramesh agrees to repay the borrowed amount along with some interest. Suresh accepts the repayment and decides to compound the offence. He informs the court, and the court allows the compounding, leading to the closure of the case.

Example 4:

Scenario: Sunita and her friend Meena have a dispute over a piece of jewelry. Sunita accuses Meena of theft and files a complaint under Section 379 of the Bharatiya Nyaya Sanhita, 2023 for theft.

Application of Section 359:

Offence: Theft (Section 379)

Person by whom offence may be compounded: The owner of the property stolen (Sunita)

Outcome: Meena returns the jewelry to Sunita and apologizes. Sunita decides to forgive Meena and informs the court that she wishes to compound the offence. The court permits the compounding, and the case is dismissed.

Table I

Bare Act

Offence Section of the Bharatiya Nyaya Sanhita, 2023 applicable

Person by whom offence may be compounded

Offence	Section	Person by whom offence may be compounded
Enticing or taking away or	84	The husband of the

Offence	Section	Person by whom offence may be compounded
detaining with criminal intent a married woman.		woman and the woman.
Voluntarily causing hurt.	115 (2)	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	122 (1)	The person to whom the hurt is caused.
Voluntarily causing grievous hurt on grave and sudden provocation.	122 (2)	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	126 (2), 127 (2)	The person restrained or confined.
Wrongfully confining a person for three days or more.	127 (3)	The person confined.
Wrongfully confining a person for ten days or more.	127 (4)	The person confined.
Wrongfully confining a person in secret.	127 (6)	The person confined.
Assault or use of criminal force.	131, 133, 136	The person assaulted or to whom criminal force is used.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	302	The person whose religious feelings are intended to be wounded.

Offence	Section	Person by whom offence may be compounded
Theft.	303 (2)	The owner of the property stolen.
Dishonest misappropriation of property.	314	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	316 (3)	The owner of the property in respect of which the breach of trust has been committed.
Dishonestly receiving stolen property knowing it to be stolen.	317 (2)	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	317 (5)	The owner of the property stolen.
Cheating.	318 (2)	The person cheated.
Cheating by personation.	319 (2)	The person cheated.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	320	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	321	The creditors who are affected thereby.

Offence	Section	Person by whom offence may be compounded
Fraudulent execution of deed of transfer containing false statement of consideration.	322	The person affected thereby.
Fraudulent removal or concealment of property.	323	The person affected thereby.
Mischief, when the only loss or damage caused is loss or damage to a private person.	324 (2), 324 (4)	The person to whom the loss or damage is caused.
Mischief by killing or maiming animal.	325	The owner of the animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	326 (a)	The person to whom the loss or damage is caused.
Criminal trespass.	329 (3)	The person in possession of the property trespassed upon.
House-trespass.	329 (4)	The person in possession of the property trespassed upon.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	332 (c)	The person in possession of the house trespassed upon.

Offence	Section	Person by whom offence may be compounded
Using a false trade or property mark.	345 (3)	The person to whom loss or injury is caused by such use.
Counterfeiting a property mark used by another.	347 (1)	The person to whom loss or injury is caused by such use.
Selling goods marked with a counterfeit property mark.	349	The person to whom loss or injury is caused by such use.
Criminal intimidation.	351 (2), 351 (3)	The person intimidated.
Insult intended to provoke a breach of peace.	352	The person insulted.
Inducing person to believe himself an object of divine displeasure.	354	The person induced.
Defamation, except such cases as are specified against section 356 (2) of the Bharatiya Nyaya Sanhita, 2023, column 1 of the Table under sub-section (2).	356 (2)	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	356 (3)	The person defamed.
Sale of printed or engraved substance containing defamatory matter, knowing it	356 (4)	The person defamed.

Offence	Section	Person by whom offence may be compounded
to contain such matter.		
Criminal breach of contract of service.	357	The person with whom the offender has contracted.

(2) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 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:

SIMPLIFIED ACTS

Offence Section of the Bharatiya Nyaya Sanhita, 2023 applicable

Who Can Settle the Offence

Offence	Section	Who Can Settle the Offence
Enticing or taking away or detaining with criminal intent a married woman.	84	The husband of the woman and the woman.
Voluntarily causing hurt.	115 (2)	The person who got hurt.
Voluntarily causing hurt on provocation.	122 (1)	The person who got hurt.
Voluntarily causing grievous hurt on grave and sudden provocation.	122 (2)	The person who got hurt.
Wrongfully restraining or confining any person.	126 (2), 127 (2)	The person who was restrained or confined.
Wrongfully confining a person for three	127 (3)	The person who was

Offence	Section	Who Can Settle the Offence
days or more.		confined.
Wrongfully confining a person for ten days or more.	127 (4)	The person who was confined.
Wrongfully confining a person in secret.	127 (6)	The person who was confined.
Assault or use of criminal force.	131, 133, 136	The person who was assaulted or had criminal force used against them.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	302	The person whose religious feelings were hurt.
Theft.	303 (2)	The owner of the stolen property.
Dishonest misappropriation of property.	314	The owner of the misappropriated property.
Criminal breach of trust by a carrier, wharfinger, etc.	316 (3)	The owner of the property involved in the breach of trust.
Dishonestly receiving stolen property knowing it to be stolen.	317 (2)	The owner of the stolen property.
Assisting in the concealment or disposal of stolen property, knowing it	317 (5)	The owner of the stolen property.

Offence	Section	Who Can Settle the Offence
to be stolen.		
Cheating.	318 (2)	The person who was cheated.
Cheating by personation.	319 (2)	The person who was cheated.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	320	The creditors who are affected.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	321	The creditors who are affected.
Fraudulent execution of deed of transfer containing false statement of consideration.	322	The person affected.
Fraudulent removal or concealment of property.	323	The person affected.
Mischief, when the only loss or damage caused is loss or damage to a private person.	324 (2), 324 (4)	The person who suffered the loss or damage.
Mischief by killing or maiming animal.	325	The owner of the animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	326 (a)	The person who suffered the loss or damage.

Offence	Section	Who Can Settle the Offence
Criminal trespass.	329 (3)	The person in possession of the property trespassed upon.
House-trespass.	329 (4)	The person in possession of the property trespassed upon.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	332 (c)	The person in possession of the house trespassed upon.
Using a false trade or property mark.	345 (3)	The person who suffered loss or injury from the false mark.
Counterfeiting a property mark used by another.	347 (1)	The person who suffered loss or injury from the counterfeit mark.
Selling goods marked with a counterfeit property mark.	349	The person who suffered loss or injury from the counterfeit mark.
Criminal intimidation.	351 (2), 351 (3)	The person who was intimidated.
Insult intended to provoke a breach of peace.	352	The person who was insulted.
Inducing person to believe himself an object of divine displeasure.	354	The person who was induced.

Offence	Section	Who Can Settle the Offence
Defamation, except such cases as are specified against section 356 (2) of the Bharatiya Nyaya Sanhita, 2023, column 1 of the Table under sub-section (2).	356 (2)	The person who was defamed.
Printing or engraving matter, knowing it to be defamatory.	356 (3)	The person who was defamed.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	356 (4)	The person who was defamed.
Criminal breach of contract of service.	357	The person with whom the offender had the contract.

(2) The offences punishable under the sections of the Bharatiya Nyaya Sanhita, 2023 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 settled by the persons mentioned in the third column of that Table:

Explanation using Example

Example 1:

Scenario: Ramesh and Suresh are neighbors. One day, during a heated argument, Ramesh pushes Suresh, causing him to fall and get hurt. Suresh suffers minor injuries.

Applicable Offence: Voluntarily causing hurt.

Section: 115 (2)

Person by whom offence may be compounded: The person to whom the hurt is caused (Suresh).

Real-life Application: Suresh decides to file a complaint against Ramesh for causing hurt. However, after some time, Ramesh apologizes and offers to pay for Suresh's medical expenses. Suresh accepts the apology and decides to withdraw the complaint. With the court's permission, the offence is compounded, and the case is closed.

Example 2:

Scenario: Priya, a married woman, is enticed away by her neighbor, Raj, who has criminal intentions. Priya's husband, Arun, finds out and files a complaint against Raj.

Applicable Offence: Enticing or taking away or detaining with criminal intent a married woman.

Section: 84

Person by whom offence may be compounded: The husband of the woman (Arun) and the woman (Priya).

Real-life Application: After filing the complaint, Raj realizes his mistake and apologizes to both Priya and Arun. Priya and Arun decide to forgive Raj and want to withdraw the complaint. With the court's permission, the offence is compounded, and the case is closed.

Example 3:

Scenario: Anil wrongfully confines his employee, Ravi, in a room for three days due to a misunderstanding about missing company funds.

Applicable Offence: Wrongfully confining a person for three days or more.

Section: 127 (3)

Person by whom offence may be compounded: The person confined (Ravi).

Real-life Application: Ravi files a complaint against Anil for wrongful confinement. Later, Anil realizes his mistake and apologizes to Ravi, offering compensation for the trouble caused. Ravi accepts the apology and decides to withdraw the complaint. With the court's permission, the offence is compounded, and the case is closed.

Example 4:

Scenario: Sunita's neighbor, Meena, utters derogatory words with the intent to wound Sunita's religious feelings during a community event.

Applicable Offence: Uttering words, etc., with deliberate intent to wound the religious feelings of any person.

Section: 302

Person by whom offence may be compounded: The person whose religious feelings are intended to be wounded (Sunita).

Real-life Application: Sunita files a complaint against Meena for hurting her religious feelings. Meena later apologizes and promises not to repeat such behavior. Sunita decides

to forgive Meena and withdraw the complaint. With the court's permission, the offence is compounded, and the case is closed.

Example 5:

Scenario: Rohit steals a bicycle belonging to his friend, Amit.

Applicable Offence: Theft.

Section: 303 (2)

Person by whom offence may be compounded: The owner of the property stolen (Amit).

Real-life Application: Amit files a complaint against Rohit for stealing his bicycle. Rohit returns the bicycle and apologizes to Amit. Amit decides to forgive Rohit and withdraw the complaint. With the court's permission, the offence is compounded, and the case is closed.

Table II

Bare Act

Offence and Compounding

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
Word, gesture or act intended to insult the modesty of a woman.	79	The woman whom it was intended to insult or whose privacy was intruded upon.
Marrying again during the life-time of a husband or wife.	82 (1)	The husband or wife of the person so marrying.
Causing miscarriage.	88	The woman to whom miscarriage is caused.

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
Voluntarily causing grievous hurt.	117 (2)	The person to whom hurt is caused.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	125 (a)	The person to whom hurt is caused.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	125 (b)	The person to whom hurt is caused.
Assault or criminal force in attempting wrongfully to confine a person.	135	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	306	The owner of the property stolen.
Criminal breach of trust.	316 (2)	The owner of the property in respect of which breach of trust has been committed.
Criminal breach of trust by a	316 (4)	The owner of the property in respect

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person by whom offence may be compounded
clerk or servant.		of which the breach of trust has been committed.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	318 (3)	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	318 (4)	The person cheated.
Defamation against the President or the Vice-President or the Governor of the State or the Administrator of the Union territory or a Minister in respect of his public functions when instituted upon a complaint made by the public prosecutor.	356 (2)	The person defamed.

(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under sub-section (5) of section 3 or section 190 of the Bharatiya Nyaya Sanhita, 2023, may be compounded in like manner.

(4)

(a) When the person who would otherwise be competent to compound an offence under this section is a child or of unsound mind, any person competent to contract on his behalf may, with the permission of the Court, compound such offence;

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

(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 in the exercise of its powers of revision under section 442 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

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

SIMPLIFIED ACTS

Offence and Compounding

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person who can settle the offence
Word, gesture or act intended to insult the modesty of a woman.	79	The woman who was insulted or whose privacy was invaded.
Marrying again while your spouse is still alive.	82 (1)	The current husband or wife of the person who remarried.
Causing a miscarriage.	88	The woman who had the

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person who can settle the offence
		miscarriage.
Intentionally causing serious injury.	117 (2)	The person who was injured.
Causing injury by acting recklessly and carelessly, endangering human life or safety.	125 (a)	The person who was injured.
Causing serious injury by acting recklessly and carelessly, endangering human life or safety.	125 (b)	The person who was injured.
Assault or using criminal force while trying to wrongfully confine someone.	135	The person who was assaulted or confined.
Theft by a clerk or servant of property belonging to their employer.	306	The owner of the stolen property.
Criminal breach of trust.	316 (2)	The owner of the property involved in the breach of trust.
Criminal breach of trust by a clerk or servant.	316 (4)	The owner of the property involved in the breach of trust.
Cheating someone whose interests the offender was legally bound to protect.	318 (3)	The person who was cheated.

Offence	Section of the Bharatiya Nyaya Sanhita applicable	Person who can settle the offence
Cheating and dishonestly inducing someone to give up property or alter/destroy a valuable security.	318 (4)	The person who was cheated.
Defamation against high-ranking officials like the President, Vice-President, Governor, or a Minister, when the complaint is made by the public prosecutor.	356 (2)	The person who was defamed.

(3) If an offence can be settled under this section, then helping someone commit that offence, attempting to commit it (if the attempt is also an offence), or being liable under certain sections of the Bharatiya Nyaya Sanhita, 2023, can also be settled in the same way.

(4)

(a) If the person who can settle the offence is a child or mentally unfit, someone who can legally act on their behalf can settle the offence with the Court's permission.

(b) If the person who can settle the offence has died, their legal representative can settle the offence with the Court's consent.

(5) If the accused is on trial or has been convicted and an appeal is pending, the offence cannot be settled without the Court's permission.

(6) A High Court or Court of Session can allow someone to settle an offence if that person is legally allowed to do so under this section.

(7) An offence cannot be settled if the accused has a previous conviction that would lead to a harsher or different punishment.

(8) Settling an offence under this section will result in the accused being acquitted.

(9) No offence can be settled except as provided by this section.

Explanation using Example

Example 1:

Scenario: Ramesh, a clerk, steals Rs. 10,000 from his employer's cash register.

Applicable Section: Theft by clerk or servant of property in possession of master (Section 306 of the Bharatiya Nyaya Sanhita).

Compounding: Ramesh's employer, who is the owner of the stolen property, decides to forgive Ramesh and does not want to pursue legal action. The employer can compound the offence, meaning they can settle the matter out of court, and Ramesh will not face criminal charges.

Example 2:

Scenario: Priya, a woman, is insulted by her neighbor, who makes inappropriate gestures towards her.

Applicable Section: Word, gesture or act intended to insult the modesty of a woman (Section 79 of the Bharatiya Nyaya Sanhita).

Compounding: Priya, the woman who was insulted, decides to forgive her neighbor after he apologizes sincerely. She can compound the offence, meaning she can settle the matter out of court, and her neighbor will not face criminal charges.

Example 3:

Scenario: Sunita, a pregnant woman, suffers a miscarriage due to the negligence of a local doctor.

Applicable Section: Causing miscarriage (Section 88 of the Bharatiya Nyaya Sanhita).

Compounding: Sunita, the woman who suffered the miscarriage, decides to forgive the doctor after he expresses remorse and offers compensation. She can compound the offence, meaning she can settle the matter out of court, and the doctor will not face criminal charges.

Example 4:

Scenario: Rajesh, a driver, causes grievous hurt to a pedestrian by driving rashly and negligently.

Applicable Section: Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others (Section 125(b) of the Bharatiya Nyaya Sanhita).

Compounding: The pedestrian, who was hurt, decides to forgive Rajesh after he apologizes and offers to cover medical expenses. The pedestrian can compound the offence, meaning they can settle the matter out of court, and Rajesh will not face criminal charges.

Example 5:

Scenario: Anil, a servant, commits criminal breach of trust by misappropriating funds entrusted to him by his employer.

Applicable Section: Criminal breach of trust by a clerk or servant (Section 316(4) of the Bharatiya Nyaya Sanhita).

Compounding: Anil's employer, who is the owner of the misappropriated funds, decides to forgive Anil after he returns the money and promises not to repeat the offence. The employer can compound the offence, meaning they can settle the matter out of court, and Anil will not face criminal charges.

Section 360: 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 any one 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 Sanhita no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence -

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

(ii) was investigated under any Central Act; or

(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government; or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

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:

Provided further that no Court shall allow such withdrawal without giving an opportunity of being heard to the victim in the case.

SIMPLIFIED ACTS

The Public Prosecutor or Assistant Public Prosecutor handling a case can, with the Court's permission, stop prosecuting someone at any time before the final decision is made. This can be done for all charges or just some of them. When this happens:

- (a) If it happens before any formal charges are made, the accused person will be released from those charges.
- (b) If it happens after formal charges are made, or if no formal charges are needed, the accused person will be found not guilty of those charges.

However, if the crime:

- (i) is related to a law that the central government is responsible for, or
- (ii) was investigated under a central law, or
- (iii) involved stealing, destroying, or damaging property belonging to the central government, or
- (iv) was committed by someone working for the central government while doing their job,

and the Prosecutor in charge was not appointed by the central government, the Prosecutor must get permission from the central government before asking the Court to stop the prosecution. The Court will also ask to see this permission before agreeing to stop the prosecution.

Additionally, the Court will not allow the prosecution to be stopped without first giving the victim a chance to speak.

Explanation using Example

Example 1:

Scenario: A Public Prosecutor is handling a case where an individual, Rajesh, is accused of theft under Section 379 of the Indian Penal Code. During the trial, new evidence emerges that strongly suggests Rajesh is innocent. The Public Prosecutor decides to withdraw from the prosecution.

Application of Section 360:

The Public Prosecutor seeks the consent of the Court to withdraw from the prosecution before the judgment is pronounced.

The Court consents to the withdrawal.

Since the withdrawal is made before a charge has been framed, Rajesh is discharged in respect of the theft offence.

Outcome: Rajesh is discharged from the case, and no further legal proceedings will be conducted against him for this offence.

Example 2:

Scenario: An Assistant Public Prosecutor is prosecuting a government employee, Suresh, for allegedly misappropriating funds from a Central Government project. The case is being tried under the Prevention of Corruption Act. Midway through the trial, the Prosecutor realizes that the evidence is insufficient to secure a conviction and decides to withdraw from the prosecution.

Application of Section 360:

The Assistant Public Prosecutor seeks the Court's consent to withdraw from the prosecution.

Since the offence involves misappropriation of Central Government property and the Prosecutor was not appointed by the Central Government, the Prosecutor must obtain permission from the Central Government to withdraw.

The Court directs the Prosecutor to produce the permission granted by the Central Government.

The Central Government grants permission, and the Prosecutor presents this to the Court.

The Court consents to the withdrawal.

Since the withdrawal is made after a charge has been framed, Suresh is acquitted in respect of the misappropriation offence.

Outcome: Suresh is acquitted of the charges, and the case is closed.

Example 3:

Scenario: A Public Prosecutor is handling a case where an individual, Priya, is accused of damaging public property during a protest. The case is being tried under the Prevention of Damage to Public Property Act. The victim, in this case, is the local municipal corporation. The Prosecutor decides to withdraw from the prosecution due to lack of evidence.

Application of Section 360:

The Public Prosecutor seeks the Court's consent to withdraw from the prosecution.

The Court, before giving consent, provides an opportunity for the municipal corporation (the victim) to be heard.

The municipal corporation presents its concerns, but the Court finds the Prosecutor's reasons for withdrawal valid.

The Court consents to the withdrawal.

Since the withdrawal is made after a charge has been framed, Priya is acquitted in respect of the damage to public property offence.

Outcome: Priya is acquitted of the charges, and the case is closed.

Section 361: Procedure in cases which Magistrate can not dispose of.

(1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption -

(a) that he has no jurisdiction to try the case or commit it for trial; or

(b) that the case is one which should be tried or committed for trial by some other Magistrate in the district; or

(c) that the case should be tried by the Chief Judicial Magistrate,

he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judicial Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

SIMPLIFIED ACTS

(1) If, during an investigation or trial in front of a Magistrate in any district, the evidence suggests:

(a) that the Magistrate does not have the authority to handle the case; or

(b) that the case should be handled by a different Magistrate in the district; or

(c) that the case should be handled by the Chief Judicial Magistrate,

the Magistrate must pause the proceedings and send the case, along with a brief report explaining the situation, to the Chief Judicial Magistrate or another Magistrate who has the authority, as directed by the Chief Judicial Magistrate.

(2) The Magistrate who receives the case can, if they have the power, either handle the case themselves, refer it to another Magistrate under their authority who has the power to handle it, or send the accused to trial.

Explanation using Example

Example 1:

Scenario: A local Magistrate in a small town is conducting an inquiry into a theft case. During the inquiry, it becomes evident that the accused is also involved in a larger organized crime syndicate operating across multiple districts.

Application of Section 361:

The local Magistrate realizes that the complexity and scale of the case are beyond his jurisdiction.

He determines that the case should be tried by the Chief Judicial Magistrate due to its serious nature and wider implications.

The local Magistrate stays the proceedings and submits the case, along with a brief report explaining the involvement of the organized crime syndicate, to the Chief Judicial Magistrate.

The Chief Judicial Magistrate, upon reviewing the report, decides to take over the case personally due to its significance.

Example 2:

Scenario: A Magistrate in a district court is handling a case of domestic violence. During the trial, new evidence surfaces indicating that the accused has committed similar offenses in another district, and those cases are already under investigation by another Magistrate.

Application of Section 361:

The Magistrate realizes that he does not have jurisdiction over the offenses committed in the other district.

He concludes that the case should be consolidated and tried by the Magistrate in the other district who is already handling related cases.

The Magistrate stays the proceedings and submits the case, along with a brief report detailing the new evidence and the related cases in the other district, to the Chief Judicial Magistrate.

The Chief Judicial Magistrate reviews the report and directs the case to be transferred to the other district's Magistrate for a comprehensive trial.

Example 3:

Scenario: A Magistrate in a district court is conducting a trial for a minor traffic violation. During the trial, it is discovered that the accused is also facing charges for a serious hit-and-run case in the same district, which should be tried by a higher authority.

Application of Section 361:

The Magistrate realizes that the hit-and-run case is beyond his jurisdiction and should be tried by the Chief Judicial Magistrate.

He decides that the minor traffic violation case should also be handled by the Chief Judicial Magistrate to ensure consistency and efficiency.

The Magistrate stays the proceedings and submits the case, along with a brief report explaining the connection to the hit-and-run case, to the Chief Judicial Magistrate.

The Chief Judicial Magistrate, upon reviewing the report, decides to take over both cases to ensure a fair and comprehensive trial.

Section 362: Procedure when after commencement of inquiry or trial, Magistrate finds case should be committed.

If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing the judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XIX shall apply to the commitment so made.

SIMPLIFIED ACTS

If during an investigation or trial before a Magistrate, it becomes clear at any point before the final decision is made that the case should be handled by the Court of Session, the Magistrate must send the case to that Court.

When the case is sent to the Court of Session, the rules in Chapter XIX will apply to the case.

Explanation using Example

Example 1:

Scenario: A Magistrate is conducting an inquiry into a case of grievous assault.

Details: During the inquiry, the Magistrate reviews the evidence and testimonies presented. The evidence includes medical reports showing severe injuries and witness statements indicating that the assault was premeditated and involved the use of a deadly weapon.

Application of Section 362: The Magistrate realizes that the severity and nature of the offence suggest that it should be tried by the Court of Session, which handles more serious criminal cases. Before signing any judgment, the Magistrate decides to commit the case to the Court of Session for trial.

Outcome: The case is transferred to the Court of Session, where it will be tried under the appropriate legal provisions for serious offences.

Example 2:

Scenario: A Magistrate is presiding over a trial for a case of kidnapping.

Details: As the trial progresses, the Magistrate hears evidence that the kidnapping was part of a larger criminal conspiracy involving multiple individuals and cross-border elements. The complexity and gravity of the case become apparent.

Application of Section 362: Recognizing that the case involves serious charges that require the jurisdiction of the Court of Session, the Magistrate decides to commit the case to that court before concluding the trial.

Outcome: The case is committed to the Court of Session, where it will be handled with the necessary legal expertise and resources to address the serious nature of the charges.

Section 363: Trial of persons previously convicted of offences against coinage, stamp-law or property.

(1) Where a person, having been convicted of an offence punishable under Chapter X or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023, with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, and the Magistrate before whom the case is pending is satisfied that there is ground for presuming that such person has committed the offence, he shall be sent for trial to the Chief Judicial Magistrate or committed to the Court of Session, unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to the Court of Session under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharges such other person under section 262 or section 268, as the case may be.

SIMPLIFIED ACTS

(1) If someone has already been found guilty of a crime under Chapter X or Chapter XVII of the Bharatiya Nyaya Sanhita, 2023, and could be jailed for three years or more, and they are accused of another similar crime, the following will happen: If the judge handling the case believes there is enough evidence that the person committed the crime, the person will be sent to the Chief Judicial Magistrate or the Court of Session for trial. However, if the current judge is allowed to handle such cases and thinks they can give a fair punishment, they may choose to handle the case themselves.

(2) If a person is sent to the Chief Judicial Magistrate or the Court of Session for trial as described above, anyone else accused of the same crime with them will also be sent to the same court, unless the judge decides to release that other person based on sections 262 or 268.

Explanation using Example

Example 1:

Ravi was previously convicted of a serious property crime under Chapter XVII of the Bharatiya Nyaya Sanhita, 2023, and was sentenced to four years in prison. After serving his sentence, Ravi is accused again of a similar property crime that carries a potential sentence of three years or more. The Magistrate handling Ravi's new case reviews the evidence and believes there is enough reason to think Ravi committed the new crime. Since the Magistrate feels that the case is beyond his jurisdiction to pass an adequate sentence, he decides to send Ravi for trial to the Chief Judicial Magistrate.

Example 2:

Sita was convicted of a crime related to counterfeiting currency under Chapter X of the Bharatiya Nyaya Sanhita, 2023, and received a five-year prison sentence. After her release, she is accused of another counterfeiting offense, which also carries a potential sentence of three years or more. The Magistrate in charge of her new case finds sufficient grounds to believe she committed the offense. Since the Magistrate is not competent to try the case himself, he sends Sita for trial to the Court of Session. Additionally, Sita's accomplice, Ramesh, who is also accused in the same case, is sent to the Court of Session for trial along with her, as the Magistrate does not find grounds to discharge him under section 262 or section 268.

Section 364: Procedure when Magistrate can not pass sentence sufficiently severe.

(1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond or bail bond under section 125, he may record the opinion and submit his proceedings, and forward the accused, to the Chief Judicial Magistrate to whom he is subordinate.

(2) When more accused persons than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1), in regard to any of such accused, he shall forward all the accused, who are in his opinion guilty, to the Chief Judicial Magistrate.

(3) The Chief Judicial Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence and shall pass such judgment, sentence or order in the case as he thinks fit, and is according to law.

SIMPLIFIED ACTS

(1) If a Magistrate believes, after hearing both sides, that the accused is guilty and deserves a different or harsher punishment than what the Magistrate can give, or if the Magistrate is of the second class and thinks the accused should post a bond under section 125, the Magistrate can write down this opinion and send the case and the accused to the Chief Judicial Magistrate.

(2) If there are multiple accused people being tried together, and the Magistrate thinks that some of them should be sent to the Chief Judicial Magistrate as described in (1), then the Magistrate should send all the accused who he thinks are guilty to the Chief Judicial Magistrate.

(3) The Chief Judicial Magistrate can review the case, talk to the parties involved, re-examine any witnesses, and gather more evidence if needed. The Chief Judicial Magistrate will then make a final decision, give a sentence, or issue an order based on the law.

Explanation using Example

Example 1:

Scenario: A Magistrate of the second class is presiding over a case where an individual, Rajesh, is accused of serious assault.

Details:

After hearing the evidence from both the prosecution and the defense, the Magistrate concludes that Rajesh is guilty.

The Magistrate believes that the severity of the assault warrants a punishment more severe than what he is authorized to impose.

The Magistrate records his opinion and submits the case proceedings, along with Rajesh, to the Chief Judicial Magistrate.

Outcome:

The Chief Judicial Magistrate reviews the case, examines the parties involved, and may recall witnesses if necessary.

After considering all the evidence, the Chief Judicial Magistrate decides on an appropriate sentence, which could be more severe than what the second-class Magistrate could impose.

Example 2:

Scenario: A Magistrate of the second class is handling a case involving multiple accused individuals, including Suresh and Ramesh, who are charged with theft.

Details:

During the trial, the Magistrate finds sufficient evidence to believe that both Suresh and Ramesh are guilty.

The Magistrate feels that the punishment required for Suresh is beyond his authority to impose.

He records his opinion and forwards the proceedings, along with both Suresh and Ramesh, to the Chief Judicial Magistrate.

Outcome:

The Chief Judicial Magistrate examines the case, including the evidence and testimonies.

The Chief Judicial Magistrate may call for additional evidence if needed.

After thorough examination, the Chief Judicial Magistrate passes a judgment and imposes sentences on both Suresh and Ramesh as per the law, which may include a more severe punishment for Suresh.

Example 3:

Scenario: A Magistrate of the second class is dealing with a case where an individual, Priya, is accused of repeated public nuisance.

Details:

After hearing the evidence, the Magistrate concludes that Priya is guilty and should be required to execute a bond to keep the peace under Section 125.

The Magistrate records his opinion and submits the proceedings, along with Priya, to the Chief Judicial Magistrate.

Outcome:

The Chief Judicial Magistrate reviews the case and may examine Priya and other witnesses.

The Chief Judicial Magistrate decides that Priya should execute a bond to ensure she does not commit further public nuisances.

The Chief Judicial Magistrate passes the order accordingly, ensuring that Priya complies with the bond requirements.

Example 4:

Scenario: A Magistrate of the second class is overseeing a case involving multiple accused individuals, including Anil and Sunil, charged with fraud.

Details:

The Magistrate finds that the evidence against Anil is strong and believes that a severe punishment is warranted, beyond his authority.

The Magistrate also finds Sunil guilty but within the punishment range he can impose.

The Magistrate records his opinion and forwards the proceedings, along with both Anil and Sunil, to the Chief Judicial Magistrate.

Outcome:

The Chief Judicial Magistrate examines the case, including the evidence and testimonies.

The Chief Judicial Magistrate may call for additional evidence if needed.

After thorough examination, the Chief Judicial Magistrate passes a judgment and imposes sentences on both Anil and Sunil, ensuring that Anil receives a more severe punishment as deemed appropriate.

Section 365: Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

Section

Transfer of Cases

(1) Whenever any Judge or Magistrate, after having heard and recorded the whole or any part of the evidence in any inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Judge or Magistrate who has and who exercises such jurisdiction, the Judge or Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself:

Provided that if the succeeding Judge or Magistrate is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Sanhita from one Judge to another Judge or from one Magistrate to another Magistrate, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of sub-section (1).

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 361 or in which proceedings have been submitted to a superior Magistrate under section 364.

SIMPLIFIED ACTS

Section

Transfer of Cases

(1) If a Judge or Magistrate has started hearing a case and recording evidence but then stops working on that case, and another Judge or Magistrate takes over, the new Judge or Magistrate can use the evidence already recorded by the previous one. They can also add new evidence themselves:

However, if the new Judge or Magistrate thinks it's important for justice to hear from any of the witnesses again, they can call those witnesses back. After asking more questions and allowing both sides to question the witnesses again, the witnesses can be released.

(2) When a case is moved from one Judge to another or from one Magistrate to another according to the rules of this law, the first Judge or Magistrate stops working on the case, and the new one takes over, as explained in part (1).

(3) This rule does not apply to quick trials, cases that have been paused under section 361, or cases that have been sent to a higher Magistrate under section 364.

Explanation using Example

Example 1:

Scenario: A theft case is being heard in a local Magistrate's court in Mumbai. Magistrate A has recorded the testimonies of three key witnesses. However, Magistrate A is transferred to another district before the trial is completed. Magistrate B takes over the case.

Application of Section 365:

Magistrate B can continue the trial using the evidence recorded by Magistrate A.

If Magistrate B feels that the testimony of one of the witnesses needs further clarification, he can summon that witness again for additional questioning.

After the further examination, cross-examination, and re-examination, the witness will be discharged, and the trial will proceed.

Example 2:

Scenario: A fraud case is being tried in a court in Delhi. Judge X has heard and recorded the statements of the accused and two witnesses. Judge X retires, and Judge Y takes over the case.

Application of Section 365:

Judge Y can use the evidence recorded by Judge X to continue the trial.

If Judge Y believes that the interests of justice require further questioning of the witnesses, he can call them back to the court.

Judge Y can then conduct further examination, cross-examination, and re-examination of the witnesses before discharging them and proceeding with the trial.

Example 3:

Scenario: A domestic violence case is being heard in a Magistrate's court in Bangalore. Magistrate C has recorded part of the evidence but is promoted to a higher court before completing the trial. Magistrate D takes over the case.

Application of Section 365:

Magistrate D can continue the trial using the evidence recorded by Magistrate C.

If Magistrate D thinks that additional questioning of any witness is necessary for a fair trial, he can re-summon the witness.

After conducting further examination, cross-examination, and re-examination, the witness will be discharged, and the trial will continue.

Example 4:

Scenario: A case involving a traffic accident is being heard in a local court in Chennai. Magistrate E has recorded the evidence of the police officer and one eyewitness. Magistrate E is then transferred to another court, and Magistrate F takes over.

Application of Section 365:

Magistrate F can proceed with the trial using the evidence recorded by Magistrate E.

If Magistrate F feels that the police officer's testimony needs further clarification, he can summon the officer again for additional questioning.

After the further examination, cross-examination, and re-examination, the officer will be discharged, and the trial will proceed.

Section 366: Court to be open.

Criminal Court Proceedings

(1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be conducted in camera:

Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court:

Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings except with the previous permission of the Court:

Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.

SIMPLIFIED ACTS

Criminal Court Proceedings

(1) Criminal Court sessions are generally open to the public, meaning anyone can attend as long as there is enough space:

However, the Judge or Magistrate in charge can decide at any point during the investigation or trial of a specific case that the public, or certain individuals, cannot enter or stay in the courtroom.

(2) Despite what is mentioned in point (1), cases involving rape or certain serious crimes listed in the Bharatiya Nyaya Sanhita, 2023, or the Protection of Children from Sexual Offences Act, 2012, must be held in private (in camera):

But, the Judge can allow specific people to attend if they think it's appropriate or if one of the parties involved requests it:

Additionally, these private trials should ideally be conducted by a female Judge or Magistrate whenever possible.

(3) For cases held in private as mentioned in point (2), it is illegal to print or publish any details about the proceedings without the Court's prior permission:

However, the restriction on publishing details of a rape trial can be lifted, provided the names and addresses of the involved parties are kept confidential.

Explanation using Example

Example 1:

Scenario: A Theft Case in a Local Court

Ravi is accused of theft and is being tried in a local criminal court. According to Section 366 of the Bharatiya Nagarik Suraksha Sanhita 2023, the courtroom is open to the public. Ravi's family, friends, and other members of the community can attend the trial to observe the proceedings. However, if the courtroom becomes too crowded, the judge may limit the number of people allowed inside to ensure the trial can proceed smoothly.

Example 2:

Scenario: A Rape Case in a District Court

Priya is a victim of rape, and her case is being tried in a district court. As per Section 366(2) of the Bharatiya Nagarik Suraksha Sanhita 2023, the trial must be conducted in camera, meaning it is closed to the public to protect Priya's privacy. Only the judge, lawyers, Priya, the accused, and essential court staff are present. Priya feels more comfortable knowing that her case is being handled discreetly. Additionally, the judge in this case is a woman, which aligns with the provision that in camera trials should be conducted by a woman judge or magistrate whenever possible.

Example 3:

Scenario: A Child Sexual Abuse Case

A 10-year-old child, Anil, is a victim of sexual abuse, and the case is being tried under the Protection of Children from Sexual Offences Act, 2012. The trial is conducted in camera to protect Anil's identity and ensure his comfort during the proceedings. The judge decides to

allow Anil's mother to be present in the courtroom to provide emotional support. The media is prohibited from publishing any details about the trial without the court's permission, ensuring Anil's identity and personal details remain confidential.

Example 4:

Scenario: A High-Profile Corruption Case

A high-profile corruption case involving a government official is being tried in a criminal court. The courtroom is open to the public, and many journalists and citizens are interested in attending. However, due to the high public interest, the courtroom reaches its capacity. The judge orders that no more people can enter the courtroom to maintain order and ensure the trial proceeds without disruption. If at any point the judge feels that the presence of certain individuals is causing a disturbance, he may order them to leave the courtroom.

Example 5:

Scenario: Media Reporting on a Rape Trial

During the trial of a rape case, a journalist wishes to report on the proceedings. According to Section 366(3) of the Bharatiya Nagarik Suraksha Sanhita 2023, the journalist must obtain prior permission from the court before publishing any details about the trial. The court grants permission but instructs the journalist to maintain the confidentiality of the victim's name and address. The journalist complies, ensuring that the victim's identity is protected while reporting on the case.

CHAPTER XXVII: PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

Section 367: Procedure in case of accused being person of unsound mind.

Legal Provisions for Persons of Unsound Mind

(1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is a person of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct, and thereupon shall examine such surgeon or other medical officer as a witness, and shall reduce the examination to writing.

(2) If the civil surgeon finds the accused to be a person of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist of Government hospital or Government medical college for care, treatment and prognosis of the condition and the

psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from unsoundness of mind or intellectual disability:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of -

(a) head of psychiatry unit in the nearest Government hospital; and

(b) a faculty member in psychiatry in the nearest Government medical college.

(3) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 369.

(4) If the Magistrate is informed that the person referred to in sub-section (2) is a person of unsound mind, the Magistrate shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if he finds that no prima facie case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under section 369:

Provided that if the Magistrate finds that a prima facie case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under section 369.

(5) If the Magistrate is informed that the person referred to in sub-section (2) is a person with intellectual disability, the Magistrate shall further determine whether the intellectual disability renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under section 369.

SIMPLIFIED ACTS

Legal Provisions for Persons of Unsound Mind

(1) If a Magistrate thinks that the person being investigated might be mentally ill and unable to defend themselves, the Magistrate will look into this. The Magistrate will have the person checked by a district civil surgeon or another medical officer chosen by the State Government. The Magistrate will then question this medical professional and write down their findings.

(2) If the civil surgeon believes the person is mentally ill, they will send the person to a government hospital or medical college to see a psychiatrist or clinical psychologist. This specialist will then tell the Magistrate if the person is mentally ill or has an intellectual disability.

If the accused disagrees with the specialist's opinion, they can appeal to a Medical Board, which includes:

(a) The head of the psychiatry unit at the nearest government hospital.

(b) A psychiatry faculty member at the nearest government medical college.

(3) While waiting for the examination and inquiry results, the Magistrate can handle the person according to section 369.

(4) If the Magistrate is told that the person is mentally ill, they will decide if this mental illness makes the person unable to defend themselves. If the person cannot defend themselves, the Magistrate will note this and review the evidence from the prosecution. After hearing from the accused's lawyer, if the Magistrate finds no clear case against the accused, they will release the accused and handle them as per section 369.

If the Magistrate finds a clear case against the accused, they will delay the proceedings for the time needed for the accused's treatment, as advised by the psychiatrist or clinical psychologist, and handle the accused as per section 369.

(5) If the Magistrate is told that the person has an intellectual disability, they will decide if this disability makes the person unable to defend themselves. If the person cannot defend themselves, the Magistrate will close the inquiry and handle the accused as per section 369.

Explanation using Example

Example 1:

Scenario: Ramesh, a 35-year-old man, is accused of theft. During the court proceedings, the Magistrate notices Ramesh's erratic behavior and suspects that he might be of unsound mind.

Application of the Act:

Inquiry by Magistrate: The Magistrate orders an inquiry into Ramesh's mental state and arranges for him to be examined by the district's civil surgeon.

Medical Examination: The civil surgeon examines Ramesh and finds signs of mental illness. Ramesh is then referred to a psychiatrist at a government hospital for further evaluation.

Psychiatrist's Report: The psychiatrist confirms that Ramesh is suffering from a severe mental disorder, making him incapable of defending himself in court. This information is communicated to the Magistrate.

Appeal Option: If Ramesh or his family disagrees with the psychiatrist's report, they can appeal to the Medical Board, which includes the head of the psychiatry unit at the nearest government hospital and a faculty member in psychiatry from the nearest government medical college.

Magistrate's Decision: Based on the psychiatrist's report, the Magistrate determines that Ramesh is indeed incapable of making his defense. The Magistrate examines the evidence presented by the prosecution and, finding no prima facie case against Ramesh, discharges him and arranges for his care as per Section 369.

Example 2:

Scenario: Sita, a 28-year-old woman, is accused of assault. During the trial, her lawyer informs the Magistrate that Sita has an intellectual disability.

Application of the Act:

Inquiry by Magistrate: The Magistrate orders an inquiry into Sita's mental condition and arranges for her to be examined by the district's civil surgeon.

Medical Examination: The civil surgeon examines Sita and refers her to a clinical psychologist at a government medical college for a detailed assessment.

Psychologist's Report: The clinical psychologist confirms that Sita has an intellectual disability that makes her incapable of defending herself in court. This information is communicated to the Magistrate.

Appeal Option: If Sita or her family disagrees with the psychologist's report, they can appeal to the Medical Board, which includes the head of the psychiatry unit at the nearest government hospital and a faculty member in psychiatry from the nearest government medical college.

Magistrate's Decision: Based on the psychologist's report, the Magistrate determines that Sita's intellectual disability renders her incapable of making her defense. The Magistrate orders the closure of the inquiry and arranges for Sita to be dealt with as per Section 369.

Example 3:

Scenario: Mohan, a 40-year-old man, is accused of fraud. During the trial, the Magistrate suspects that Mohan might be of unsound mind due to his incoherent speech and erratic behavior.

Application of the Act:

Inquiry by Magistrate: The Magistrate orders an inquiry into Mohan's mental state and arranges for him to be examined by the district's civil surgeon.

Medical Examination: The civil surgeon examines Mohan and finds signs of mental illness. Mohan is then referred to a psychiatrist at a government hospital for further evaluation.

Psychiatrist's Report: The psychiatrist confirms that Mohan is suffering from a mental disorder, making him incapable of defending himself in court. This information is communicated to the Magistrate.

Appeal Option: If Mohan or his family disagrees with the psychiatrist's report, they can appeal to the Medical Board, which includes the head of the psychiatry unit at the nearest government hospital and a faculty member in psychiatry from the nearest government medical college.

Magistrate's Decision: Based on the psychiatrist's report, the Magistrate determines that Mohan is indeed incapable of making his defense. The Magistrate examines the evidence presented by the prosecution and, finding a prima facie case against Mohan, postpones the proceedings for the period required for Mohan's treatment as advised by the psychiatrist. Mohan is then dealt with as per Section 369.

Example 4:

Scenario: Geeta, a 22-year-old woman, is accused of vandalism. During the trial, her lawyer informs the Magistrate that Geeta has an intellectual disability.

Application of the Act:

Inquiry by Magistrate: The Magistrate orders an inquiry into Geeta's mental condition and arranges for her to be examined by the district's civil surgeon.

Medical Examination: The civil surgeon examines Geeta and refers her to a clinical psychologist at a government medical college for a detailed assessment.

Psychologist's Report: The clinical psychologist confirms that Geeta has an intellectual disability that makes her incapable of defending herself in court. This information is communicated to the Magistrate.

Appeal Option: If Geeta or her family disagrees with the psychologist's report, they can appeal to the Medical Board, which includes the head of the psychiatry unit at the nearest government hospital and a faculty member in psychiatry from the nearest government medical college.

Magistrate's Decision: Based on the psychologist's report, the Magistrate determines that Geeta's intellectual disability renders her incapable of making her defense. The Magistrate orders the closure of the inquiry and arranges for Geeta to be dealt with as per Section 369.

Section 368: Procedure in case of person of unsound mind tried before Court.

(1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is of unsound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness of mind and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

(2) If during trial, the Magistrate or Court of Session finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be, shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatrist or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of -

(a) head of psychiatry unit in the nearest Government hospital; and

(b) a faculty member in psychiatry in the nearest Government medical college.

(3) If the Magistrate or Court is informed that the person referred to in sub-section (2) is a person of unsound mind, the Magistrate or Court shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no prima facie case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 369:

Provided that if the Magistrate or Court finds that a prima facie case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(4) If the Magistrate or Court finds that a prima facie case is made out against the accused and he is incapable of entering defence by reason of intellectual disability, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 369.

SIMPLIFIED ACTS

(1) If during a trial, the judge or magistrate thinks the person on trial is mentally unfit and can't defend themselves, they will first check if this is true. They will look at medical and

other evidence. If they believe the person is mentally unfit, they will make a note of this and pause the trial.

(2) If the judge or magistrate finds the person mentally unfit during the trial, they will send the person to a psychiatrist or clinical psychologist for treatment. The psychiatrist or psychologist will then report back on the person's mental state.

If the person on trial disagrees with the psychiatrist or psychologist's report, they can appeal to a Medical Board. This board will include:

(a) The head of the psychiatry unit at the nearest government hospital.

(b) A psychiatry faculty member from the nearest government medical college.

(3) If the judge or magistrate is told that the person is mentally unfit, they will check if this makes the person unable to defend themselves. If the person can't defend themselves, the judge or magistrate will note this and review the evidence from the prosecution. They will listen to the accused person's lawyer but won't question the accused. If they find there is no clear case against the accused, they will release the person and handle the situation as per section 369.

If the judge or magistrate finds there is a clear case against the accused, they will pause the trial for the time needed for the accused's treatment, as advised by the psychiatrist or psychologist.

(4) If the judge or magistrate finds there is a clear case against the accused and the person can't defend themselves due to intellectual disability, they will not continue the trial. Instead, they will handle the situation as per section 369.

Explanation using Example

Example 1:

Scenario: Ramesh, a 35-year-old man, is accused of theft and is brought before the Magistrate for trial. During the trial, Ramesh exhibits erratic behavior and seems unable to understand the proceedings.

Application of Section 368:

Initial Assessment: The Magistrate notices Ramesh's behavior and suspects he might be of unsound mind. The Magistrate decides to first determine if Ramesh is indeed of unsound mind and incapable of making his defense.

Medical Evaluation: The Magistrate orders a medical evaluation. A psychiatrist examines Ramesh and provides a report confirming that Ramesh is suffering from a mental disorder that makes him incapable of defending himself.

Recording Findings: The Magistrate records the finding of Ramesh's unsoundness of mind and incapacity to defend himself. The trial is postponed.

Further Referral: Ramesh is referred to a psychiatrist for treatment. The psychiatrist will periodically report on Ramesh's mental condition.

Appeal Option: If Ramesh or his family disagrees with the psychiatrist's report, they can appeal to the Medical Board consisting of the head of psychiatry at the nearest government hospital and a faculty member in psychiatry from the nearest government medical college.

Determination of Capability: After receiving the psychiatrist's report, the Magistrate determines that Ramesh's unsoundness of mind renders him incapable of entering a defense.

Review of Evidence: The Magistrate reviews the evidence presented by the prosecution and hears Ramesh's advocate. If no prima facie case is found, Ramesh is discharged and dealt with under Section 369. If a prima facie case is found, the trial is postponed for the duration required for Ramesh's treatment.

Example 2:

Scenario: Sita, a 28-year-old woman, is charged with assault. During the trial, her lawyer informs the Court of Session that Sita has a history of severe intellectual disability.

Application of Section 368:

Initial Assessment: The Court of Session takes note of the lawyer's statement and decides to investigate Sita's mental condition.

Medical Evaluation: Sita is referred to a clinical psychologist who evaluates her and confirms that she has an intellectual disability that makes her incapable of understanding the trial proceedings.

Recording Findings: The Court records the finding of Sita's intellectual disability and incapacity to defend herself. The trial is postponed.

Further Referral: Sita is referred for ongoing care and treatment. The clinical psychologist will provide updates on her condition.

Appeal Option: If Sita or her family disagrees with the clinical psychologist's report, they can appeal to the Medical Board.

Determination of Capability: The Court determines that Sita's intellectual disability renders her incapable of entering a defense.

Review of Evidence: The Court reviews the prosecution's evidence and hears Sita's advocate. If no prima facie case is found, Sita is discharged and dealt with under Section

369. If a prima facie case is found, the trial is postponed for the period required for Sita's treatment.

Intellectual Disability: If the Court finds that Sita's intellectual disability makes her permanently incapable of defending herself, the trial is not held, and Sita is dealt with according to Section 369.

Section 369: Release of person of unsound mind pending investigation or trial.

Legal Provisions for Persons with Unsoundness of Mind or Intellectual Disability

(1) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of unsoundness of mind or intellectual disability, the Magistrate or Court, as the case may be, shall, whether the case is one in which bail may be taken or not, order release of such person on bail:

Provided that the accused is suffering from unsoundness of mind or intellectual disability which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a public mental health establishment shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017.

(3) Whenever a person is found under section 367 or section 368 to be incapable of entering defence by reason of unsoundness of mind or intellectual disability, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or intellectual disability, further determine if the release of the accused can be ordered:

Provided that -

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under section 367 or section 368, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person;

(b) if the Magistrate or Court, as the case may be, is of the opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons

with unsoundness of mind or intellectual disability may be ordered wherein the accused may be provided care and appropriate education and training.

SIMPLIFIED ACTS

Legal Provisions for Persons with Unsoundness of Mind or Intellectual Disability

(1) If a person is found to be unable to defend themselves in court because of mental illness or intellectual disability, the judge or court must release them on bail:

Provided that the person's condition does not require them to stay in a hospital and a friend or relative agrees to make sure they get regular outpatient psychiatric treatment and prevent them from harming themselves or others.

(2) If the judge or court believes that bail cannot be granted or if no one agrees to take responsibility for the person, they must order that the person be kept in a place where they can get regular psychiatric treatment and report this to the State Government:

Provided that the person cannot be sent to a public mental health facility unless it follows the rules set by the State Government under the Mental Healthcare Act, 2017.

(3) If a person is found to be unable to defend themselves in court because of mental illness or intellectual disability, the judge or court must consider the nature of the act committed and the extent of the person's condition to decide if they can be released:

Provided that -

(a) If, based on medical or specialist opinion, the judge or court decides to release the person, they can do so if there is enough security to ensure the person will not harm themselves or others;

(b) If the judge or court believes that the person cannot be released, they can order the person to be transferred to a residential facility where they can receive care, education, and training.

Explanation using Example

Example 1:

Scenario: Ramesh, a 35-year-old man, is accused of theft. During the trial, it is observed that Ramesh exhibits signs of severe mental illness. The court orders a psychiatric evaluation, which confirms that Ramesh is suffering from schizophrenia and is incapable of defending himself in court.

Application of Section 369:

Release on Bail: The court determines that Ramesh's condition does not require in-patient treatment. His brother, Suresh, undertakes to ensure that Ramesh receives regular out-

patient psychiatric treatment and to prevent him from harming himself or others. Based on this undertaking, the court orders Ramesh's release on bail.

No Bail: If Suresh had not given the undertaking, or if the court believed that Ramesh's condition required in-patient treatment, the court would have ordered Ramesh to be kept in a mental health facility where he could receive regular psychiatric treatment. The court would then report this action to the State Government.

Example 2:

Scenario: Meena, a 28-year-old woman, is charged with assault. During the investigation, it is found that Meena has an intellectual disability that makes her incapable of understanding the proceedings or defending herself.

Application of Section 369:

Release on Bail: The court finds that Meena's intellectual disability does not require in-patient treatment. Her parents undertake to ensure that Meena receives regular out-patient psychiatric treatment and to prevent her from causing harm. The court orders Meena's release on bail based on this undertaking.

No Bail: If Meena's parents had not provided the undertaking, or if the court believed that Meena's condition required in-patient treatment, the court would have ordered her to be kept in a mental health facility. The court would then report this action to the State Government.

Discharge: Based on medical opinion, if the court decides that Meena can be discharged, it may order her release with sufficient security to ensure she does not harm herself or others.

Residential Facility: If the court believes that Meena cannot be discharged, it may order her transfer to a residential facility for persons with intellectual disabilities, where she can receive care, education, and training.

Example 3:

Scenario: Arjun, a 40-year-old man, is accused of causing grievous hurt. During the trial, it is discovered that Arjun has a severe intellectual disability that makes him incapable of defending himself.

Application of Section 369:

Release on Bail: The court finds that Arjun's condition does not require in-patient treatment. His wife undertakes to ensure that Arjun receives regular out-patient psychiatric treatment and to prevent him from causing harm. The court orders Arjun's release on bail based on this undertaking.

No Bail: If Arjun's wife had not provided the undertaking, or if the court believed that Arjun's condition required in-patient treatment, the court would have ordered him to be kept in a mental health facility. The court would then report this action to the State Government.

Discharge: Based on medical opinion, if the court decides that Arjun can be discharged, it may order his release with sufficient security to ensure he does not harm himself or others.

Residential Facility: If the court believes that Arjun cannot be discharged, it may order his transfer to a residential facility for persons with intellectual disabilities, where he can receive care, education, and training.

Section 370: Resumption of inquiry or trial.

(1) Whenever an inquiry or a trial is postponed under section 367 or section 368, the Magistrate or Court, as the case may be, may at any time after the person concerned has ceased to be of unsound mind, resume the inquiry or trial and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 369, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

SIMPLIFIED ACTS

(1) If an investigation or trial is delayed because the person involved is mentally unfit (under section 367 or 368), the judge or court can restart the investigation or trial once the person is mentally fit again. The accused person must then appear in court.

(2) If the accused person was released (under section 369) and their guarantors bring them to the officer appointed by the judge or court, the officer's certificate stating that the accused is now able to defend themselves can be used as evidence.

Explanation using Example

Example 1:

Ravi was accused of theft and was undergoing trial in a local court. During the trial, it was discovered that Ravi was suffering from a severe mental illness, rendering him incapable of understanding the proceedings or making his defense. Consequently, the court postponed the trial under Section 367 of The Bharatiya Nagarik Suraksha Sanhita 2023.

After a year of treatment, Ravi's mental health improved, and he was declared fit by his doctors. The court, upon receiving this information, decided to resume the trial under

Section 370. Ravi was summoned to appear before the court, and the trial continued from where it had been left off.

Example 2:

Meena was charged with assault and was in the middle of her trial when she was diagnosed with a mental disorder. The court postponed the trial under Section 368, and Meena was sent to a mental health facility for treatment. During this period, Meena was released on bail under Section 369, with her family members acting as sureties for her appearance in court once she recovered.

After several months, Meena's condition improved, and she was deemed capable of making her defense. Her family produced her before the officer appointed by the court, who certified that Meena was now of sound mind. This certificate was submitted as evidence to the court, which then resumed the trial under Section 370.

Section 371: Procedure on accused appearing before Magistrate or Court.

(1) If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall act according to the provisions of section 367 or section 368, as the case may be, and if the accused is found to be of unsound mind and consequently incapable of making his defence, shall deal with such accused in accordance with the provisions of section 369.

SIMPLIFIED ACTS

(1) If the accused shows up or is brought back to the Magistrate or Court, and the Magistrate or Court thinks the accused can defend themselves, the trial or investigation will continue.

(2) If the Magistrate or Court thinks the accused still can't defend themselves, they will follow the rules in section 367 or section 368. If the accused is found to be mentally unfit and unable to defend themselves, they will handle the accused according to the rules in section 369.

Explanation using Example

Example 1:

Rajesh, a 35-year-old man, is accused of theft and is brought before the Magistrate. During the initial hearing, the Magistrate observes that Rajesh is behaving erratically and seems

unable to understand the proceedings. The Magistrate orders a medical examination, which confirms that Rajesh is suffering from a severe mental disorder, rendering him incapable of making his defense.

After a period of treatment, Rajesh is brought back to the court. The Magistrate reassesses Rajesh's condition and finds that he is now capable of understanding the proceedings and making his defense. Consequently, the trial proceeds as per normal legal procedures.

Example 2:

Meena, a 28-year-old woman, is charged with assault. When she first appears in court, the Magistrate notices signs of mental instability and orders a psychiatric evaluation. The evaluation reveals that Meena is suffering from schizophrenia and is currently incapable of making her defense.

The court follows the provisions of Section 367 and Section 368, which involve further medical treatment and observation. After several months, Meena is brought back to court, but the Magistrate finds that she is still incapable of making her defense due to her ongoing mental condition. As a result, the court decides to deal with Meena according to Section 369, which may involve her being sent to a mental health facility for further treatment and care, ensuring she receives the necessary support while her legal case is on hold.

Section 372: When accused appears to have been of sound mind.

When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be tried by the Court of Session, commit him for trial before the Court of Session.

SIMPLIFIED ACTS

If the accused seems to be mentally healthy during the investigation or trial, and the Magistrate believes, based on the evidence, that: a. There is a reason to think the accused did something that would be a crime if they were mentally healthy, and b. At the time of the act, the accused was mentally unwell and didn't understand what they were doing or that it was wrong or illegal,

The Magistrate will continue with the case. If the case needs to be tried by a higher court (Court of Session), the Magistrate will send the accused to that court for trial.

Explanation using Example

Example 1:

Scenario: Ramesh, a 35-year-old man, is accused of assaulting his neighbor during a heated argument. At the time of the trial, Ramesh appears to be of sound mind. However, during the investigation, it is revealed that Ramesh was suffering from a severe mental disorder at the time of the incident.

Application of Section 372:

The Magistrate reviews the evidence, including medical reports and witness testimonies, and concludes that Ramesh was indeed suffering from a mental disorder during the assault.

The Magistrate determines that if Ramesh had been of sound mind, his actions would have constituted an offense.

Given the evidence, the Magistrate believes that Ramesh was incapable of understanding the nature of his actions or that they were wrong due to his mental condition at the time.

The Magistrate decides to proceed with the case and commits Ramesh for trial before the Court of Session.

Example 2:

Scenario: Priya, a 28-year-old woman, is charged with theft from a local store. During the trial, Priya appears mentally stable. However, evidence presented shows that Priya was experiencing a psychotic episode when the theft occurred.

Application of Section 372:

The Magistrate examines the evidence, including psychiatric evaluations and statements from Priya's family, confirming that Priya was undergoing a psychotic episode during the theft.

The Magistrate concludes that if Priya had been of sound mind, her actions would have been considered an offense.

The evidence suggests that Priya was incapable of understanding the nature of her actions or that they were illegal due to her mental state at the time.

The Magistrate decides to proceed with the case and commits Priya for trial before the Court of Session.

Example 3:

Scenario: Arjun, a 40-year-old man, is accused of vandalizing public property. At the time of the trial, Arjun is found to be mentally stable. However, it is discovered that Arjun was suffering from severe depression and had a temporary psychotic break when the vandalism occurred.

Application of Section 372:

The Magistrate reviews the evidence, including medical records and expert testimony, and finds that Arjun was experiencing a severe mental health crisis during the incident.

The Magistrate determines that if Arjun had been of sound mind, his actions would have been an offense.

The evidence indicates that Arjun was incapable of understanding the nature of his actions or that they were wrong due to his mental state at the time.

The Magistrate decides to proceed with the case and commits Arjun for trial before the Court of Session.

Section 373: Judgment of acquittal on ground of unsoundness of mind.

Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

SIMPLIFIED ACTS

If a person is found not guilty because, at the time they are said to have committed a crime, they were mentally unable to understand what they were doing or that it was wrong or illegal, the decision must clearly state whether they actually did the act or not.

Explanation using Example

Example 1:

Ravi, a 35-year-old man, was accused of assaulting his neighbor, Suresh, with a knife. During the trial, it was revealed that Ravi had a history of severe mental illness and was undergoing treatment for schizophrenia. His defense lawyer argued that at the time of the assault, Ravi was experiencing a psychotic episode and was incapable of understanding the nature of his actions or that what he was doing was wrong. The court, after reviewing medical reports and expert testimony, acquitted Ravi on the grounds of unsoundness of mind. The judgment specifically stated that while Ravi did commit the act of assault, he was not aware of the nature of his actions due to his mental condition.

Example 2:

Meena, a 28-year-old woman, was charged with theft after she was caught taking jewelry from a store without paying. During the investigation, it was discovered that Meena had been diagnosed with bipolar disorder and was in a manic state at the time of the incident. Her lawyer presented evidence that Meena's mental state rendered her incapable of understanding that her actions were illegal. The court acquitted Meena on the grounds of

unsoundness of mind, noting in the judgment that although Meena did take the jewelry, she was not aware that her actions were wrong or against the law due to her mental illness.

Section 374: Person acquitted on ground of unsoundness of mind to be detained in safe custody.

Legal Provisions

(1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, -

(a) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(b) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a public mental health establishment shall be made under clause (a) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017.

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1) except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall -

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

SIMPLIFIED ACTS

Legal Provisions

(1) If it is found that the accused person did the act they are accused of, the Magistrate or Court handling the trial must decide what to do next. If the act would have been a crime if the person wasn't incapacitated, the Magistrate or Court can:

(a) order that the person be kept in a safe place and in a way that the Magistrate or Court thinks is appropriate; or

(b) order that the person be handed over to a relative or friend.

(2) The Magistrate or Court cannot order the accused to be kept in a public mental health facility unless it follows the rules set by the State Government under the Mental Healthcare Act, 2017.

(3) The Magistrate or Court cannot order the accused to be handed over to a relative or friend unless the relative or friend applies for it and promises to:

(a) take good care of the person and make sure they don't harm themselves or anyone else;

(b) bring the person for check-ups by an officer at the times and places directed by the State Government.

(4) The Magistrate or Court must inform the State Government about the action taken under point (1).

Explanation using Example

Example 1:

Scenario: Rajesh, a 35-year-old man, is accused of assaulting his neighbor. During the trial, it is determined that Rajesh was suffering from severe schizophrenia at the time of the incident and was not in control of his actions.

Application of Section 374:

Finding: The court finds that Rajesh did commit the assault, but due to his unsoundness of mind, he is not held criminally responsible.

Order for Safe Custody: The court orders Rajesh to be detained in a mental health facility as per the rules laid down by the State Government under the Mental Healthcare Act, 2017.

Report to State Government: The court reports its action to the State Government, detailing the decision to detain Rajesh in a mental health facility.

Example 2:

Scenario: Meena, a 28-year-old woman, is accused of theft. During the trial, it is revealed that Meena has a history of severe bipolar disorder and was experiencing a manic episode during the theft.

Application of Section 374:

Finding: The court finds that Meena did commit the theft, but due to her mental condition, she is not held criminally responsible.

Order for Delivery to Relative: Meena's brother applies to the court, requesting that Meena be released into his care. He provides a security bond, assuring the court that he will take proper care of Meena and prevent her from harming herself or others.

Conditions for Release: The court orders Meena to be delivered to her brother, with the condition that she must be produced for inspection by a designated officer at specified times and places as directed by the State Government.

Report to State Government: The court reports its action to the State Government, detailing the decision to release Meena into her brother's care under the specified conditions.

Section 375: Power of State Government to empower officer in charge to discharge.

The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 369 or section 374 to discharge all or any of the functions of the Inspector-General of Prisons under section 376 or section 377.

SIMPLIFIED ACTS

The State Government can give the officer in charge of a jail the power to do some or all of the jobs of the Inspector-General of Prisons.

This applies to people who are in jail under the rules of section 369 or section 374.

The officer in charge can then perform the duties mentioned in section 376 or section 377.

Explanation using Example

Example 1:

Scenario: Ramesh, who has been diagnosed with a severe mental disorder, is accused of a serious crime and is confined in a jail under the provisions of Section 369.

Application of Section 375: The State Government decides to empower the officer in charge of the jail where Ramesh is confined to discharge the functions of the Inspector-General of Prisons. This means the officer in charge can now make decisions regarding Ramesh's treatment, confinement conditions, and any necessary transfers, which would typically be handled by the Inspector-General of Prisons.

Outcome: The officer in charge, having been given this authority, arranges for Ramesh to receive specialized medical treatment within the jail and ensures that his confinement conditions are suitable for someone with his mental health condition.

Example 2:

Scenario: Sita, who has been declared of unsound mind, is accused of a minor offense and is confined in a jail under the provisions of Section 374.

Application of Section 375: The State Government empowers the officer in charge of the jail to discharge the functions of the Inspector-General of Prisons concerning Sita. This includes overseeing her mental health evaluations, coordinating with medical professionals for her treatment, and making decisions about her potential release or transfer to a mental health facility.

Outcome: The officer in charge, using the authority granted by the State Government, arranges for Sita to be evaluated by a team of mental health professionals. Based on their recommendations, the officer decides to transfer Sita to a specialized mental health facility where she can receive appropriate care and treatment.

Section 376: Procedure where prisoner of unsound mind is reported capable of making his defence.

If a person is detained under the provisions of sub-section (2) of section 369, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a public mental health establishment, the Mental Health Review Board constituted under the Mental Healthcare Act, 2017, shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 371; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

SIMPLIFIED ACTS

If someone is detained under sub-section (2) of section 369, and they are in jail, the Inspector-General of Prisons, or if they are in a public mental health facility, the Mental Health Review Board (set up under the Mental Healthcare Act, 2017), must certify that they believe the person can defend themselves.

Once certified, the person must be brought before the Magistrate or Court at a time set by the Magistrate or Court.

The Magistrate or Court will then handle the case according to section 371.

The certification from the Inspector-General or the Mental Health Review Board will be accepted as evidence.

Explanation using Example

Example 1:

Scenario: Rajesh, a 35-year-old man, was accused of theft and subsequently detained under sub-section (2) of section 369 due to his unsound mind. He was placed in a public mental health establishment for treatment. After several months, the Mental Health Review Board, constituted under the Mental Healthcare Act, 2017, evaluated Rajesh and certified that he was now capable of making his defense.

Application: Based on the certification from the Mental Health Review Board, Rajesh was taken before the Magistrate at a time appointed by the court. The Magistrate then proceeded to deal with Rajesh under the provisions of section 371, which involves the legal process for individuals who have regained their mental capacity to stand trial. The certificate from the Mental Health Review Board was accepted as evidence of Rajesh's capability to make his defense.

Example 2:

Scenario: Priya, a 28-year-old woman, was charged with assault and detained in jail under sub-section (2) of section 369 due to her mental instability. During her detention, the Inspector-General of Prisons assessed her condition and later certified that Priya had recovered sufficiently to understand the charges against her and participate in her defense.

Application: With the certification from the Inspector-General of Prisons, Priya was brought before the Court at a scheduled time. The Court then handled her case under the provisions of section 371, ensuring that she received a fair trial now that she was capable of defending herself. The certificate from the Inspector-General was accepted as evidence of her mental fitness to stand trial.

Section 377: Procedure where person of unsound mind detained is declared fit to be released.

(1) If a person is detained under the provisions of sub-section (2) of section 369, or section 374, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public mental health establishment if he has not been already sent to such establishment; and, in case it orders him to be transferred to a public mental health establishment, may appoint a Commission, consisting of a Judicial and two medical officers.

(2) Such Commission shall make a formal inquiry into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit.

SIMPLIFIED ACTS

(1) If someone is held under the rules of sub-section (2) of section 369, or section 374, and the Inspector-General or visitors believe that the person can be released without harming themselves or others, the State Government can decide to release them. The State Government can also decide to keep them in custody or move them to a public mental health facility if they haven't been sent there already. If the State Government decides to move them to a mental health facility, they can set up a Commission with one judge and two medical officers.

(2) This Commission will formally check the mental state of the person, gather any necessary evidence, and then report back to the State Government. Based on this report, the State Government will decide whether to release or keep the person in custody.

Explanation using Example

Example 1:

Scenario: Rajesh, a 35-year-old man, was accused of a serious crime but was found to be of unsound mind during the trial. He was detained under Section 369 of the Bharatiya Nagarik Suraksha Sanhita 2023 and sent to a public mental health establishment for treatment.

Application of Section 377:

After two years of treatment, the Inspector-General and the visitors at the mental health establishment certify that Rajesh is now fit to be released and poses no danger to himself or others.

The State Government reviews the certification and decides to release Rajesh from the mental health establishment.

Rajesh is released and allowed to return to his family, with a follow-up plan for his mental health care.

Example 2:

Scenario: Meena, a 28-year-old woman, was detained under Section 374 of the Bharatiya Nagarik Suraksha Sanhita 2023 after being found guilty of a crime but declared of unsound mind. She was initially kept in custody and later transferred to a public mental health establishment.

Application of Section 377:

After a year, the medical officers at the mental health establishment believe Meena is fit to be released. They certify that she no longer poses a danger to herself or others.

The State Government appoints a Commission consisting of a Judicial officer and two medical officers to formally inquire into Meena's mental state.

The Commission conducts a thorough inquiry, takes necessary evidence, and reports back to the State Government.

Based on the Commission's report, the State Government decides that Meena is fit to be released.

Meena is released from the mental health establishment and provided with a plan for ongoing mental health support.

Example 3:

Scenario: Vikram, a 40-year-old man, was detained under Section 369 for a violent crime but was found to be of unsound mind. He was sent to a public mental health establishment for treatment.

Application of Section 377:

After three years, the Inspector-General and visitors at the mental health establishment certify that Vikram is still not fit to be released and poses a danger to others.

The State Government reviews the certification and decides to continue Vikram's detention in the mental health establishment.

The State Government appoints a Commission to conduct a formal inquiry into Vikram's mental state.

The Commission takes evidence, conducts interviews, and submits a report to the State Government.

Based on the Commission's findings, the State Government orders that Vikram continue to be detained in the mental health establishment for further treatment.

Section 378: Delivery of person of unsound mind to care of relative or friend.

(1) Whenever any relative or friend of any person detained under the provisions of section 369 or section 374 desires that he shall be delivered to his care and custody, the State Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such State Government, that the person delivered shall -

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct;

(c) in the case of a person detained under sub-section (2) of section 369, be produced when required before such Magistrate or Court, order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in clause (b) of sub-section (1), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 371, and the certificate of the inspecting officer shall be receivable as evidence.

SIMPLIFIED ACTS

(1) If a relative or friend of someone who is detained under section 369 or section 374 wants to take care of that person, they can apply to the State Government. The State Government may allow this if the relative or friend promises to:

(a) Take good care of the person and make sure they don't harm themselves or anyone else;

(b) Bring the person for check-ups with an officer at times and places decided by the State Government;

(c) If the person is detained under sub-section (2) of section 369, bring them before a Magistrate or Court when required.

(2) If the person who is released to a relative or friend is accused of a crime but couldn't be tried because they were mentally unfit to defend themselves, and if an inspecting officer later certifies that the person is now capable of defending themselves, the Magistrate or Court will ask the relative or friend to bring the person to court. Once the person is brought to court, the trial will proceed according to section 371, and the officer's certificate will be accepted as evidence.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, has been detained under Section 369 of The Bharatiya Nagarik Suraksha Sanhita 2023 due to his unsound mind. His brother, Suresh, wishes to take Ravi into his care. Suresh applies to the State Government, providing a security bond that ensures Ravi will be properly taken care of, prevented from harming himself or others, and produced for inspection as directed by the State Government. The State Government, satisfied with Suresh's assurances, orders Ravi to be delivered to Suresh's custody. Suresh regularly takes Ravi for inspections as required. If Ravi's condition improves and the

inspecting officer certifies that Ravi is now capable of making his defense, Suresh will be required to produce Ravi before the Magistrate for trial proceedings to continue.

Example 2:

Meena, a resident of Delhi, has been detained under Section 374 of The Bharatiya Nagarik Suraksha Sanhita 2023 due to her unsound mind. Her friend, Priya, wants to take Meena into her care. Priya submits an application to the State Government, along with a security bond ensuring that Meena will be well cared for, prevented from causing harm, and produced for inspections as directed. The State Government, satisfied with Priya's application, orders Meena to be delivered to Priya's custody. Priya ensures that Meena attends all required inspections. If the inspecting officer later certifies that Meena is capable of defending herself, Priya will be required to produce Meena before the Court for the trial to proceed.

CHAPTER XXVIII: PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Section 379: Procedure in cases mentioned in section 215.

Section 215 - Inquiry into Offences

(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 215, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, -

- (a) record a finding to that effect;
- (b) make a complaint thereof in writing;
- (c) send it to a Magistrate of the first class having jurisdiction;
- (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and
- (e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 215.

(3) A complaint made under this section shall be signed, -

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, "Court" has the same meaning as in section 215.

SIMPLIFIED ACTS

Section 215 - Inquiry into Offences

(1) If a Court believes it's important for justice to investigate an offence mentioned in clause (b) of sub-section (1) of section 215, which seems to have happened during a case in that Court or involves a document used in that case, the Court can:

(a) Make a note that an offence might have happened;

(b) Write a formal complaint about it;

(c) Send the complaint to a Magistrate who has the authority to handle it;

(d) Ensure the accused person shows up in front of the Magistrate by either taking a security deposit or, if the offence is serious and non-bailable, send the accused to the Magistrate in custody;

(e) Require any person to come and give evidence in front of the Magistrate.

(2) If the Court hasn't made a complaint or rejected an application for a complaint, another higher Court that oversees the first Court can also use the powers mentioned in sub-section (1).

(3) A complaint made under this section must be signed by:

(a) An officer appointed by the High Court, if the complaint is made by a High Court;

(b) The presiding officer of the Court or an authorized officer, if the complaint is made by any other Court.

(4) In this section, "Court" means the same as it does in section 215.

Explanation using Example

Example 1:

Scenario: False Evidence in a Civil Case

Ravi is involved in a civil lawsuit regarding a property dispute in a District Court. During the proceedings, Ravi submits a document claiming it as the original property deed. However, the opposing party, Suresh, suspects the document is forged and files an application under Section 215 for an inquiry into the authenticity of the document.

Application of Section 215:

The District Court, upon receiving the application, conducts a preliminary inquiry and finds sufficient grounds to believe that the document might be forged.

The Court records a finding that an inquiry is necessary in the interest of justice.

The Court makes a written complaint and sends it to a Magistrate of the first class having jurisdiction.

The Court takes sufficient security from Ravi to ensure his appearance before the Magistrate.

The Court binds over Suresh to appear and give evidence before the Magistrate.

Outcome: The Magistrate conducts a detailed inquiry into the matter. If the document is found to be forged, Ravi could face legal consequences for submitting false evidence.

Example 2:

Scenario: Perjury in a Criminal Trial

During a criminal trial in a Sessions Court, a witness named Priya gives testimony under oath. Later, it is discovered that Priya lied during her testimony to protect the accused, her friend. The prosecution files an application under Section 215 for an inquiry into Priya's perjury.

Application of Section 215:

The Sessions Court, upon reviewing the application, conducts a preliminary inquiry and determines that Priya's false testimony could have affected the administration of justice.

The Court records a finding that an inquiry into the perjury is necessary.

The Court makes a written complaint and sends it to a Magistrate of the first class having jurisdiction.

The Court takes sufficient security from Priya to ensure her appearance before the Magistrate.

The Court binds over the prosecution lawyer to appear and give evidence before the Magistrate.

Outcome: The Magistrate conducts a detailed inquiry into Priya's testimony. If it is confirmed that Priya committed perjury, she could be charged and penalized for giving false evidence under oath.

Example 3:

Scenario: Tampering with Evidence in a Family Court

In a divorce case in a Family Court, one party, Anjali, submits a series of emails as evidence of her spouse's infidelity. The opposing party, Raj, claims that the emails have been tampered with and files an application under Section 215 for an inquiry into the authenticity of the emails.

Application of Section 215:

The Family Court, upon receiving the application, conducts a preliminary inquiry and finds that there are reasonable grounds to suspect tampering.

The Court records a finding that an inquiry is necessary in the interest of justice.

The Court makes a written complaint and sends it to a Magistrate of the first class having jurisdiction.

The Court takes sufficient security from Anjali to ensure her appearance before the Magistrate.

The Court binds over Raj to appear and give evidence before the Magistrate.

Outcome: The Magistrate conducts a detailed inquiry into the emails. If it is found that the emails were indeed tampered with, Anjali could face legal consequences for submitting falsified evidence.

Example 4:

Scenario: Misleading Financial Records in a Corporate Case

In a corporate fraud case in a High Court, a company submits financial records to prove its innocence. However, an internal whistleblower reveals that the records were manipulated. The opposing party files an application under Section 215 for an inquiry into the financial records.

Application of Section 215:

The High Court, upon receiving the application, conducts a preliminary inquiry and finds sufficient grounds to believe that the financial records might be manipulated.

The Court records a finding that an inquiry is necessary in the interest of justice.

The Court makes a written complaint and sends it to a Magistrate of the first class having jurisdiction.

The Court takes sufficient security from the company's representative to ensure their appearance before the Magistrate.

The Court binds over the whistleblower to appear and give evidence before the Magistrate.

Outcome: The Magistrate conducts a detailed inquiry into the financial records. If it is confirmed that the records were manipulated, the company could face severe legal consequences for submitting false evidence.

Section 380: Appeal.

(1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of section 379, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 215, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 379, and, if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any such order, an order under section 379, shall be final, and shall not be subject to revision.

SIMPLIFIED ACTS

(1) If a person asks a Court (other than a High Court) to make a complaint under section 379, and the Court refuses, or if a complaint is made against a person by such a Court, that person can appeal to a higher Court. This higher Court is the one that oversees the lower Court, as explained in section 215(4). The higher Court can then, after informing the involved parties, either cancel the complaint or instruct the lower Court to make the complaint as it should have under section 379. If the higher Court makes the complaint, the rules in section 379 will apply.

(2) Any decision made under this section, and any decision made under section 379, is final and cannot be changed or reviewed.

Explanation using Example

Example 1:

Ravi, a local businessman, files an application in the District Court alleging that his competitor, Suresh, has committed perjury (lying under oath) during a civil trial. The

District Court, however, refuses to make a complaint under Section 379 of the Bharatiya Nagarik Suraksha Sanhita 2023. Ravi, feeling aggrieved by this decision, decides to appeal to the High Court, which is the superior court to the District Court. The High Court, after notifying both Ravi and Suresh, reviews the case and directs the District Court to make the complaint against Suresh for perjury. The provisions of Section 379 will then apply to this complaint.

Example 2:

Priya, a social activist, files a complaint in the Sessions Court against a government official, alleging that the official has tampered with evidence in a corruption case. The Sessions Court decides to make a complaint under Section 379 against the official. The official, feeling that the complaint is unjust, appeals to the High Court. The High Court, after giving notice to both Priya and the official, reviews the matter and decides to withdraw the complaint made by the Sessions Court. The High Court's decision is final and cannot be revised, as per Section 380(2) of the Bharatiya Nagarik Suraksha Sanhita 2023.

Section 381: Power to order costs.

Any Court dealing with an application made to it for filing a complaint under section 379 or an appeal under section 380, shall have power to make such order as to costs as may be just.

SIMPLIFIED ACTS

If someone goes to court to file a complaint under section 379 or an appeal under section 380, the court can decide who should pay the legal costs in a way that is fair.

Explanation using Example

Example 1:

Rajesh files a complaint under Section 379 of the Bharatiya Nagarik Suraksha Sanhita 2023, alleging that his neighbor, Suresh, has committed theft. The court, after reviewing the evidence, finds that the complaint was frivolous and without merit. As a result, the court orders Rajesh to pay the legal costs incurred by Suresh in defending himself against the baseless complaint. This decision is made under Section 381, which gives the court the power to order costs as it deems just.

Example 2:

Meena files an appeal under Section 380 of the Bharatiya Nagarik Suraksha Sanhita 2023, challenging a lower court's decision that found her guilty of contempt of court. The appellate court, after hearing the appeal, upholds the lower court's decision. Additionally,

the appellate court orders Meena to pay the costs of the appeal process, including the legal fees of the opposing party, as it finds the appeal to be without substantial grounds. This order is made under the authority granted by Section 381, which allows the court to make orders regarding costs as it considers fair.

Section 382: Procedure of Magistrate taking cognizance.

(1) A Magistrate to whom a complaint is made under section 379 or section 380 shall, notwithstanding anything contained in Chapter XVI, proceed, as far as may be, to deal with the case as if it were instituted on a police report.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

SIMPLIFIED ACTS

(1) If someone makes a complaint to a Magistrate under section 379 or section 380, the Magistrate should handle the case like it was started by a police report, even if other rules in Chapter XVI say otherwise.

(2) If the Magistrate, or any other Magistrate who takes over the case, finds out that there is an ongoing appeal related to the case, they can choose to pause the hearing until the appeal is resolved.

Explanation using Example

Example 1:

Scenario: A person named Raj files a complaint with the Magistrate under Section 379, alleging that his neighbor, Suresh, has stolen his bicycle.

Application of Section 382:

Magistrate's Procedure: The Magistrate, upon receiving Raj's complaint, will handle the case as if it were initiated by a police report. This means the Magistrate will follow the same procedures and protocols as if the police had investigated and filed the report.

Pending Appeal: During the proceedings, it is brought to the Magistrate's attention that Suresh has an ongoing appeal in a higher court regarding a previous theft conviction. The Magistrate, considering the pending appeal, decides to adjourn the hearing of Raj's case until the higher court decides on Suresh's appeal.

Example 2:

Scenario: Priya files a complaint under Section 380, accusing her colleague, Anil, of stealing her laptop from their office.

Application of Section 382:

Magistrate's Procedure: The Magistrate receives Priya's complaint and proceeds to handle the case as if it were based on a police report. This involves summoning witnesses, examining evidence, and following the standard judicial process for criminal cases.

Pending Appeal: During the trial, it is revealed that Anil has an ongoing appeal in a higher court related to a previous conviction for a similar offense. The Magistrate, upon learning about the pending appeal, decides to adjourn Priya's case until the higher court delivers its judgment on Anil's appeal.

Example 3:

Scenario: A shop owner, Meena, files a complaint under Section 379, accusing a customer, Ravi, of shoplifting several items.

Application of Section 382:

Magistrate's Procedure: The Magistrate, upon receiving Meena's complaint, treats the case as if it were initiated by a police report. This means the Magistrate will follow the same legal procedures as if the police had conducted an investigation and filed the report.

Pending Appeal: It is brought to the Magistrate's notice that Ravi has an ongoing appeal in a higher court regarding a previous shoplifting conviction. The Magistrate, considering the pending appeal, decides to adjourn the hearing of Meena's case until the higher court decides on Ravi's appeal.

Section 383: Summary procedure for trial for giving false evidence.

(1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or with both.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court to make a complaint under section 379 for the offence, where it does not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1), it is made to appear to the Court of Session or Magistrate of the first class that an appeal or an application for revision has been preferred or filed against the judgment or order in which the opinion referred to in that sub-section has been expressed, it or he shall stay further proceedings of the trial until the disposal of the appeal or the application for revision, as the case may be, and thereupon the further proceedings of the trial shall abide by the results of the appeal or application for revision.

SIMPLIFIED ACTS

(1) If, when giving a final judgment or order in a court case, a Court of Session or a first-class Magistrate believes that a witness has knowingly or intentionally given false evidence or created false evidence to be used in the case, the court can decide to quickly try the witness for this offense. The court must give the witness a chance to explain why they should not be punished. If found guilty, the witness can be sentenced to up to three months in jail, a fine of up to one thousand rupees, or both.

(2) In such cases, the court must follow the procedure for quick trials as closely as possible.

(3) This section does not stop the court from making a complaint under section 379 for the offense if it decides not to proceed under this section.

(4) If, after starting action under subsection (1), it is shown that an appeal or a request for review has been filed against the judgment or order where the false evidence was mentioned, the court must pause the trial until the appeal or review is resolved. The trial will then continue based on the outcome of the appeal or review.

Explanation using Example

Example 1:

Scenario: A criminal trial is being conducted in a Court of Session in Mumbai. During the trial, a key witness, Mr. Sharma, testifies that he saw the accused, Mr. Verma, at the scene of the crime. Based on Mr. Sharma's testimony, the court is inclined to convict Mr. Verma.

Application of Section 383:

At the time of delivering the final judgment, the judge notices inconsistencies in Mr. Sharma's testimony and finds evidence that Mr. Sharma was not present at the crime scene and had fabricated his testimony.

The judge expresses an opinion that Mr. Sharma knowingly gave false evidence with the intention to mislead the court.

The judge decides it is necessary and expedient in the interest of justice to try Mr. Sharma summarily for giving false evidence.

Mr. Sharma is given a reasonable opportunity to explain why he should not be punished.

After the summary trial, Mr. Sharma is sentenced to two months of imprisonment and fined Rs. 500 for giving false evidence.

Example 2:

Scenario: In a civil dispute over property ownership in a Magistrate's court in Delhi, Ms. Gupta claims that she has a will that proves her ownership of the property. She presents the will as evidence during the proceedings.

Application of Section 383:

Upon reviewing the will, the Magistrate finds that the document appears to be forged and that Ms. Gupta had fabricated the will to support her claim.

The Magistrate expresses an opinion that Ms. Gupta wilfully fabricated false evidence with the intention to deceive the court.

The Magistrate decides it is necessary and expedient in the interest of justice to try Ms. Gupta summarily for fabricating false evidence.

Ms. Gupta is given a reasonable opportunity to show cause why she should not be punished.

After the summary trial, Ms. Gupta is sentenced to one month of imprisonment and fined Rs. 1,000 for fabricating false evidence.

Example 3:

Scenario: During a family court proceeding in Bangalore, Mr. Rao testifies that his wife, Mrs. Rao, has been unfaithful, presenting photos as evidence. Mrs. Rao contests the photos, claiming they are doctored.

Application of Section 383:

The judge examines the photos and finds that they have been digitally altered and that Mr. Rao knowingly presented false evidence.

The judge expresses an opinion that Mr. Rao wilfully gave false evidence with the intention to mislead the court.

The judge decides it is necessary and expedient in the interest of justice to try Mr. Rao summarily for giving false evidence.

Mr. Rao is given a reasonable opportunity to explain why he should not be punished.

After the summary trial, Mr. Rao is sentenced to three months of imprisonment and fined Rs. 1,000 for giving false evidence.

Example 4:

Scenario: In a traffic violation case in a Magistrate's court in Chennai, Mr. Kumar testifies that he was not driving the car at the time of the incident and presents a friend, Mr. Singh, as the driver.

Application of Section 383:

The Magistrate finds CCTV footage showing Mr. Kumar driving the car at the time of the incident, contradicting his testimony.

The Magistrate expresses an opinion that Mr. Kumar knowingly gave false evidence.

The Magistrate decides it is necessary and expedient in the interest of justice to try Mr. Kumar summarily for giving false evidence.

Mr. Kumar is given a reasonable opportunity to show cause why he should not be punished.

After the summary trial, Mr. Kumar is sentenced to one month of imprisonment and fined Rs. 500 for giving false evidence.

Section 384: Procedure in certain cases of contempt.

(1) When any such offence as is described in section 210, section 213, section 214, section 215 or section 267 of the Bharatiya Nyaya Sanhita, 2023 is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender to be detained in custody, and may, at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding one thousand rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the fact constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 267 of the Bharatiya Nyaya Sanhita, 2023, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

SIMPLIFIED ACTS

(1) If someone commits an offense mentioned in sections 210, 213, 214, 215, or 267 of the Bharatiya Nyaya Sanhita, 2023, in front of any Civil, Criminal, or Revenue Court, the Court can have that person detained. The Court can then decide on the same day whether to take action against the person. The person will be given a chance to explain why they shouldn't be punished. If found guilty, the Court can fine the person up to one thousand rupees. If the person doesn't pay the fine, they can be sent to simple jail for up to one month, or until the fine is paid.

(2) In such cases, the Court must write down what happened, including any statements made by the person who committed the offense, and the Court's decision and punishment.

(3) If the offense is under section 267 of the Bharatiya Nyaya Sanhita, 2023, the record must include details about the type and stage of the court proceeding that was interrupted or insulted, and the nature of the interruption or insult.

Explanation using Example

Example 1:

Scenario: During a criminal trial in a Sessions Court in Mumbai, a witness, Mr. Sharma, starts shouting and making false accusations against the judge, disrupting the court proceedings.

Application of Section 384:

The judge, witnessing the disruption, orders the court officers to detain Mr. Sharma immediately.

Before the court session ends for the day, the judge takes cognizance of Mr. Sharma's behavior.

Mr. Sharma is given an opportunity to explain his actions and show cause why he should not be punished.

After considering Mr. Sharma's explanation, the judge decides to impose a fine of ₹1,000.

Mr. Sharma fails to pay the fine, and as a result, he is sentenced to simple imprisonment for one month.

The judge records the incident, Mr. Sharma's statements, and the final decision in the court records.

Example 2:

Scenario: In a Revenue Court in Delhi, during a land dispute hearing, Mr. Verma, one of the parties, insults the judge by using abusive language, causing a significant interruption in the proceedings.

Application of Section 384:

The judge immediately orders the court officers to detain Mr. Verma.

Before the court adjourns for the day, the judge takes cognizance of Mr. Verma's contemptuous behavior.

Mr. Verma is given a chance to explain his actions and defend himself.

After hearing Mr. Verma's explanation, the judge decides to impose a fine of ₹1,000.

Mr. Verma does not pay the fine, leading to a sentence of simple imprisonment for one month.

The judge documents the nature of the insult, the stage of the judicial proceeding, Mr. Verma's statements, and the final judgment in the court records.

Section 385: Procedure where Court considers that case should not be dealt with under section 384.

Section 384 - Procedure when accused is present

(1) If the Court in any case considers that a person accused of any of the offences referred to in section 384 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 384, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report.

SIMPLIFIED ACTS

Section 384 - Procedure when accused is present

(1) If the Court sees that a person accused of an offense (mentioned in Section 384) and committed in front of the Court should be jailed (not just fined), or if the fine should be more than two hundred rupees, or for any other reason the Court thinks the case should not be handled under Section 384, the Court can do the following:

Write down the facts of the offense and the accused person's statement.

Send the case to a Magistrate who has the authority to handle it.

Ask for a guarantee (security) that the accused will appear before the Magistrate. If the accused cannot provide this guarantee, the Court will send the accused to the Magistrate in custody.

(2) The Magistrate who receives the case will handle it as if it was started by a police report.

Explanation using Example

Example 1:

Scenario: A person, Raj, is accused of contempt of court by shouting and disrupting court proceedings during a trial.

Application of Section 385:

Court's Observation: The judge observes Raj's behavior directly and considers it a serious offense.

Decision Not to Use Section 384: The judge decides that merely imposing a small fine or a short imprisonment is not sufficient due to the severity of the disruption.

Forwarding the Case: The judge records the facts of the offense and Raj's statement, then forwards the case to a Magistrate with the appropriate jurisdiction.

Security for Appearance: The judge requires Raj to provide security to ensure his appearance before the Magistrate. If Raj cannot provide sufficient security, he is taken into custody and sent to the Magistrate.

Outcome: The Magistrate will then handle the case as if it were initiated by a police report, potentially leading to a more severe punishment for Raj's actions.

Example 2:

Scenario: Priya is caught attempting to bribe a court official during a hearing.

Application of Section 385:

Court's Observation: The judge witnesses Priya's attempt to bribe the official and considers it a grave offense.

Decision Not to Use Section 384: The judge believes that a fine of more than two hundred rupees or imprisonment is necessary due to the seriousness of the bribery attempt.

Forwarding the Case: The judge documents the incident and Priya's statement, then forwards the case to a Magistrate with the proper jurisdiction.

Security for Appearance: The judge asks Priya to provide security for her appearance before the Magistrate. If Priya fails to provide adequate security, she is detained and sent to the Magistrate.

Outcome: The Magistrate will proceed with the case as if it were based on a police report, which may result in a more stringent penalty for Priya's bribery attempt.

Section 386: When Registrar or Sub-Registrar to be deemed a Civil Court.

When the State Government so directs, any Registrar or any Sub-Registrar appointed under the Registration Act, 1908, shall be deemed to be a Civil Court within the meaning of sections 384 and 385.

SIMPLIFIED ACTS

If the State Government decides, any Registrar or Sub-Registrar appointed under the Registration Act, 1908, will be considered a Civil Court according to sections 384 and 385.

Explanation using Example

Example 1:

Scenario: Property Dispute Resolution

Context: Ramesh and Suresh are brothers who inherited a piece of land from their father. They have a disagreement over the division of the property. Ramesh claims that Suresh is trying to take more than his fair share. They decide to register their respective portions of the land.

Application of Section 386: The State Government has directed that the Sub-Registrar in their district is deemed to be a Civil Court. Ramesh files a complaint with the Sub-Registrar, who now has the authority to hear the case as a Civil Court. The Sub-Registrar examines the documents, hears both parties, and makes a decision on the fair division of the property.

Outcome: The Sub-Registrar, acting as a Civil Court, rules that the property should be divided equally between Ramesh and Suresh, based on the will of their father and the

existing property laws. Both parties accept the decision, and the property is registered accordingly.

Example 2:

Scenario: Fraudulent Document Registration

Context: Priya discovers that someone has fraudulently registered a piece of her land in their name. She suspects that the registration was done using forged documents. Priya approaches the Registrar's office to resolve the issue.

Application of Section 386: The State Government has directed that the Registrar in Priya's district is deemed to be a Civil Court. Priya files a complaint with the Registrar, who now has the authority to investigate the matter as a Civil Court. The Registrar examines the documents, verifies signatures, and conducts a hearing with both parties involved.

Outcome: The Registrar, acting as a Civil Court, finds that the documents were indeed forged. The fraudulent registration is annulled, and the land is restored to Priya's name. The Registrar also directs the police to take appropriate action against the person who committed the fraud.

Section 387: Discharge of offender on submission of apology.

When any Court has under section 384 adjudged an offender to punishment, or has under section 385 forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

SIMPLIFIED ACTS

When a Court has decided to punish someone under section 384, or has sent them to a Magistrate for trial under section 385 for not doing something they were legally required to do, or for intentionally insulting or interrupting the Court, the Court has the option to:

Let the person go without punishment, or

Reduce the punishment,

if the person agrees to follow the Court's order or makes an apology that satisfies the Court.

Explanation using Example

Example 1:

Scenario: Ramesh, a witness in a court case, was asked by the judge to provide certain documents crucial to the case. Ramesh, feeling frustrated and overwhelmed, refused to

submit the documents and even interrupted the court proceedings with loud objections. The judge, under Section 384, adjudged Ramesh to a fine for his refusal and disruptive behavior.

Application of Section 387: After realizing his mistake, Ramesh approached the court and sincerely apologized for his behavior. He also submitted the required documents. The judge, satisfied with Ramesh's apology and compliance, decided to discharge Ramesh from the punishment under Section 387.

Example 2:

Scenario: Priya, a defendant in a civil case, was ordered by the court to attend a mandatory mediation session. Priya, feeling that the mediation was unnecessary, intentionally skipped the session and insulted the mediator in a written communication. The court, under Section 385, forwarded Priya to a Magistrate for trial due to her intentional insult and non-compliance.

Application of Section 387: Priya, upon reflection, understood the gravity of her actions and wrote a heartfelt apology to the court and the mediator. She also agreed to attend the rescheduled mediation session. The Magistrate, considering Priya's genuine apology and willingness to comply, decided to remit her punishment under Section 387.

Section 388: Imprisonment or committal of person refusing to answer or produce document.

If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 384 or section 385.

SIMPLIFIED ACTS

If a witness or person is asked to answer questions or provide a document or item in a Criminal Court and they refuse to do so, the following can happen:

If they don't give a good reason for their refusal after being given a fair chance to explain, the Court can take action against them.

The Court can:

Write down the reasons for their decision.

Sentence the person to simple imprisonment.

Issue a warrant to have the person taken into custody by a Court officer for up to seven days.

If the person agrees to answer questions or provide the document/item during this time, they can avoid further punishment.

If the person continues to refuse, they can be punished according to section 384 or section 385.

Explanation using Example

Example 1:

Ravi is a key witness in a criminal case involving a high-profile financial fraud. The court has summoned him to testify and produce certain financial documents that are crucial to the case. Despite multiple requests from the court, Ravi refuses to answer specific questions and does not produce the required documents. The judge gives Ravi a reasonable opportunity to comply, but Ravi still refuses without providing any valid excuse. Consequently, the judge records the reasons for Ravi's non-compliance in writing and sentences him to simple imprisonment for five days. During this period, Ravi is held in the custody of a court officer. If Ravi continues to refuse after the imprisonment, the court may take further action under sections 384 or 385.

Example 2:

Priya is called to testify in a criminal case involving a violent crime. She is also asked to produce her mobile phone records, which are believed to contain crucial evidence. Priya refuses to answer questions about her whereabouts on the night of the crime and does not produce her mobile phone records. The court provides her with a reasonable opportunity to comply, but Priya fails to offer any reasonable excuse for her refusal. The judge then records the reasons for her non-compliance and issues a warrant for her committal to the custody of a court officer for seven days. During this time, Priya is held in custody. If she continues to refuse to answer questions or produce the documents after this period, the court may proceed with further legal actions as per sections 384 or 385.

Section 389: Summary procedure for punishment for non-attendance by a witness in obedience to summons.

(1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to

attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding five hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

SIMPLIFIED ACTS

(1) If a witness is called to appear in a Criminal Court and is required by law to be at a specific place and time, but they do not show up without a good reason, or they leave before they are allowed to, the Court can decide to handle the matter quickly. If the Court thinks it is important for justice, they can charge the witness with an offence. The witness will be given a chance to explain why they should not be punished. If the Court decides to punish them, the fine can be up to five hundred rupees.

(2) In these cases, the Court will try to follow the rules for quick trials as closely as possible.

Explanation using Example

Example 1:

Scenario: Ramesh, a shopkeeper in Delhi, receives a summons to appear as a witness in a theft case at the local criminal court on the 15th of June at 10:00 AM. Ramesh acknowledges the summons but decides not to attend the court without providing any valid reason.

Application of Section 389:

The court notices Ramesh's absence and determines that his testimony is crucial for the case.

The court decides to take summary action against Ramesh for his non-attendance.

Ramesh is given an opportunity to explain his absence. Since he fails to provide a justifiable excuse, the court imposes a fine of ₹500 on him for neglecting the summons.

Example 2:

Scenario: Priya, a software engineer in Bangalore, is summoned to testify in a fraud case. She appears in court at the designated time but leaves the court premises before her testimony is recorded, without informing the court or obtaining permission.

Application of Section 389:

The court realizes that Priya has left before her testimony could be recorded and finds her departure unjustified.

The court decides it is in the interest of justice to take summary action against Priya.

Priya is called back to court and given a chance to explain her premature departure. She fails to provide a valid reason.

Consequently, the court fines Priya ₹500 for leaving the court without permission before her lawful departure time.

Example 3:

Scenario: Anil, a farmer from a village in Uttar Pradesh, is summoned to appear as a witness in a land dispute case. Anil receives the summons but mistakenly believes that his presence is not mandatory and continues with his daily farming activities.

Application of Section 389:

The court notes Anil's absence and deems his testimony important for the resolution of the case.

The court decides to proceed with summary action against Anil for his non-attendance.

Anil is given a chance to explain his absence. He explains that he misunderstood the importance of the summons.

Considering Anil's explanation and the fact that it was a genuine mistake, the court may decide to impose a lesser fine or even waive the fine, depending on the circumstances.

Example 4:

Scenario: Sunita, a teacher in Mumbai, is summoned to appear in a criminal court as a witness in an assault case. She attends the court but leaves during the lunch break without informing the court officials, thinking her presence is no longer required.

Application of Section 389:

The court finds out that Sunita left the premises without permission and her testimony is still needed.

The court decides to take summary action against Sunita for her premature departure.

Sunita is given an opportunity to explain her actions. She admits she left because she thought her presence was no longer necessary.

The court, considering her explanation, may impose a fine of up to ₹500 for her departure before the lawful time.

Example 5:

Scenario: Rajesh, a businessman in Chennai, is summoned to testify in a bribery case. He attends the court but refuses to testify without providing any valid reason.

Application of Section 389:

The court observes Rajesh's refusal to testify and determines that his testimony is essential for the case.

The court decides to take summary action against Rajesh for his refusal to testify.

Rajesh is given a chance to explain his refusal. He fails to provide a justifiable reason.

The court imposes a fine of ₹500 on Rajesh for neglecting his duty as a witness.

Section 390: Appeals from convictions under sections 383, 384, 388 and 389.

Appeals under Sections 383, 384, 388, and 389

(1) Any person sentenced by any Court other than a High Court under section 383, section 384, section 388, or section 389 may, notwithstanding anything contained in this Sanhita, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 386 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub-Registrar is situate.

SIMPLIFIED ACTS

Appeals under Sections 383, 384, 388, and 389

(1) If you are sentenced by a court (other than a High Court) under sections 383, 384, 388, or 389, you can appeal to the higher court that usually handles appeals from that court, even if other parts of the law say otherwise.

(2) The rules in Chapter XXXI will apply to these appeals as much as possible. The higher court can change or cancel the decision, or reduce or cancel the sentence you are appealing against.

(3) If you are convicted by a Court of Small Causes, you can appeal to the Court of Session in the area where that court is located.

(4) If you are convicted by a Registrar or Sub-Registrar (who is considered a Civil Court under section 386), you can appeal to the Court of Session in the area where the Registrar or Sub-Registrar's office is located.

Explanation using Example

Example 1:

Ravi was convicted by a District Court under Section 384 of the Bharatiya Nagarik Suraksha Sanhita 2023 for extortion. He was sentenced to three years in prison. Ravi believes that the evidence against him was insufficient and that the sentence was too harsh. Under Section 390, Ravi can appeal his conviction and sentence to the High Court, which is the appellate court for the District Court. The High Court will review the case, and it has the power to alter or reverse the finding or reduce or reverse the sentence.

Example 2:

Sita was convicted by a Court of Small Causes under Section 388 of the Bharatiya Nagarik Suraksha Sanhita 2023 for fraudulent removal or concealment of property. She was fined Rs. 50,000. Sita feels that the conviction was unjust and decides to appeal. According to Section 390, her appeal will be heard by the Court of Session for the sessions division in which the Court of Small Causes is located. The Court of Session will review the case and has the authority to change or overturn the conviction or modify the sentence.

Example 3:

Manoj was convicted by a Sub-Registrar, who is deemed to be a Civil Court under Section 386, for an offense under Section 389 of the Bharatiya Nagarik Suraksha Sanhita 2023, which deals with putting a person in fear of accusation of offense to extort property. Manoj was sentenced to two years in prison. Manoj believes that the Sub-Registrar made an error in the judgment. Under Section 390, Manoj can appeal to the Court of Session for the sessions division where the Sub-Registrar's office is located. The Court of Session will review the case and has the power to alter or reverse the finding or reduce or reverse the sentence.

Example 4:

Anita was convicted by a Magistrate Court under Section 383 of the Bharatiya Nagarik Suraksha Sanhita 2023 for theft. She was sentenced to one year in prison. Anita feels that the trial was unfair and that she was wrongly convicted. According to Section 390, Anita can appeal her conviction to the Sessions Court, which is the appellate court for the Magistrate Court. The Sessions Court will review the case and has the authority to change or overturn the conviction or modify the sentence.

CHAPTER XXIX: THE JUDGEMENT

Section 391: Certain Judges and Magistrates not to try certain offences when committed before themselves.

Except as provided in sections 383, 384, 388 and 389, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate shall try any person for any offence referred to in section 215, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

SIMPLIFIED ACTS

Except for the situations mentioned in sections 383, 384, 388, and 389, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate can try a person for an offence mentioned in section 215 if:

The offence was committed in front of the Judge or Magistrate.

The offence shows disrespect to the Judge's or Magistrate's authority.

The offence was noticed by the Judge or Magistrate during a court case.

Explanation using Example

Example 1:

Scenario: A Magistrate in a district court is presiding over a theft case. During the proceedings, one of the accused persons starts shouting and making derogatory remarks against the Magistrate, disrupting the court's functioning.

Application of Section 391: In this situation, the Magistrate cannot try the accused for the offence of contempt of court (disrupting the court's functioning and making derogatory remarks) because the offence was committed in front of the Magistrate. Instead, the case must be referred to another Magistrate or Judge to ensure impartiality and fairness in the trial.

Example 2:

Scenario: During a trial for a property dispute, a witness is caught lying under oath by the presiding Judge. The Judge identifies this as perjury, an offence affecting the administration of justice.

Application of Section 391: The Judge who caught the witness lying cannot try the witness for perjury because the offence was committed in front of the Judge during the judicial

proceeding. The case of perjury must be transferred to another Judge or Magistrate to avoid any potential bias or conflict of interest.

Example 3:

Scenario: A person submits a forged document as evidence in a case being heard by a Magistrate. The Magistrate discovers the forgery during the proceedings.

Application of Section 391: The Magistrate cannot try the person for the offence of forgery because the offence was discovered in the course of the judicial proceeding before the Magistrate. The case must be assigned to another Judge or Magistrate to ensure an unbiased trial.

Example 4:

Scenario: During a hearing, an individual threatens the Magistrate with physical harm if the ruling is not in their favor. This act is considered an offence of criminal intimidation.

Application of Section 391: The Magistrate cannot try the individual for criminal intimidation because the threat was made directly to the Magistrate during the judicial proceeding. The case must be referred to another judicial officer to maintain impartiality and justice.

Section 392: Judgment.

Judgment Pronouncement in Criminal Court

(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 not later than forty-five days of which notice shall be given to the parties or their advocates, -

(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 advocate.

(2) Where the judgment is delivered under clause (a) of sub-section (1), the presiding officer shall cause it to be taken down in short-hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (b) or clause (c) of sub-section (1), as the case may be, it shall be dated and signed by the presiding

officer in open Court, and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their advocates free of cost:

Provided that the Court shall, as far as practicable, upload the copy of the judgment on its portal within a period of seven days from the date of judgment.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced either in person or through audio-video electronic means.

(6) If the accused is not in custody, he shall be required by the Court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

Provided that where there are more accused persons than one, and one or more of them do not attend the Court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his advocate on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their advocates, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 511.

SIMPLIFIED ACTS

Judgment Pronouncement in Criminal Court

(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 trial ends or within forty-five days after the trial ends, with notice given to the parties or their lawyers, -

(a) by delivering the entire judgment; or

(b) by reading out the entire judgment; or

(c) by reading out the main part of the judgment and explaining the key points in a language understood by the accused or their lawyer.

(2) If the judgment is delivered as per (a) above, the presiding officer must have it written down in shorthand, sign the transcript and every page as soon as it is ready, and note the date of delivery in open Court.

(3) If the judgment or its main part is read out as per (b) or (c) above, it must be dated and signed by the presiding officer in open Court, and if it is not handwritten by the officer, every page must be signed by them.

(4) If the judgment is pronounced as per (c) above, the entire judgment or a copy must be immediately available for the parties or their lawyers to read for free:

Provided that the Court should try to upload the judgment on its website within seven days from the date of judgment.

(5) If the accused is in custody, they must be brought to hear the judgment either in person or through audio-video means.

(6) If the accused is not in custody, they must attend to hear the judgment, unless their presence was not required during the trial and the sentence is only a fine or they are acquitted:

Provided that if there are multiple accused and some do not attend Court on the judgment day, the presiding officer can still pronounce the judgment to avoid delays.

(7) No judgment by any Criminal Court will be considered invalid just because a party or their lawyer was absent on the judgment day, or because of any issue with notifying the parties or their lawyers about the judgment day and place.

(8) Nothing in this section limits the provisions of section 511.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is on trial in a criminal court.

Application of Section 392:

Judgment Pronouncement: After the trial concludes, the judge announces that the judgment will be pronounced in open court in 30 days. Rajesh and his lawyer are notified of the date.

Delivery of Judgment: On the specified date, the judge reads out the entire judgment (clause (b) of sub-section (1)) in the courtroom. The judgment is then signed and dated by the judge in open court.

Availability of Judgment: A copy of the judgment is immediately made available to Rajesh and his lawyer free of cost. Additionally, the court uploads the judgment on its portal within seven days.

Accused in Custody: Since Rajesh is in custody, he is brought to the court to hear the judgment in person.

Absence of Accused: If Rajesh had multiple co-accused and one of them did not attend the court on the judgment day, the judge could still pronounce the judgment to avoid undue delay.

Example 2:

Scenario: Priya is accused of fraud and is out on bail during her trial.

Application of Section 392:

Judgment Pronouncement: The trial ends, and the judge informs Priya and her lawyer that the judgment will be pronounced in 20 days.

Delivery of Judgment: On the judgment day, the judge reads out the operative part of the judgment and explains the substance in Hindi, which Priya understands (clause (c) of sub-section (1)). The judgment is then signed and dated by the judge in open court.

Availability of Judgment: Priya and her lawyer receive a copy of the full judgment immediately after the pronouncement, and it is also uploaded on the court's portal within seven days.

Accused Not in Custody: Priya is required to attend the court to hear the judgment. Since she is not in custody, she attends the court voluntarily.

Absence of Accused: If Priya had co-accused who did not attend the court on the judgment day, the judge could still pronounce the judgment to avoid undue delay.

Example 3:

Scenario: Sunil is accused of assault and has been attending his trial regularly.

Application of Section 392:

Judgment Pronouncement: The trial concludes, and the judge announces that the judgment will be pronounced in 15 days. Sunil and his lawyer are notified of the date.

Delivery of Judgment: On the judgment day, the judge delivers the whole judgment in open court (clause (a) of sub-section (1)). The judgment is taken down in shorthand, and the transcript is signed and dated by the judge.

Availability of Judgment: Sunil and his lawyer receive a copy of the judgment immediately after the pronouncement, and it is uploaded on the court's portal within seven days.

Accused in Custody: Since Sunil is not in custody, he attends the court voluntarily to hear the judgment.

Absence of Accused: If Sunil had co-accused who did not attend the court on the judgment day, the judge could still pronounce the judgment to avoid undue delay.

Example 4:

Scenario: Anjali is accused of embezzlement and has been attending her trial regularly.

Application of Section 392:

Judgment Pronouncement: The trial ends, and the judge informs Anjali and her lawyer that the judgment will be pronounced in 10 days.

Delivery of Judgment: On the judgment day, the judge reads out the operative part of the judgment and explains the substance in English, which Anjali understands (clause (c) of sub-section (1)). The judgment is then signed and dated by the judge in open court.

Availability of Judgment: Anjali and her lawyer receive a copy of the full judgment immediately after the pronouncement, and it is also uploaded on the court's portal within seven days.

Accused Not in Custody: Anjali is required to attend the court to hear the judgment. Since she is not in custody, she attends the court voluntarily.

Absence of Accused: If Anjali had co-accused who did not attend the court on the judgment day, the judge could still pronounce the judgment to avoid undue delay.

Section 393: Language and contents of judgment.

Judgment Requirements

(1) Except as otherwise expressly provided by this Sanhita, every judgment referred to in section 392, -

(a) shall be written in the language of the Court;

(b) shall contain the point or points for determination, the decision thereon and the reasons for the decision;

(c) shall specify the offence (if any) of which, and the section of the Bharatiya Nyaya Sanhita, 2023 or other law under which, the accused is convicted, and the punishment to which he is sentenced;

(d) if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(2) When the conviction is under the Bharatiya Nyaya Sanhita, 2023 and it is doubtful under which of two sections, or under which of two parts of the same section, of that Sanhita the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Sanhita.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 136 or sub-section (2) of section 157 and every final order made under section 144, section 164 or section 166 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

SIMPLIFIED ACTS

Judgment Requirements

(1) Unless stated otherwise in this law, every judgment mentioned in section 392 must:

(a) be written in the language used by the Court;

(b) include the issues to be decided, the decision on those issues, and the reasons for the decision;

(c) specify the crime (if any) the person is found guilty of, the section of the Bharatiya Nyaya Sanhita, 2023 or other law under which they are convicted, and the punishment given;

(d) if it is a judgment of not guilty, state the crime the person is acquitted of and order that they be released.

(2) If the conviction is under the Bharatiya Nyaya Sanhita, 2023 and it is unclear which of two sections or parts of a section the crime falls under, the Court must clearly state this and give a judgment that covers both possibilities.

(3) If the conviction is for a crime that can be punished by death or alternatively by life imprisonment or a set number of years in prison, the judgment must explain the reasons for the chosen sentence, and if the sentence is death, the special reasons for that choice.

(4) If the conviction is for a crime punishable by at least one year in prison, but the Court gives a sentence of less than three months, it must explain why, unless the sentence is to be in prison until the Court session ends or the case was tried quickly under this law.

(5) If someone is sentenced to death, the sentence must state that they are to be hanged by the neck until they are dead.

(6) Every order under section 136 or sub-section (2) of section 157 and every final order under section 144, section 164, or section 166 must include the issues to be decided, the decision on those issues, and the reasons for the decision.

Explanation using Example

Example 1:

Case: Rajesh vs. State of Maharashtra

Scenario: Rajesh is accused of theft under Section 379 of the Bharatiya Nyaya Sanhita, 2023. The trial is conducted in a district court in Maharashtra.

Judgment:

Language of the Court: The judgment is written in Marathi, the official language of the court.

Points for Determination: The court identifies the key issues: whether Rajesh committed theft and whether the evidence supports the charge.

Decision and Reasons: The court finds Rajesh guilty based on witness testimonies and CCTV footage. The judgment explains that the evidence clearly shows Rajesh stealing a mobile phone from a shop.

Offence and Punishment: The judgment specifies that Rajesh is convicted under Section 379 of the Bharatiya Nyaya Sanhita, 2023, and is sentenced to two years of imprisonment.

Acquittal (if applicable): If Rajesh were acquitted, the judgment would state that he is acquitted of theft and should be set at liberty immediately.

Example 2:

Case: Priya vs. State of Karnataka

Scenario: Priya is accused of causing grievous hurt under Section 325 of the Bharatiya Nyaya Sanhita, 2023. The trial is conducted in a district court in Karnataka.

Judgment:

Language of the Court: The judgment is written in Kannada, the official language of the court.

Points for Determination: The court identifies the key issues: whether Priya caused grievous hurt to the victim and whether the evidence supports the charge.

Decision and Reasons: The court finds Priya guilty based on medical reports and witness testimonies. The judgment explains that the evidence clearly shows Priya attacking the victim with a heavy object, causing serious injuries.

Offence and Punishment: The judgment specifies that Priya is convicted under Section 325 of the Bharatiya Nyaya Sanhita, 2023, and is sentenced to three years of imprisonment.

Alternative Judgment: If there was doubt whether the offence falls under Section 325 or Section 326 (causing grievous hurt by dangerous weapons), the court would express this doubt and pass judgment in the alternative.

Special Reasons for Sentence: Since the offence is punishable with imprisonment for a term of one year or more, the court records its reasons for awarding a three-year sentence, considering the severity of the injuries and the intent behind the attack.

Death Sentence (if applicable): If Priya were sentenced to death, the judgment would direct that she be hanged by the neck till she is dead, and provide special reasons for such a sentence.

Example 3:

Case: Anil vs. State of Uttar Pradesh

Scenario: Anil is accused of murder under Section 302 of the Bharatiya Nyaya Sanhita, 2023. The trial is conducted in a district court in Uttar Pradesh.

Judgment:

Language of the Court: The judgment is written in Hindi, the official language of the court.

Points for Determination: The court identifies the key issues: whether Anil committed murder and whether the evidence supports the charge.

Decision and Reasons: The court finds Anil guilty based on forensic evidence and witness testimonies. The judgment explains that the evidence clearly shows Anil intentionally causing the death of the victim.

Offence and Punishment: The judgment specifies that Anil is convicted under Section 302 of the Bharatiya Nyaya Sanhita, 2023, and is sentenced to death.

Special Reasons for Death Sentence: The judgment provides special reasons for awarding the death sentence, such as the brutality of the crime and the lack of remorse shown by Anil.

Alternative Judgment: If there was doubt whether the offence falls under Section 302 or Section 304 (culpable homicide not amounting to murder), the court would express this doubt and pass judgment in the alternative.

Acquittal (if applicable): If Anil were acquitted, the judgment would state that he is acquitted of murder and should be set at liberty immediately.

Section 394: Order for notifying address of previously convicted offender.

(1) When any person, having been convicted by a Court in India of an offence punishable with imprisonment for a term of three years, or upwards, is again convicted of any offence punishable with imprisonment for a term of three years or upwards by any Court other than that of a Magistrate of the second class, such Court may, if it thinks fit, at the time of passing a sentence of imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) The provisions of sub-section (1) shall also apply 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.

SIMPLIFIED ACTS

(1) If someone has been found guilty by an Indian court of a crime that can lead to at least three years in prison, and then they are found guilty again of another crime that also can lead to at least three years in prison (by a court higher than a second-class Magistrate), the court can decide to require that person to report where they live and any changes to their

address or if they leave their home after they are released from prison. This reporting can be required for up to five years after they finish their prison sentence.

(2) The rule in point (1) also applies to people who plan such crimes, help others commit them, or try to commit them.

(3) If the person's conviction is overturned on appeal or for any other reason, the requirement to report their address becomes invalid.

(4) This reporting requirement can also be ordered by an Appellate Court, the High Court, or a Court of Session when they are reviewing a case.

(5) The State Government can make rules about how released convicts should report their address or any changes to it. These rules will help enforce the reporting requirement mentioned in this section.

(6) These rules can include punishments for not following them. If someone breaks these rules, they can be tried by a Magistrate in the area where they last reported their address.

Explanation using Example

Example 1:

Ravi was convicted in 2015 for a serious fraud case and was sentenced to four years in prison by a Sessions Court in Mumbai. After serving his sentence, Ravi was released in 2019. In 2021, Ravi was again convicted for another serious offence, this time for a cybercrime, and was sentenced to five years in prison by a Sessions Court in Delhi. At the time of passing the sentence, the Delhi Sessions Court ordered that upon his release, Ravi must notify the police of his residence and any changes to it for a period of five years. This means that from the date of his release, Ravi must inform the police about where he lives and any changes to his address until 2029.

Example 2:

Sita was convicted in 2010 for her involvement in a criminal conspiracy to commit robbery and was sentenced to three years in prison by a Sessions Court in Chennai. After serving her sentence, she was released in 2013. In 2016, Sita was again convicted for abetment of a serious offence, this time for aiding in a large-scale theft, and was sentenced to four years in prison by a Sessions Court in Bangalore. The Bangalore Sessions Court, at the time of sentencing, ordered that Sita must notify the police of her residence and any changes to it for a period of five years after her release. Therefore, from the date of her release in 2020, Sita must keep the police informed about her residence until 2025.

Example 3:

Arjun was convicted in 2012 for attempting to commit a serious offence, specifically an armed burglary, and was sentenced to three years in prison by a Sessions Court in Kolkata.

After serving his sentence, he was released in 2015. In 2018, Arjun was again convicted for another serious offence, this time for a violent assault, and was sentenced to six years in prison by a Sessions Court in Hyderabad. The Hyderabad Sessions Court ordered that upon his release, Arjun must notify the police of his residence and any changes to it for a period of five years. This means that from the date of his release in 2024, Arjun must inform the police about where he lives and any changes to his address until 2029.

Example 4:

Meera was convicted in 2008 for a serious offence involving drug trafficking and was sentenced to five years in prison by a Sessions Court in Pune. After serving her sentence, she was released in 2013. In 2017, Meera was again convicted for another serious offence, this time for money laundering, and was sentenced to four years in prison by a Sessions Court in Ahmedabad. The Ahmedabad Sessions Court ordered that upon her release, Meera must notify the police of her residence and any changes to it for a period of five years. Therefore, from the date of her release in 2021, Meera must keep the police informed about her residence until 2026.

Section 395: Order to pay compensation.

Legal Provisions on Sentencing and Fines

(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, entitled to recover damages from the person sentenced for the loss resulting to them from such death;
- (d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

SIMPLIFIED ACTS

Legal Provisions on Sentencing and Fines

(1) When a Court gives a fine or a sentence (including the death penalty) that includes a fine, the Court can decide how the fine money will be used. The fine can be used for:

(a) Covering the costs of the legal process.

(b) Paying compensation to someone who suffered a loss or injury because of the crime, if the Court thinks they could get this compensation in a Civil Court.

(c) If someone is found guilty of causing another person's death or helping in such a crime, the fine can be used to pay compensation to the family members who can claim damages under the Fatal Accidents Act, 1855.

(d) If someone is found guilty of theft, misuse of property, breach of trust, cheating, or handling stolen property, the fine can be used to compensate a genuine buyer of the stolen property if the property is returned to its rightful owner.

(2) If the fine is given in a case that can be appealed, no payment from the fine will be made until the time to file an appeal has passed, or if an appeal is filed, until the appeal is decided.

(3) If the Court gives a sentence that does not include a fine, the Court can still order the guilty person to pay compensation to the person who suffered a loss or injury because of the crime.

(4) An order for compensation can also be made by an Appellate Court, the High Court, or a Court of Session when they are reviewing the case.

(5) When deciding compensation in any later civil case about the same matter, the Court will consider any amount already paid or recovered as compensation under this section.

Explanation using Example

Example 1:

Ravi was convicted of theft and sentenced to six months in prison along with a fine of ₹10,000. The court, while passing the judgment, ordered that ₹5,000 of the fine be used to compensate the shop owner, Mr. Sharma, for the loss of goods stolen by Ravi. The remaining ₹5,000 was directed to cover the expenses incurred during the prosecution of the case.

Example 2:

Sunita was found guilty of causing a fatal accident due to reckless driving. She was sentenced to three years in prison and fined ₹50,000. The court ordered that the entire fine amount be paid as compensation to the family of the deceased, Mr. Kumar, under the Fatal Accidents Act, 1855. The compensation was intended to help Mr. Kumar's family cope with the financial loss resulting from his death.

Example 3:

Ajay was convicted of cheating several individuals by promising them high returns on investments and then absconding with their money. He was sentenced to five years in prison and fined ₹1,00,000. The court ordered that ₹70,000 of the fine be distributed among the victims as compensation for their financial losses. The remaining ₹30,000 was allocated to cover the legal expenses of the prosecution.

Example 4:

Meera was convicted of criminal breach of trust for embezzling funds from her employer. She was sentenced to two years in prison and fined ₹20,000. The court ordered that ₹15,000 of the fine be paid to her employer as compensation for the financial loss. The remaining ₹5,000 was used to defray the costs of the legal proceedings.

Example 5:

Raj was convicted of causing grievous injury to his neighbor, Mr. Verma, during a heated argument. He was sentenced to one year in prison. Although no fine was imposed, the court ordered Raj to pay ₹25,000 as compensation to Mr. Verma for the medical expenses and suffering caused by the injury.

Example 6:

In an appellate court, Suresh's conviction for fraud was upheld, and the court also imposed a fine of ₹30,000. The appellate court ordered that ₹20,000 of the fine be paid to the victims as compensation for their losses, and ₹10,000 be used to cover the prosecution's expenses.

Example 7:

During a revision hearing, the High Court reviewed a case where Priya was convicted of theft and fined ₹15,000. The High Court ordered that the entire fine amount be paid to the victim, Mr. Joshi, as compensation for the stolen property that was not recovered.

Example 8:

In a civil suit filed by Mr. Singh for damages resulting from a car accident, the court took into account that the accused, Ramesh, had already paid ₹40,000 as compensation under a criminal court's order. The civil court adjusted the compensation amount accordingly, ensuring that Mr. Singh did not receive double compensation for the same loss.

Section 396: Victim compensation scheme.

Compensation Scheme for Victims

- (1) Every State Government in coordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.
- (2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).
- (3) If the trial Court, at the conclusion of the trial, is satisfied that the compensation awarded under section 395 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make a recommendation for compensation.
- (4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.
- (5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry, award adequate compensation by completing the enquiry within two months.
- (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

(7) The compensation payable by the State Government under this section shall be in addition to the payment of fine to the victim under section 65, section 70, and sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023.

SIMPLIFIED ACTS

Compensation Scheme for Victims

(1) Every State Government, working with the Central Government, must create a plan to provide money to victims or their families who have been hurt or suffered loss because of a crime and need help to recover.

(2) When a Court suggests that compensation should be given, the District Legal Service Authority or the State Legal Service Authority will decide how much money should be given according to the plan mentioned in point (1).

(3) If the trial Court, at the end of the trial, believes that the compensation given under section 395 is not enough for the victim's recovery, or if the case ends without a conviction and the victim still needs help, the Court can suggest giving compensation.

(4) If the criminal is not found or identified, but the victim is known, and no trial happens, the victim or their family can apply to the State or District Legal Services Authority for compensation.

(5) When such a recommendation is received or an application is made under point (4), the State or District Legal Services Authority must investigate and decide on the compensation within two months.

(6) To help the victim quickly, the State or District Legal Services Authority can order immediate first-aid or medical help for free, based on a certificate from a police officer in charge or a local Magistrate, or provide any other temporary relief they find suitable.

(7) The compensation given by the State Government under this section is in addition to any fines paid to the victim under section 65, section 70, and sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023.

Explanation using Example

Example 1:

Scenario: A woman named Priya was a victim of a violent assault in Maharashtra. The assailant was caught and convicted, but Priya suffered severe injuries and required extensive medical treatment and rehabilitation.

Application of the Act:

Compensation Scheme Preparation: The Maharashtra State Government, in coordination with the Central Government, has a scheme in place to provide funds for victims like Priya.

Court Recommendation: During the trial, the court recommended that Priya should receive compensation for her injuries and rehabilitation.

Determination of Compensation: The District Legal Service Authority (DLSA) in Maharashtra reviewed the court's recommendation and decided the amount of compensation Priya should receive.

Additional Compensation: If the court finds that the compensation under Section 395 is insufficient, it can recommend additional compensation for Priya.

Immediate Relief: The DLSA also ordered immediate medical benefits and first-aid facilities for Priya, based on a certificate from the police officer in charge.

Final Compensation: The compensation awarded to Priya by the State Government is in addition to any fines imposed on the assailant under other relevant sections of the Bharatiya Nyaya Sanhita, 2023.

Example 2:

Scenario: A man named Rajesh was a victim of a hit-and-run accident in Delhi. The driver responsible for the accident was not identified, and no trial took place. Rajesh suffered significant injuries and was unable to work for several months.

Application of the Act:

Compensation Scheme Preparation: The Delhi State Government, in coordination with the Central Government, has a scheme to provide funds for victims like Rajesh.

Application for Compensation: Since the offender was not identified and no trial took place, Rajesh applied to the State Legal Services Authority (SLSA) for compensation.

Enquiry and Award: The SLSA conducted an enquiry into Rajesh's application and, within two months, awarded him adequate compensation for his injuries and loss of income.

Immediate Relief: To alleviate Rajesh's suffering, the SLSA ordered immediate medical benefits and first-aid facilities for him, based on a certificate from the police officer in charge.

Final Compensation: The compensation awarded to Rajesh by the State Government is in addition to any other interim relief provided by the appropriate authority.

Example 3:

Scenario: A child named Anjali was a victim of human trafficking in West Bengal. The traffickers were arrested, but the trial ended in acquittal due to lack of evidence. Anjali needed rehabilitation and support to reintegrate into society.

Application of the Act:

Compensation Scheme Preparation: The West Bengal State Government, in coordination with the Central Government, has a scheme to provide funds for victims like Anjali.

Court Recommendation: Despite the acquittal, the trial court recommended that Anjali should receive compensation for her rehabilitation.

Determination of Compensation: The State Legal Service Authority (SLSA) in West Bengal reviewed the court's recommendation and decided the amount of compensation Anjali should receive.

Immediate Relief: The SLSA also ordered immediate medical benefits and first-aid facilities for Anjali, based on a certificate from the police officer in charge.

Final Compensation: The compensation awarded to Anjali by the State Government is in addition to any other interim relief provided by the appropriate authority.

Example 4:

Scenario: A farmer named Ramesh in Uttar Pradesh was a victim of a robbery where he was severely injured, and his savings were stolen. The robbers were not caught, and no trial took place.

Application of the Act:

Compensation Scheme Preparation: The Uttar Pradesh State Government, in coordination with the Central Government, has a scheme to provide funds for victims like Ramesh.

Application for Compensation: Since the offenders were not identified and no trial took place, Ramesh applied to the District Legal Services Authority (DLSA) for compensation.

Enquiry and Award: The DLSA conducted an enquiry into Ramesh's application and, within two months, awarded him adequate compensation for his injuries and loss of savings.

Immediate Relief: To alleviate Ramesh's suffering, the DLSA ordered immediate medical benefits and first-aid facilities for him, based on a certificate from the police officer in charge.

Final Compensation: The compensation awarded to Ramesh by the State Government is in addition to any other interim relief provided by the appropriate authority.

Section 397: Treatment of victims.

All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under:

section 64, section 65, section 66, section 67, section 68, section 70, section 71 or sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023

sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012

and shall immediately inform the police of such incident.

SIMPLIFIED ACTS

All hospitals, whether they are public or private, and whether they are run by the Central Government, State Government, local bodies, or any other person, must do the following:

Provide first-aid or medical treatment for free to victims of any crime mentioned in:

Section 64, 65, 66, 67, 68, 70, 71, or sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023

Sections 4, 6, 8, or 10 of the Protection of Children from Sexual Offences Act, 2012

Inform the police about the incident immediately.

Explanation using Example

Example 1:

Ravi, a 35-year-old man, is attacked and injured by a group of assailants while walking home from work. He suffers severe injuries and is rushed to the nearest private hospital by a passerby. Under Section 397 of the Bharatiya Nagarik Suraksha Sanhita 2023, the hospital is required to provide Ravi with immediate first-aid and medical treatment free of cost. The hospital must also inform the police about the incident without any delay. Ravi receives the necessary medical care, and the police are able to start their investigation promptly.

Example 2:

Priya, a 14-year-old girl, is a victim of sexual assault covered under section 4 of the Protection of Children from Sexual Offences Act, 2012. She is taken to a government hospital by her parents. According to Section 397 of the Bharatiya Nagarik Suraksha Sanhita 2023, the hospital must provide Priya with immediate medical treatment at no cost. Additionally, the hospital staff must notify the police about the assault right away. Priya receives the required medical attention, and the police are informed to take further action.

Example 3:

Sunita, a 28-year-old woman, is injured in a domestic violence incident, which falls under section 66 of the Bharatiya Nyaya Sanhita, 2023. Her neighbor takes her to a local municipal hospital. As per Section 397 of the Bharatiya Nagarik Suraksha Sanhita 2023, the hospital is obligated to provide Sunita with free first-aid and medical treatment. The hospital must also report the incident to the police immediately. Sunita gets the necessary medical help, and the police are alerted to investigate the matter.

Example 4:

Amit, a 10-year-old boy, is found unconscious and injured in a park, suspected to be a victim of an offense under section 8 of the Protection of Children from Sexual Offences Act, 2012. A concerned citizen takes him to a nearby private hospital. Under Section 397 of the Bharatiya Nagarik Suraksha Sanhita 2023, the hospital must provide Amit with immediate medical treatment free of charge and inform the police about the incident right away. Amit receives the medical care he needs, and the police are notified to investigate the case.

Section 398: Witness protection scheme.

Every State Government shall prepare and notify a Witness Protection Scheme for the State with a view to ensure protection of the witnesses.

SIMPLIFIED ACTS

Every State Government must create and announce a Witness Protection Plan for their State to make sure that witnesses are kept safe.

Explanation using Example

Example 1:

Ravi is a key witness in a high-profile corruption case involving a powerful politician in Maharashtra. Fearing for his safety, Ravi approaches the police and expresses his concerns. Under Section 398 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Maharashtra State Government has a Witness Protection Scheme in place. The police immediately enroll Ravi in the scheme, providing him with a new identity and relocating him to a safe house. Additionally, Ravi is given police protection whenever he needs to appear in court to testify.

Example 2:

Sunita witnessed a violent gang-related murder in her neighborhood in Uttar Pradesh. She is willing to testify in court but is afraid of retaliation from the gang members. The Uttar Pradesh State Government, adhering to Section 398 of The Bharatiya Nagarik Suraksha Sanhita 2023, has a Witness Protection Scheme designed to protect individuals like Sunita. The scheme ensures that Sunita receives round-the-clock security, and her children are

transferred to a different school to ensure their safety. Furthermore, Sunita's address and personal details are kept confidential throughout the trial process.

Section 399: Compensation to persons groundlessly arrested.

(1) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one thousand rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding one thousand rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

SIMPLIFIED ACTS

(1) If someone gets a police officer to arrest another person, and the judge finds that there was no good reason for the arrest, the judge can order the person who caused the arrest to pay up to one thousand rupees to the person who was arrested. This money is to cover the arrested person's lost time and expenses.

(2) If more than one person is arrested in such a situation, the judge can order the person who caused the arrests to pay up to one thousand rupees to each of the arrested people.

(3) Any compensation that the judge orders must be paid like a fine. If the person who has to pay the compensation doesn't pay it, they can be sent to jail for up to thirty days, or until they pay the amount, whichever comes first.

Explanation using Example

Example 1:

Ravi, a shop owner in Delhi, suspects that his neighbor, Suresh, has stolen goods from his shop. Ravi files a complaint with the local police, leading to Suresh's arrest. After investigating, the police find no evidence against Suresh, and the case is brought before a Magistrate. The Magistrate determines that Ravi had no sufficient grounds for causing Suresh's arrest. Under Section 399 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate awards Suresh a compensation of ₹1,000 for his loss of time and expenses incurred due to the wrongful arrest. Ravi is ordered to pay this amount to Suresh.

Example 2:

In Mumbai, Priya accuses her colleague, Anil, of embezzling funds from their company. Based on Priya's complaint, the police arrest Anil and two other employees who were working closely with him. Upon investigation, it is revealed that there was no embezzlement, and the accusations were baseless. The case is presented before a Magistrate, who finds that Priya had no sufficient grounds for causing the arrests. The Magistrate awards each of the three arrested employees a compensation of ₹1,000. Priya is ordered to pay a total of ₹3,000 (₹1,000 to each employee) for their loss of time and expenses. If Priya fails to pay the compensation, she may face simple imprisonment for up to thirty days.

Section 400: Order to pay costs in non-cognizable cases.

(1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and advocate's fees which the Court may consider reasonable.

(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

SIMPLIFIED ACTS

(1) If someone files a complaint about a minor crime (non-cognizable offence) in court and the court finds the accused guilty, the court can make the guilty person pay back the complainant for the costs they spent on the case. This can include things like fees for legal paperwork, witnesses, and lawyers. If the guilty person doesn't pay, they can be sent to simple jail (no hard labor) for up to 30 days.

(2) This rule can also be applied by higher courts, like an Appellate Court, High Court, or Court of Session, when they are reviewing a case.

Explanation using Example

Example 1:

Ravi files a complaint in a local court against his neighbor, Suresh, for defamation, which is a non-cognizable offense. After a thorough trial, the court finds Suresh guilty of defamation. In addition to imposing a fine of ₹10,000 on Suresh, the court orders him to pay ₹5,000 to Ravi to cover the costs Ravi incurred during the prosecution, including advocate's fees and witness expenses. The court also states that if Suresh fails to pay this amount, he will have to undergo simple imprisonment for 15 days.

Example 2:

Priya files a complaint against her colleague, Anil, for public nuisance, a non-cognizable offense, in the District Court. The court convicts Anil and imposes a penalty of ₹2,000. Additionally, the court orders Anil to pay ₹1,500 to Priya to cover her legal expenses, including process fees and advocate's fees. The court further orders that if Anil does not pay this amount within the stipulated time, he will face simple imprisonment for 10 days. Anil appeals the decision in the High Court, which upholds the lower court's order and reiterates the payment of costs to Priya.

Section 401: Order to release on probation of good conduct or after admonition.

Legal Provisions

(1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond or bail bond to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behavior:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Bharatiya Nyaya Sanhita, 2023, punishable with not more than two years' imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so

convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or 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 140, 143 and 414 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958, or the Juvenile Justice (Care and Protection of Children) Act, 2015 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

SIMPLIFIED ACTS

Legal Provisions

(1) If someone over 21 years old is found guilty of a crime that can only be punished with a fine or up to 7 years in prison, or if someone under 21 or a woman is found guilty of a crime that is not punishable by death or life imprisonment, and they have no previous convictions, the Court can decide to release them on probation instead of punishing them

right away. The Court will consider their age, character, background, and the situation of the crime. The person must agree to behave well and keep the peace for up to three years, as decided by the Court.

However, if a lower-level Magistrate (second class) thinks probation is appropriate, they must send the case to a higher-level Magistrate (first class) for a final decision.

(2) When a higher-level Magistrate (first class) receives the case, they can pass a sentence or make an order as if they had heard the case from the beginning. They can also ask for more investigation or evidence if needed.

(3) If someone is found guilty of minor crimes like theft, cheating, or any crime under the Bharatiya Nyaya Sanhita, 2023, that is punishable by up to two years in prison or just a fine, and they have no previous convictions, the Court can decide to release them with a warning instead of punishing them. The Court will consider their age, character, background, and the minor nature of the crime.

(4) Any higher Court, like an Appellate Court, High Court, or Court of Session, can also make an order for probation when reviewing a case.

(5) If a higher Court changes the probation order, they can pass a new sentence according to the law. However, they cannot give a harsher punishment than what the original Court could have given.

(6) The rules about sureties (people who guarantee the offender's good behavior) in sections 140, 143, and 414 will apply here too.

(7) Before releasing someone on probation, the Court must ensure that the person or their surety has a fixed place to live or a regular job in the area where the Court operates or where the person is likely to live during the probation period.

(8) If the Court finds that the person on probation has not followed the conditions, it can issue a warrant for their arrest.

(9) When the person is arrested, they must be brought before the Court immediately. The Court can either keep them in custody until the case is heard or release them on bail. After hearing the case, the Court can pass a sentence.

(10) This section does not affect the rules in the Probation of Offenders Act, 1958, the Juvenile Justice (Care and Protection of Children) Act, 2015, or any other law related to the treatment, training, or rehabilitation of young offenders.

Explanation using Example

Example 1:

Scenario: Ramesh, a 19-year-old college student, is caught stealing a bicycle from his campus. This is his first offense, and he has no prior criminal record.

Application of Section 401:

Since Ramesh is under 21 years of age and the offense is not punishable with death or life imprisonment, the court considers his age, character, and the circumstances of the offense.

The court decides that instead of sentencing Ramesh to imprisonment, it is more appropriate to release him on probation of good conduct.

Ramesh is required to enter into a bond to appear and receive his sentence if called upon within a period of up to three years. During this time, he must keep the peace and be of good behavior.

Example 2:

Scenario: Sita, a 25-year-old woman, is convicted of cheating by providing false information to obtain a loan. This is her first offense, and she has no prior convictions.

Application of Section 401:

Since Sita is a woman and the offense is not punishable with death or life imprisonment, the court considers her age, character, and the circumstances of the offense.

The court decides that instead of sentencing Sita to imprisonment, it is more appropriate to release her on probation of good conduct.

Sita is required to enter into a bond to appear and receive her sentence if called upon within a period of up to three years. During this time, she must keep the peace and be of good behavior.

Example 3:

Scenario: Raj, a 30-year-old man, is convicted of theft in a building. This is his first offense, and he has no prior criminal record.

Application of Section 401:

Since Raj is over 21 years of age and the offense is punishable with imprisonment for a term of seven years or less, the court considers his age, character, and the circumstances of the offense.

The court decides that instead of sentencing Raj to imprisonment, it is more appropriate to release him on probation of good conduct.

Raj is required to enter into a bond to appear and receive his sentence if called upon within a period of up to three years. During this time, he must keep the peace and be of good behavior.

Example 4:

Scenario: Priya, a 22-year-old woman, is convicted of dishonest misappropriation of property. This is her first offense, and she has no prior criminal record.

Application of Section 401:

Since Priya is a woman and the offense is not punishable with death or life imprisonment, the court considers her age, character, and the circumstances of the offense.

The court decides that instead of sentencing Priya to imprisonment, it is more appropriate to release her on probation of good conduct.

Priya is required to enter into a bond to appear and receive her sentence if called upon within a period of up to three years. During this time, she must keep the peace and be of good behavior.

Example 5:

Scenario: Mohan, a 28-year-old man, is convicted of cheating. This is his first offense, and he has no prior criminal record.

Application of Section 401:

Since Mohan is over 21 years of age and the offense is punishable with imprisonment for a term of seven years or less, the court considers his age, character, and the circumstances of the offense.

The court decides that instead of sentencing Mohan to imprisonment, it is more appropriate to release him on probation of good conduct.

Mohan is required to enter into a bond to appear and receive his sentence if called upon within a period of up to three years. During this time, he must keep the peace and be of good behavior.

Section 402: Special reasons to be recorded in certain cases.

Where in any case the Court could have dealt with, -

(a) an accused person under section 401 or under the provisions of the Probation of Offenders Act, 1958; or

(b) a youthful offender under the Juvenile Justice (Care and Protection of Children) Act, 2015 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special reasons for not having done so.

SIMPLIFIED ACTS

If the Court could have handled a case by:

(a) dealing with an accused person under section 401 or the Probation of Offenders Act, 1958; or

(b) dealing with a young offender under the Juvenile Justice (Care and Protection of Children) Act, 2015 or any other current law for treating, training, or rehabilitating young offenders,

but chooses not to, the Court must explain in its judgment why it did not take these actions.

Explanation using Example

Example 1:

Case: Ramesh, a 19-year-old, is caught stealing a mobile phone from a shop.

Scenario: The court has the option to deal with Ramesh under Section 401 of the Bharatiya Nagarik Suraksha Sanhita 2023 or under the Probation of Offenders Act, 1958, which could allow for probation instead of a harsher sentence. However, the court decides to sentence Ramesh to six months in jail.

Application of Section 402: The court must record special reasons in its judgment for not opting for probation. For instance, the court might state that Ramesh has a history of repeated offenses and probation has not been effective in deterring his criminal behavior.

Example 2:

Case: Priya, a 16-year-old, is found guilty of vandalizing public property.

Scenario: The court could have dealt with Priya under the Juvenile Justice (Care and Protection of Children) Act, 2015, which focuses on the rehabilitation and training of youthful offenders. However, the court decides to send Priya to a juvenile detention center for a period of six months.

Application of Section 402: The court must record special reasons in its judgment for not opting for rehabilitation or training under the Juvenile Justice Act. For example, the court

might note that Priya has been involved in multiple incidents of vandalism and previous rehabilitation efforts have failed to reform her behavior.

Section 403: Court not to alter judgment.

Save as otherwise provided by this Sanhita or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

SIMPLIFIED ACTS

Unless this law or any other current law says otherwise, once a court has signed its judgment or final order in a case, it cannot change or review it, except to fix a typing or math mistake.

Explanation using Example

Example 1:

Scenario: Rajesh was on trial for theft. After a lengthy trial, the judge delivered a judgment on January 15, 2023, finding Rajesh guilty and sentencing him to two years in prison. The judgment was signed and finalized on the same day. A week later, Rajesh's lawyer discovered that the judgment incorrectly stated the date of the crime as "March 15, 2022" instead of "March 25, 2022."

Application of Section 403: Rajesh's lawyer can request the court to correct this clerical error in the judgment. However, the court cannot change the judgment itself (i.e., the finding of guilt or the sentence) as it has already been signed and finalized. The court can only correct the date error.

Example 2:

Scenario: Priya was involved in a civil case regarding a property dispute. The court issued a final order on February 10, 2023, in favor of Priya, awarding her the disputed property. The judgment was signed and finalized on the same day. Later, it was found that there was a miscalculation in the amount of court fees to be paid by the losing party, which was stated as ₹10,000 instead of the correct amount of ₹1,000.

Application of Section 403: The court can correct the arithmetical error regarding the court fees. However, the court cannot alter the final decision of awarding the property to Priya, as the judgment has already been signed and finalized.

Section 404: Copy of judgment to be given to accused and other persons.

(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 136 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record:

Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost:

Provided further that the Court may, on an application made in this behalf by the Prosecuting Officer, provide to the Government, free of cost, a certified copy of such judgment, order, deposition or record.

(6) The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

SIMPLIFIED ACTS

(1) If someone is sentenced to prison, they will get a free copy of the judgment right after it is announced.

(2) If the person who is sentenced asks for it, they can get a certified copy of the judgment or a translation in their own language (if possible) or in the language of the Court, without delay and for free, especially if they can appeal the judgment:

If the High Court gives or confirms a death sentence, the person will get a certified copy of the judgment for free immediately, even if they don't ask for it.

(3) The rules in point (2) also apply to orders under section 136, just like they apply to judgments that can be appealed by the accused.

(4) If someone is sentenced to death and they have the right to appeal, the Court must tell them how long they have to file an appeal.

(5) Except for the free copies mentioned in point (2), anyone affected by a judgment or order from a Criminal Court can get a copy if they apply for it and pay the required fees:

The Court can decide to give it for free if there is a special reason.

The Court can also give a free certified copy to the Government if the Prosecuting Officer asks for it.

(6) The High Court can make rules to allow anyone who is not affected by a judgment or order to get a copy, as long as they pay the fees and follow the conditions set by the High Court.

Explanation using Example

Example 1:

Rajesh was convicted of theft and sentenced to two years of imprisonment by the District Court. Immediately after the judgment was pronounced, the court provided Rajesh with a copy of the judgment free of cost. Rajesh, who is more comfortable reading in Hindi, requested a certified copy of the judgment translated into Hindi. The court provided him with the translated copy without delay and free of cost, as the judgment was appealable by Rajesh.

Example 2:

Sunita was sentenced to death by the High Court for a serious crime. As per the law, the High Court immediately provided Sunita with a certified copy of the judgment free of cost, even though she did not apply for it. The court also informed Sunita about the period within which she could file an appeal against the judgment.

Example 3:

Vikram, a journalist, wanted to obtain a copy of a judgment passed by a Criminal Court in a high-profile case. He applied to the court and paid the prescribed charges to get a copy of the judgment. The court, considering the public interest, decided to provide the copy free of cost.

Example 4:

The Prosecuting Officer in a criminal case needed a certified copy of the judgment to submit to the Government for further action. The officer applied to the court, and the court provided the certified copy free of cost to the Government.

Example 5:

An NGO working on legal reforms wanted to study a particular judgment passed by a Criminal Court. They applied to the High Court for a copy of the judgment. The High Court, as per its rules, provided the copy to the NGO upon payment of the prescribed fees.

Section 405: Judgment when to be translated.

The original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different from that of the Court, and if either party so requires, a translation thereof into the language of the Court shall be added to such record.

SIMPLIFIED ACTS

The original judgment must be kept with the official records of the case.

If the original judgment is in a different language than the one used by the Court, and if either party requests it, a translation into the Court's language must be added to the records.

Explanation using Example

Example 1:

Rajesh, a resident of Tamil Nadu, was involved in a legal dispute over property inheritance. The court proceedings were conducted in Tamil, the official language of the state. However, the final judgment was written in English. Rajesh, who is not proficient in English, requested a translation of the judgment into Tamil. According to Section 405 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court provided a Tamil translation of the judgment and added it to the official record of the proceedings.

Example 2:

Anita, a businesswoman from Gujarat, was involved in a commercial litigation case. The court proceedings were conducted in Gujarati, but the judgment was issued in Hindi. Anita's legal team required the judgment to be translated into Gujarati to ensure that Anita fully understood the court's decision. As per Section 405 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court arranged for the judgment to be translated into Gujarati and included the translation in the official court records.

Section 406: Court of Session to send copy of finding and sentence to District Magistrate.

In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

SIMPLIFIED ACTS

When a case is tried by the Court of Session or a Chief Judicial Magistrate:

The Court or Magistrate must send a copy of their decision and any sentence given to the District Magistrate.

This must be done for cases within the area where the trial took place.

Explanation using Example

Example 1:

Ravi was accused of a serious crime and his case was tried in the Court of Session in Mumbai. After a thorough trial, the Court of Session found Ravi guilty and sentenced him to 10 years in prison. According to Section 406 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Court of Session must send a copy of the finding (guilty) and the sentence (10 years in prison) to the District Magistrate of Mumbai. This ensures that the District Magistrate is informed about the outcome of the trial and can take any necessary administrative actions.

Example 2:

Meena was charged with a criminal offense and her case was heard by the Chief Judicial Magistrate in Delhi. After the trial, the Chief Judicial Magistrate acquitted Meena, finding her not guilty of the charges. As per Section 406 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Chief Judicial Magistrate is required to send a copy of the finding (not guilty) to the District Magistrate of Delhi. This procedure ensures that the District Magistrate is aware of the trial's outcome and can update the legal records accordingly.

CHAPTER XXX: SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

Section 407: Sentence of death to be submitted by Court of Session for confirmation.

(1) When the Court of Session passes a sentence of death, the proceedings shall forthwith be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

(2) The Court passing the sentence shall commit the convicted person to jail custody under a warrant.

SIMPLIFIED ACTS

(1) When a Court of Session gives a death sentence, the case must be immediately sent to the High Court. The death sentence cannot be carried out unless the High Court approves it.

(2) The Court that gives the death sentence must send the convicted person to jail with an official order.

Explanation using Example

Example 1:

Scenario: Rajesh is convicted of a heinous crime, such as a brutal murder, by the Court of Session in Mumbai.

Application of Section 407:

The Court of Session sentences Rajesh to death.

As per Section 407(1), the Court of Session must immediately submit the entire case proceedings to the Bombay High Court for confirmation.

Rajesh cannot be executed until the Bombay High Court reviews and confirms the death sentence.

Meanwhile, as per Section 407(2), Rajesh is sent to jail under a warrant issued by the Court of Session, where he will remain in custody until the High Court makes its decision.

Example 2:

Scenario: Priya is found guilty of a terrorist act that resulted in multiple deaths by the Court of Session in Delhi.

Application of Section 407:

The Court of Session sentences Priya to death.

Following Section 407(1), the Court of Session must promptly send the case records to the Delhi High Court for confirmation of the death sentence.

Priya's execution cannot proceed until the Delhi High Court confirms the sentence after a thorough review.

In the meantime, as required by Section 407(2), Priya is placed in jail custody under a warrant issued by the Court of Session, awaiting the High Court's decision.

Section 408: Power to direct further inquiry to be made or additional evidence to be taken.

(1) If, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such Court.

SIMPLIFIED ACTS

(1) If the High Court thinks more investigation or additional evidence is needed to decide if the convicted person is guilty or innocent, it can either do the investigation or gather the evidence itself, or ask the Court of Session to do it.

(2) The convicted person does not need to be present during this investigation or evidence gathering unless the High Court says otherwise.

(3) If the investigation or evidence gathering is done by someone other than the High Court, the results must be reported back to the High Court.

Explanation using Example

Example 1:

Scenario: Rajesh has been convicted of a serious crime and sentenced to death by the Court of Session. The case is now submitted to the High Court for confirmation of the death sentence.

Application of Section 408:

Further Inquiry or Additional Evidence: The High Court reviews the case and finds that there is a crucial point regarding Rajesh's alibi that was not thoroughly investigated during the trial. The High Court decides that further inquiry is needed to determine the validity of the alibi.

Direction to Court of Session: The High Court directs the Court of Session to conduct this further inquiry and gather additional evidence related to Rajesh's alibi.

Presence of Convicted Person: The High Court decides that Rajesh's presence is not necessary during this additional inquiry.

Certification of Results: After the Court of Session completes the inquiry and gathers the additional evidence, it certifies the results and submits them to the High Court for consideration.

Example 2:

Scenario: Meena has been convicted of a crime and sentenced to death. Her case is now before the High Court for confirmation of the death sentence. During the review, the High Court notices that there is conflicting testimony regarding a key witness's statement.

Application of Section 408:

Further Inquiry or Additional Evidence: The High Court believes that additional evidence is needed to clarify the conflicting testimony of the key witness. The High Court decides to take this evidence itself.

High Court Inquiry: The High Court summons the key witness and other relevant parties to provide additional testimony and evidence directly before the High Court.

Presence of Convicted Person: The High Court decides that Meena's presence is not required during this process.

Certification of Results: Since the High Court conducted the inquiry and gathered the additional evidence itself, there is no need for certification from the Court of Session. The High Court will now consider this new evidence in its decision on whether to confirm the death sentence.

Section 409: Power of High Court to confirm sentence or annul conviction.

In any case submitted under section 407, the High Court -

- (a) may confirm the sentence, or pass any other sentence warranted by law; or
- (b) may annul the conviction, and convict the accused of any offence of which the Court of Session might have convicted him, or order a new trial on the same or an amended charge; or
- (c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

SIMPLIFIED ACTS

In any case brought under section 407, the High Court -

- (a) can confirm the sentence given, or give any other sentence that is allowed by law; or
- (b) can cancel the conviction, and find the accused guilty of any crime that the Court of Session could have found him guilty of, or order a new trial with the same or a changed charge; or
- (c) can declare the accused person not guilty:

But, the High Court cannot confirm the sentence until the time allowed for filing an appeal has passed, or if an appeal is filed within that time, until the appeal is resolved.

Explanation using Example

Example 1:

Case: Rajesh vs. State of Maharashtra

Scenario: Rajesh was convicted by the Sessions Court for a murder and was sentenced to death. The case was then submitted to the High Court for confirmation of the death sentence as per Section 407.

Application of Section 409:

The High Court reviewed the case under Section 409.

Outcome (a): The High Court confirmed the death sentence after finding the evidence and trial procedures to be proper and just.

Outcome (b): Alternatively, the High Court could have found procedural errors or new evidence suggesting Rajesh was guilty of a lesser offense, such as manslaughter, and could have passed a different sentence, like life imprisonment.

Outcome (c): If the High Court found that the evidence was insufficient or flawed, it could have annulled the conviction and acquitted Rajesh.

Example 2:

Case: Priya vs. State of Karnataka

Scenario: Priya was convicted by the Sessions Court for a serious assault and was sentenced to death. The case was submitted to the High Court for confirmation.

Application of Section 409:

The High Court reviewed the case under Section 409.

Outcome (a): The High Court confirmed the death sentence after thorough examination of the evidence and trial records.

Outcome (b): The High Court found that the evidence suggested Priya was guilty of a lesser charge, such as grievous hurt, and passed a sentence of 10 years imprisonment instead.

Outcome (c): The High Court found significant flaws in the prosecution's case, leading to the annulment of the conviction and Priya's acquittal.

Note: In both examples, the High Court ensured that no order of confirmation was made until the period allowed for filing an appeal had expired, or if an appeal was filed, until it was disposed of.

Section 410: Confirmation or new sentence to be signed by two Judges.

In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

SIMPLIFIED ACTS

In every case that is sent to the High Court, the decision to confirm the sentence, or any new sentence or order given by the High Court, must be made, approved, and signed by at least two judges if the court has two or more judges.

Explanation using Example

Example 1:

Scenario: Ramesh is convicted of a capital offense and sentenced to death by the trial court. The case is automatically submitted to the High Court for confirmation of the death sentence.

Application: According to Section 410 of the Bharatiya Nagarik Suraksha Sanhita 2023, the confirmation of Ramesh's death sentence requires the signatures of at least two judges from the High Court if the court consists of two or more judges. The High Court panel reviews the case and decides to uphold the death sentence. The confirmation order is then passed and signed by two judges.

Outcome: Ramesh's death sentence is confirmed and documented with the signatures of two High Court judges, ensuring compliance with the legal requirement for confirmation.

Example 2:

Scenario: Sita is convicted of a severe crime and sentenced to death by the trial court. The case is submitted to the High Court for confirmation. Upon review, the High Court panel, consisting of three judges, finds procedural errors during the trial and decides to commute the death sentence to life imprisonment.

Application: In this situation, Section 410 mandates that the new sentence (life imprisonment) must be signed by at least two judges of the High Court. The panel agrees on commuting the sentence, and the new sentence order is passed and signed by two of the three judges.

Outcome: Sita's sentence is changed to life imprisonment, and the new sentence is legally validated with the signatures of two High Court judges, in accordance with the act.

Section 411: Procedure in case of difference of opinion.

Where any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be decided in the manner provided by section 433.

SIMPLIFIED ACTS

If a case is heard by a group of judges and they cannot agree on a decision because they are split evenly, the case will be decided according to the rules in section 433.

Explanation using Example

Example 1:

Scenario: A death penalty case is being heard by a Bench of two judges in the High Court. After reviewing all the evidence and arguments, one judge believes that the death penalty should be confirmed, while the other judge believes that the sentence should be commuted to life imprisonment.

Application of Section 411: Since the two judges are equally divided in their opinions, the case cannot be decided based on their split decision. According to Section 411, the case will then be decided in the manner provided by Section 433 of the Bharatiya Nagarik Suraksha Sanhita 2023. This typically means that the case may be referred to a larger Bench of judges or another procedure as outlined in Section 433 to resolve the deadlock.

Example 2:

Scenario: A death sentence case is under review by a Bench of three judges in the Supreme Court. After deliberation, one judge votes to confirm the death sentence, another judge votes to commute the sentence to life imprisonment, and the third judge abstains from voting due to a conflict of interest.

Application of Section 411: In this situation, the opinions of the two participating judges are equally divided. As per Section 411, the case cannot be resolved with the current split decision. Therefore, the case will be decided according to the procedure laid out in Section 433, which may involve referring the case to a larger Bench or following another specified procedure to reach a final decision.

Section 412: Procedure in cases submitted to High Court for confirmation.

In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send either physically, or through electronic means, a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

SIMPLIFIED ACTS

When the Court of Session sends a death sentence case to the High Court for approval, the High Court's proper officer must act quickly.

After the High Court makes a decision to confirm the death sentence or any other decision, the officer must send a copy of this decision to the Court of Session.

This copy must be sent either physically or electronically.

The copy must have the High Court's seal and the officer's official signature.

Explanation using Example

Example 1:

Rajesh was convicted of a heinous crime and sentenced to death by the Court of Session in Mumbai. As per the legal procedure, the Court of Session submitted the case to the Bombay High Court for confirmation of the death sentence. The High Court reviewed the case and confirmed the death sentence. Following this, the proper officer of the Bombay High Court promptly sent a copy of the confirmation order, sealed and signed, to the Court of Session in Mumbai. This ensured that the Court of Session had the official confirmation to proceed with the execution of the sentence.

Example 2:

In another case, Priya was sentenced to death by the Court of Session in Chennai for a serious offense. The case was then submitted to the Madras High Court for confirmation. The High Court, after thorough examination, decided to commute the death sentence to life imprisonment. The proper officer of the Madras High Court immediately sent a copy of this order, both physically and electronically, to the Court of Session in Chennai. The order was sealed and signed by the officer, ensuring that the Court of Session received the official directive to alter Priya's sentence from death to life imprisonment.

CHAPTER XXXI: APPEALS

Section 413: No appeal to lie unless otherwise provided.

No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Sanhita or by any other law for the time being in force:

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

SIMPLIFIED ACTS

You cannot appeal a decision or order from a Criminal Court unless this law or another current law allows it.

However, the victim has the right to appeal if: a. The Court acquits (frees) the accused, b. The Court convicts the accused of a lesser offence, or c. The Court gives inadequate compensation.

This appeal should be made to the same Court where you would normally appeal a conviction from that Criminal Court.

Explanation using Example

Example 1:

Scenario: Rajesh was accused of theft and was tried in a Criminal Court. The court found him guilty and sentenced him to two years in prison. Rajesh believes the judgment was unfair and wants to appeal the decision.

Application of Section 413: Rajesh cannot appeal the judgment unless the Bharatiya Nagarik Suraksha Sanhita 2023 or any other current law specifically allows for such an appeal. If the Sanhita or another law provides a provision for appealing a theft conviction, Rajesh can proceed with the appeal. Otherwise, he must accept the court's decision.

Example 2:

Scenario: Priya was a victim of a hit-and-run accident. The accused, Sunil, was tried in a Criminal Court but was acquitted due to lack of evidence. Priya feels that the court's decision was unjust and wants to challenge the acquittal.

Application of Section 413: According to the proviso in Section 413, Priya has the right to appeal against the court's order acquitting Sunil. She can file an appeal in the higher court that ordinarily handles appeals against convictions from the trial court. This provision ensures that victims have a recourse if they believe the acquittal was incorrect.

Example 3:

Scenario: Anil was convicted of assault and sentenced to six months in prison. The victim, Ravi, believes that the punishment is too lenient given the severity of the assault and wants to appeal for a harsher sentence.

Application of Section 413: Ravi, as the victim, has the right to appeal against the court's order if he feels that the punishment imposed on Anil is inadequate. He can file an appeal in the higher court that typically handles appeals against convictions from the trial court. This allows victims to seek a more appropriate sentence if they believe the initial punishment was insufficient.

Example 4:

Scenario: Meera was awarded compensation by the court after being a victim of fraud. However, she feels that the compensation amount is too low and wants to appeal for a higher amount.

Application of Section 413: Meera has the right to appeal against the court's order if she believes the compensation awarded is inadequate. She can file an appeal in the higher court that usually handles appeals against such orders. This provision ensures that victims can seek fair compensation if they feel the initial amount was insufficient.

Section 414: Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.

Any person, -

(i) who has been ordered under section 136 to give security for keeping the peace or for good behaviour; or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 140, may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 141.

SIMPLIFIED ACTS

Anyone who:

(i) has been told under section 136 to provide a guarantee to keep the peace or behave well; or

(ii) is unhappy with a decision that refuses or rejects a guarantor under section 140, can appeal this decision to the Court of Session:

However, this does not apply to people whose cases are presented to a Sessions Judge according to sub-section (2) or sub-section (4) of section 141.

Explanation using Example

Example 1:

Scenario: Rajesh, a local shopkeeper, has been involved in several heated arguments with his neighbors. The police, concerned about the potential for violence, issue an order under Section 136 of The Bharatiya Nagarik Suraksha Sanhita 2023, requiring Rajesh to provide security for keeping the peace.

Application: Rajesh feels that the order is unjust as he believes the arguments were minor and did not warrant such a measure. He decides to appeal the order. Under Section 414, Rajesh has the right to appeal to the Court of Session against the order requiring him to give security for keeping the peace.

Example 2:

Scenario: Priya, a college student, is accused of being involved in disruptive activities on campus. The authorities issue an order under Section 136 requiring her to provide security for good behavior. Priya's friend, Anil, offers to act as her surety, but the authorities reject Anil as a suitable surety under Section 140.

Application: Priya is aggrieved by the rejection of Anil as her surety. She believes that Anil is a responsible individual and the rejection is unfair. Under Section 414, Priya can appeal to the Court of Session against the order refusing to accept Anil as her surety.

Example 3:

Scenario: Suresh, a taxi driver, has been accused of aggressive behavior towards passengers. The local magistrate orders him to provide security for good behavior under Section 136. Suresh's brother, Ramesh, offers to be his surety, but the magistrate rejects Ramesh's offer, citing his previous criminal record.

Application: Suresh feels that the rejection of Ramesh as his surety is unreasonable, as Ramesh has reformed and is now a law-abiding citizen. Suresh decides to appeal the magistrate's decision. Under Section 414, Suresh can appeal to the Court of Session against the order rejecting Ramesh as his surety.

Example 4:

Scenario: Meena, a social activist, is involved in a peaceful protest. However, the authorities, fearing potential unrest, issue an order under Section 136 requiring her to provide security for keeping the peace. Meena's colleague, Ravi, offers to be her surety, but the authorities refuse to accept Ravi as a surety under Section 140.

Application: Meena believes that the refusal to accept Ravi as her surety is unjustified. She decides to appeal the decision. Under Section 414, Meena has the right to appeal to the Court of Session against the order refusing to accept Ravi as her surety.

Section 415: Appeals from convictions.

Appeals

(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial, may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person, -

(a) convicted on a trial held by Magistrate of the first class, or of the second class; or

(b) sentenced under section 364; or

(c) in respect of whom an order has been made or a sentence has been passed under section 401 by any Magistrate,

may appeal to the Court of Session.

(4) When an appeal has been filed against a sentence passed under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

SIMPLIFIED ACTS

Appeals

(1) If someone is found guilty in a trial conducted by a High Court using its special powers, they can appeal to the Supreme Court.

(2) If someone is found guilty in a trial conducted by a Sessions Judge, an Additional Sessions Judge, or any other court where the sentence is more than seven years in prison, they can appeal to the High Court.

(3) Except as mentioned in point (2), anyone who:

(a) is found guilty in a trial conducted by a Magistrate of the first or second class; or

(b) is sentenced under section 364; or

(c) has an order or sentence passed under section 401 by any Magistrate, can appeal to the Court of Session.

(4) If an appeal is filed against a sentence given under sections 64, 65, 66, 67, 68, 70, or 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal must be resolved within six months from the date it was filed.

Explanation using Example

Example 1:

Scenario: Rajesh was convicted by the High Court of Delhi under its extraordinary original criminal jurisdiction for a serious financial fraud case. He believes that the conviction was unjust and wants to challenge it.

Application of Section 415: Rajesh can appeal to the Supreme Court of India against his conviction by the High Court of Delhi.

Example 2:

Scenario: Priya was convicted by a Sessions Judge in Mumbai for a crime and was sentenced to 10 years of imprisonment. She believes there were errors in the trial and wants to appeal the conviction.

Application of Section 415: Priya can appeal to the High Court of Bombay against her conviction and the sentence passed by the Sessions Judge.

Example 3:

Scenario: Anil was convicted by a Magistrate of the first class in Bangalore for a minor theft and was sentenced to 2 years of imprisonment. He believes the evidence was not properly considered and wants to appeal.

Application of Section 415: Anil can appeal to the Court of Session against his conviction and sentence passed by the Magistrate of the first class.

Example 4:

Scenario: Sunita was convicted by a Magistrate of the second class in Chennai and was sentenced under section 364 of the Bharatiya Nyaya Sanhita, 2023. She feels the sentence was too harsh and wants to appeal.

Application of Section 415: Sunita can appeal to the Court of Session against her sentence passed under section 364 by the Magistrate of the second class.

Example 5:

Scenario: Vikram was convicted and sentenced under section 65 of the Bharatiya Nyaya Sanhita, 2023, by a Magistrate in Kolkata. He filed an appeal against the sentence.

Application of Section 415: The appeal filed by Vikram must be disposed of within a period of six months from the date of filing of such appeal.

Section 416: No appeal in certain cases when accused pleads guilty.

Notwithstanding anything in section 415, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal, -

- (i) if the conviction is by a High Court; or
- (ii) if the conviction is by a Court of Session or Magistrate of the first or second class, except as to the extent or legality of the sentence.

SIMPLIFIED ACTS

Even though section 415 says otherwise, if someone admits they are guilty and is found guilty because of that admission, they cannot appeal the conviction, -

- (i) if a High Court found them guilty; or
- (ii) if a Court of Session or a Magistrate of the first or second class found them guilty, except if they want to challenge how severe or legal the punishment is.

Explanation using Example

Example 1:

Ravi was accused of theft and was brought before a Magistrate of the first class. During the trial, Ravi admitted to the crime and pleaded guilty. The Magistrate convicted Ravi based on his guilty plea and sentenced him to six months in prison. Ravi later decided he wanted to appeal the conviction itself, believing he could have fought the charges. However, under Section 416 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi cannot appeal the conviction because he pleaded guilty. He can only appeal the extent or legality of the sentence if he believes it was not in accordance with the law.

Example 2:

Sita was charged with fraud and her case was heard in the High Court. During the proceedings, Sita decided to plead guilty to the charges. The High Court convicted her based on her guilty plea and sentenced her to two years in prison. After some time, Sita wanted to appeal the conviction, thinking she had made a mistake by pleading guilty. However, according to Section 416 of The Bharatiya Nagarik Suraksha Sanhita 2023, Sita

cannot appeal the conviction because she pleaded guilty in the High Court. She has no right to appeal either the conviction or the sentence.

Section 417: No appeal in petty cases.

Notwithstanding anything in section 415, there shall be no appeal by a convicted person in any of the following cases, namely:

- (a) where a High Court passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;
- (b) where a Court of Session passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;
- (c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or
- (d) where, in a case tried summarily, a Magistrate empowered to act under section 283 passes only a sentence of fine not exceeding two hundred rupees:

Provided that an appeal may be brought against any such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground:

- (i) that the person convicted is ordered to furnish security to keep the peace; or
- (ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or
- (iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.

SIMPLIFIED ACTS

Even though section 415 says otherwise, a person who has been convicted cannot appeal in the following situations:

- (a) If a High Court gives a sentence of imprisonment for up to three months, or a fine of up to one thousand rupees, or both.
- (b) If a Court of Session gives a sentence of imprisonment for up to three months, or a fine of up to two hundred rupees, or both.
- (c) If a Magistrate of the first class gives a sentence of a fine up to one hundred rupees.

(d) If a Magistrate, who is allowed to act under section 283, gives a sentence of a fine up to two hundred rupees in a quick trial.

However, an appeal can be made against such sentences if there is any other punishment combined with it. But you cannot appeal just because:

(i) The convicted person is ordered to provide security to keep the peace.

(ii) The sentence includes imprisonment if the fine is not paid.

(iii) More than one fine is given, as long as the total fine does not exceed the specified amount for the case.

Explanation using Example

Example 1:

Ravi was caught by the police for creating a public nuisance by playing loud music late at night in his neighborhood. The case was brought before a Magistrate of the first class, who imposed a fine of ₹100 on Ravi for his actions. According to Section 417 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi cannot appeal this decision because the fine does not exceed ₹100.

Example 2:

Sunita was convicted by a Court of Session for a minor theft and was sentenced to two months of imprisonment and a fine of ₹150. Under Section 417 of The Bharatiya Nagarik Suraksha Sanhita 2023, Sunita cannot appeal this decision because the imprisonment term does not exceed three months and the fine does not exceed ₹200.

Example 3:

Ajay was found guilty of minor vandalism and was sentenced by a High Court to one month of imprisonment and a fine of ₹500. According to Section 417 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ajay cannot appeal this decision because the imprisonment term does not exceed three months and the fine does not exceed ₹1,000.

Example 4:

Priya was convicted in a summary trial for littering in a public park and was fined ₹150 by a Magistrate empowered under section 283. As per Section 417 of The Bharatiya Nagarik Suraksha Sanhita 2023, Priya cannot appeal this decision because the fine does not exceed ₹200.

Example 5:

Raj was convicted by a High Court for a minor traffic violation and was sentenced to two months of imprisonment and a fine of ₹800. Additionally, he was ordered to furnish security to keep the peace. According to Section 417 of The Bharatiya Nagarik Suraksha Sanhita 2023, Raj cannot appeal this decision because the imprisonment term does not exceed three months and the fine does not exceed ₹1,000. The requirement to furnish security to keep the peace does not make the sentence appealable.

Section 418: Appeal by State Government against sentence.

(1) Save as otherwise provided in sub-section (2), the State Government may, in any case of conviction on a trial held by any Court other than a High Court, direct the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy -

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court.

(2) If such conviction is in a case in which the offence has been investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, the Central Government may also direct the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy -

(a) to the Court of Session, if the sentence is passed by the Magistrate; and

(b) to the High Court, if the sentence is passed by any other Court.

(3) When an appeal has been filed against the sentence on the ground of its inadequacy, the Court of Session or, as the case may be, the High Court shall not enhance the sentence except after giving to the accused a reasonable opportunity of showing cause against such enhancement and while showing cause, the accused may plead for his acquittal or for the reduction of the sentence.

(4) When an appeal has been filed against a sentence passed under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

SIMPLIFIED ACTS

(1) Unless stated otherwise in section (2), the State Government can ask the Public Prosecutor to appeal against a sentence if they think it is too light. This can be done:

(a) To the Court of Session, if the sentence was given by a Magistrate; and

(b) To the High Court, if the sentence was given by any other Court.

(2) If the case was investigated by a central agency (under a different Central Act), the Central Government can also ask the Public Prosecutor to appeal against a sentence if they think it is too light. This can be done:

(a) To the Court of Session, if the sentence was given by a Magistrate; and

(b) To the High Court, if the sentence was given by any other Court.

(3) When an appeal is made because the sentence is considered too light, the Court of Session or the High Court cannot increase the sentence without first giving the accused a fair chance to explain why it should not be increased. During this time, the accused can also argue for their acquittal or for a reduced sentence.

(4) If an appeal is made against a sentence given under sections 64, 65, 66, 67, 68, 70, or 71 of the Bharatiya Nyaya Sanhita, 2023, the appeal must be resolved within six months from the date it was filed.

Explanation using Example

Example 1:

Scenario: A man named Rajesh is convicted by a Magistrate for theft and is sentenced to 3 months in prison. The State Government believes that the sentence is too lenient given the circumstances of the crime.

Application of Section 418:

The State Government directs the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy.

Since the sentence was passed by a Magistrate, the appeal is directed to the Court of Session.

The Court of Session reviews the appeal and decides whether the sentence should be enhanced.

Rajesh is given a reasonable opportunity to show cause against the enhancement of his sentence. During this process, he can argue for his acquittal or for a reduction in the sentence.

The Court of Session makes a decision based on the arguments presented.

Example 2:

Scenario: A woman named Priya is convicted by a Sessions Court for fraud and is sentenced to 1 year in prison. The offence was investigated by the Central Bureau of Investigation (CBI), a central agency.

Application of Section 418:

The Central Government believes that the sentence is too lenient and directs the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy.

Since the sentence was passed by a Sessions Court, the appeal is directed to the High Court.

The High Court reviews the appeal and decides whether the sentence should be enhanced.

Priya is given a reasonable opportunity to show cause against the enhancement of her sentence. During this process, she can argue for her acquittal or for a reduction in the sentence.

The High Court makes a decision based on the arguments presented.

Example 3:

Scenario: A man named Anil is convicted under Section 65 of the Bharatiya Nyaya Sanhita, 2023, by a Magistrate and is sentenced to 6 months in prison. The State Government believes the sentence is too lenient.

Application of Section 418:

The State Government directs the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy.

Since the sentence was passed by a Magistrate, the appeal is directed to the Court of Session.

The Court of Session reviews the appeal and decides whether the sentence should be enhanced.

Anil is given a reasonable opportunity to show cause against the enhancement of his sentence. During this process, he can argue for his acquittal or for a reduction in the sentence.

The Court of Session makes a decision based on the arguments presented.

Since the appeal is against a sentence passed under Section 65 of the Bharatiya Nyaya Sanhita, 2023, the appeal must be disposed of within six months from the date of filing.

Example 4:

Scenario: A woman named Meera is convicted by a Magistrate for assault and is sentenced to 2 months in prison. The offence was investigated by the local police, and the State Government believes the sentence is too lenient.

Application of Section 418:

The State Government directs the Public Prosecutor to present an appeal against the sentence on the ground of its inadequacy.

Since the sentence was passed by a Magistrate, the appeal is directed to the Court of Session.

The Court of Session reviews the appeal and decides whether the sentence should be enhanced.

Meera is given a reasonable opportunity to show cause against the enhancement of her sentence. During this process, she can argue for her acquittal or for a reduction in the sentence.

The Court of Session makes a decision based on the arguments presented.

Section 419: 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), -

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(2) If such an order of acquittal is passed in a case in which the offence has been investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita, the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal -

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(3) No appeal to the High Court under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

SIMPLIFIED ACTS

(1) Unless stated otherwise in section (2), and considering the rules in sections (3) and (5), -

(a) The District Magistrate can ask the Public Prosecutor to appeal to the Court of Session if a Magistrate has acquitted someone of a serious crime that cannot be bailed.

(b) The State Government can ask the Public Prosecutor to appeal to the High Court if any court other than the High Court has acquitted someone, except for cases mentioned in (a) or if the Court of Session has acquitted someone in a review.

(2) If the acquittal is in a case investigated by a central agency (not under this specific law), the Central Government can also ask the Public Prosecutor to appeal -

(a) To the Court of Session if a Magistrate has acquitted someone of a serious crime that cannot be bailed.

(b) To the High Court if any court other than the High Court has acquitted someone, except for cases mentioned in (a) or if the Court of Session has acquitted someone in a review.

(3) Appeals to the High Court under sections (1) or (2) need permission from the High Court.

(4) If someone is acquitted in a case started by a complaint, the complainant can ask the High Court for special permission to appeal. If granted, the complainant can appeal to the High Court.

(5) The High Court will not consider a request for special permission to appeal an acquittal if it is made more than six months after the acquittal for public servants, and more than sixty days for everyone else.

(6) If the High Court denies the special permission to appeal an acquittal, no appeal can be made under sections (1) or (2).

Explanation using Example

Example 1:

Ravi was accused of theft, a cognizable and non-bailable offense, and was tried in a Magistrate's court. The Magistrate acquitted Ravi, finding him not guilty. The District Magistrate, believing that the acquittal was incorrect, directed the Public Prosecutor to appeal the acquittal in the Court of Session. The Public Prosecutor then presented the appeal to the Court of Session, seeking a reversal of the acquittal.

Example 2:

Priya was accused of fraud, a cognizable and non-bailable offense, and was tried in a Sessions Court. The Sessions Court acquitted Priya. The State Government, disagreeing with the acquittal, directed the Public Prosecutor to appeal the acquittal in the High Court. The Public Prosecutor filed the appeal, but the High Court required special permission (leave) to entertain the appeal. The High Court granted the leave, and the appeal proceeded.

Example 3:

A Central Government agency investigated a case of tax evasion against a company. The Magistrate acquitted the company. The Central Government, believing the acquittal was unjust, directed the Public Prosecutor to appeal the acquittal in the Court of Session. The Public Prosecutor presented the appeal to the Court of Session.

Example 4:

Sunita filed a complaint against her neighbor for harassment. The Magistrate acquitted the neighbor. Sunita, dissatisfied with the acquittal, applied to the High Court for special leave to appeal the acquittal. The High Court granted her special leave, and Sunita presented her appeal to the High Court within the stipulated 60 days.

Example 5:

A police officer was acquitted of charges of corruption by a Magistrate. The complainant, another public servant, wanted to appeal the acquittal. The complainant applied to the High Court for special leave to appeal within six months of the acquittal. The High Court granted the special leave, allowing the complainant to present the appeal.

Example 6:

Rajesh was acquitted of assault charges by a Magistrate. The complainant, who was not a public servant, applied to the High Court for special leave to appeal the acquittal after 70 days. The High Court refused the application because it was filed after the 60-day limit. Consequently, no appeal could be made against the acquittal under sub-sections (1) or (2).

Section 420: Appeal against conviction by High Court in certain cases.

Where the High Court has, on appeal, reversed an order of acquittal of an accused person and convicted him and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court.

SIMPLIFIED ACTS

If the High Court changes a "not guilty" verdict to a "guilty" verdict on appeal, and then sentences the person to death, life in prison, or at least ten years in prison, that person has the right to appeal to the Supreme Court.

Explanation using Example

Example 1:

Ravi was accused of a serious crime and was acquitted by the trial court. The prosecution was not satisfied with the acquittal and appealed to the High Court. After reviewing the case, the High Court reversed the trial court's decision, found Ravi guilty, and sentenced him to life imprisonment. Under Section 420 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi has the right to appeal this conviction and sentence to the Supreme Court.

Example 2:

Meena was charged with a crime and initially acquitted by the lower court. The state appealed the acquittal to the High Court. Upon hearing the appeal, the High Court overturned the acquittal, convicted Meena, and sentenced her to 12 years in prison. According to Section 420 of The Bharatiya Nagarik Suraksha Sanhita 2023, Meena can appeal this decision to the Supreme Court, as her sentence is for a term of ten years or more.

Section 421: Special right of appeal in certain cases.

Notwithstanding anything in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.

SIMPLIFIED ACTS

Even if there are other rules in this Chapter, if multiple people are found guilty in the same trial and a judgment or order that can be appealed is given for any of them, then all or any of the people found guilty in that trial have the right to appeal.

Explanation using Example

Example 1:

Ravi, Suresh, and Priya were all tried together for a robbery case. During the trial, the court found Ravi and Suresh guilty and sentenced them to imprisonment, while Priya was acquitted. Ravi and Suresh both believe that the judgment was unfair and want to challenge it. According to Section 421 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi and Suresh have the special right to appeal the judgment passed against them, even though they were tried together with Priya. This means they can file an appeal to a higher court to review and possibly overturn their convictions.

Example 2:

In a case involving multiple defendants, Anil, Sunita, and Rajesh were all charged with fraud. The trial concluded with Anil and Sunita being convicted, while Rajesh was found not guilty. Anil and Sunita believe that there were errors in the trial process and that the evidence was not properly considered. Under Section 421 of The Bharatiya Nagarik Suraksha Sanhita 2023, Anil and Sunita have the right to appeal the judgment against them. This provision ensures that even if multiple people are tried together, each convicted person has the opportunity to seek a fair review of their case through an appeal.

Section 422: Appeal to Court of Session how heard.

Appeals to the Court of Session or Sessions Judge

(1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second class may be heard and disposed of by the Chief Judicial Magistrate.

(2) An Additional Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

SIMPLIFIED ACTS

Appeals to the Court of Session or Sessions Judge

(1) Generally, if you want to appeal a decision, it will be heard by either the Sessions Judge or an Additional Sessions Judge:

However, if your appeal is against a conviction from a trial conducted by a Magistrate of the second class, the Chief Judicial Magistrate can hear and decide on it.

(2) An Additional Sessions Judge or a Chief Judicial Magistrate can only hear appeals that the Sessions Judge assigns to them through a general or special order, or that the High Court specifically directs them to hear.

Explanation using Example

Example 1:

Scenario: Rajesh was convicted by a Magistrate of the second class for a minor theft offense and sentenced to six months in jail. Rajesh believes that the conviction was unfair and decides to appeal the decision.

Application of the Act:

Rajesh files an appeal to the Court of Session.

According to Section 422(1), since the conviction was by a Magistrate of the second class, the appeal can be heard and disposed of by the Chief Judicial Magistrate.

The Chief Judicial Magistrate reviews the case, hears the arguments from both Rajesh and the prosecution, and then makes a decision on the appeal.

Example 2:

Scenario: Priya was convicted by a Magistrate of the first class for a more serious offense and sentenced to three years in prison. She believes there were errors in the trial and decides to appeal the conviction.

Application of the Act:

Priya files an appeal to the Court of Session.

According to Section 422(1), the appeal will be heard by the Sessions Judge or an Additional Sessions Judge.

The Sessions Judge of the division assigns the case to an Additional Sessions Judge through a general order.

The Additional Sessions Judge reviews the case, hears the arguments from both Priya and the prosecution, and then makes a decision on the appeal.

Example 3:

Scenario: Anil was convicted by a Magistrate of the second class for a traffic violation and fined Rs. 5,000. Anil believes the fine is excessive and decides to appeal.

Application of the Act:

Anil files an appeal to the Court of Session.

According to Section 422(1), since the conviction was by a Magistrate of the second class, the appeal can be heard and disposed of by the Chief Judicial Magistrate.

The Chief Judicial Magistrate reviews the case, hears the arguments from both Anil and the prosecution, and then makes a decision on the appeal.

Example 4:

Scenario: Sunita was convicted by a Magistrate of the first class for a fraud case and sentenced to five years in prison. She believes the trial was biased and decides to appeal.

Application of the Act:

Sunita files an appeal to the Court of Session.

According to Section 422(1), the appeal will be heard by the Sessions Judge or an Additional Sessions Judge.

The High Court issues a special order directing the Additional Sessions Judge to hear Sunita's appeal.

The Additional Sessions Judge reviews the case, hears the arguments from both Sunita and the prosecution, and then makes a decision on the appeal.

Section 423: Petition of appeal.

Every appeal shall be made in the form of a petition in writing presented by the appellant or his advocate, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against.

SIMPLIFIED ACTS

If you want to appeal a decision, you need to write a petition.

This petition can be submitted by you or your lawyer.

Usually, you must include a copy of the judgment or order you are appealing, unless the court says otherwise.

Explanation using Example

Example 1:

Ravi was convicted of theft by a lower court in Mumbai and sentenced to two years in prison. Ravi believes that the judgment was unfair and decides to appeal the decision. To do this, Ravi's advocate drafts a petition of appeal in writing, clearly stating the grounds on which the appeal is based. The petition is then submitted to the High Court of Mumbai. Along with the petition, Ravi's advocate includes a copy of the lower court's judgment that convicted Ravi. The High Court accepts the petition and schedules a date for the hearing.

Example 2:

Meena was fined Rs. 50,000 by a lower court in Delhi for violating building regulations. Meena feels that the fine is excessive and wants to challenge the decision. She approaches her advocate, who prepares a written petition of appeal. The petition outlines why Meena believes the fine is unjust and requests a review of the lower court's order. The petition is submitted to the Delhi High Court, accompanied by a copy of the original order imposing the fine. The High Court reviews the documents and decides to hear Meena's appeal.

Section 424: Procedure when appellant in jail.

If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

SIMPLIFIED ACTS

If the person appealing (appellant) is in jail, he can give his appeal petition and the required copies to the jail officer in charge.

The jail officer must then send the petition and copies to the correct Appellate Court.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, was convicted of theft and sentenced to two years in jail. Believing that the trial court made an error in its judgment, Ravi decides to appeal the decision. Since he is currently in jail, Ravi writes a petition of appeal and hands it over to the officer in charge of the jail. The officer then forwards Ravi's petition and the necessary copies to the appropriate Appellate Court for further consideration.

Example 2:

Sunita, who is serving a sentence in a Delhi prison for a fraud conviction, learns about new evidence that could potentially exonerate her. She decides to file an appeal against her conviction. Sunita prepares her petition of appeal and submits it to the jail superintendent. The superintendent then ensures that Sunita's petition and the accompanying documents are sent to the relevant Appellate Court, where her case will be reviewed.

Section 425: Summary dismissal of appeal.

Section 423 and 424 - Dismissal of Appeals

(1) If upon examining the petition of appeal and copy of the judgment received under section 423 or section 424, the Appellate Court considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that -

(a) no appeal presented under section 423 shall be dismissed unless the appellant or his advocate has had a reasonable opportunity of being heard in support of the same;

(b) no appeal presented under section 424 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the Court would involve such inconvenience as would be disproportionate in the circumstances of the case;

(c) no appeal presented under section 424 shall be dismissed summarily until the period allowed for preferring such appeal has expired.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 424 has been dismissed summarily under this section and the Appellate Court finds that another petition of appeal duly presented under section 423 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 434, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

SIMPLIFIED ACTS

Section 423 and 424 - Dismissal of Appeals

(1) If the Appellate Court reviews the appeal and the judgment and thinks there is no good reason to change the decision, it can reject the appeal quickly:

Provided that -

(a) An appeal under section 423 cannot be dismissed unless the person appealing (or their lawyer) has had a fair chance to explain why the appeal should be heard.

(b) An appeal under section 424 cannot be dismissed unless the person appealing has had a fair chance to explain why the appeal should be heard, unless the court thinks the appeal is not serious or bringing the accused to court would be too inconvenient.

(c) An appeal under section 424 cannot be dismissed quickly until the time allowed for making such an appeal has passed.

(2) Before rejecting an appeal, the Court can ask for the case records.

(3) If the Court of Session or the Chief Judicial Magistrate dismisses an appeal, they must write down the reasons for doing so.

(4) If an appeal under section 424 is dismissed quickly and the Appellate Court finds that another appeal under section 423 for the same person has not been considered, the Court can still hear and decide on that appeal if it thinks it is necessary for justice.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, was convicted of theft and sentenced to two years in prison by a lower court. He believes the judgment was unfair and decides to appeal the decision.

Application of Section 425:

Rajesh files an appeal under Section 423 of the Bharatiya Nagarik Suraksha Sanhita 2023.

The Appellate Court examines the petition of appeal and the copy of the judgment.

The court finds no sufficient ground to interfere with the lower court's decision.

Before dismissing the appeal, the court ensures that Rajesh or his advocate is given a reasonable opportunity to be heard.

After hearing Rajesh's advocate, the court still finds no merit in the appeal and dismisses it summarily.

The court records its reasons for dismissing the appeal as required by the law.

Example 2:

Scenario: Priya, a school teacher in Delhi, was convicted of causing grievous hurt and sentenced to three years in prison. She files an appeal under Section 424, claiming that the conviction was based on insufficient evidence.

Application of Section 425:

Priya files an appeal under Section 424 of the Bharatiya Nagarik Suraksha Sanhita 2023.

The Appellate Court examines the petition of appeal and the copy of the judgment.

The court considers whether the appeal is frivolous or if producing Priya in custody would cause disproportionate inconvenience.

The court decides that the appeal is not frivolous and that Priya should be given a reasonable opportunity to be heard.

Priya's advocate presents her case, but the court finds no sufficient ground to interfere with the lower court's decision.

The court dismisses the appeal summarily but ensures that the period allowed for preferring such an appeal has expired.

The court records its reasons for dismissing the appeal as required by the law.

Example 3:

Scenario: Anil, a businessman in Bangalore, was convicted of fraud and sentenced to five years in prison. He files two separate appeals under Sections 423 and 424, claiming that the judgment was based on a misunderstanding of the facts.

Application of Section 425:

Anil files an appeal under Section 424, which is dismissed summarily by the Appellate Court after giving him a reasonable opportunity to be heard.

The court finds that another petition of appeal under Section 423 has been duly presented on behalf of Anil but has not yet been considered.

The court, in the interest of justice, decides to hear and dispose of the appeal under Section 423 in accordance with the law.

The court examines the petition of appeal and the copy of the judgment.

After hearing Anil's advocate, the court finds no sufficient ground to interfere with the lower court's decision and dismisses the appeal.

The court records its reasons for dismissing the appeal as required by the law.

Section 426: Procedure for hearing appeals not dismissed summarily.

(1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given -

(i) to the appellant or his advocate;

(ii) to such officer as the State Government may appoint in this behalf;

(iii) if the appeal is from a judgment of conviction in a case instituted upon complaint, to the complainant;

(iv) if the appeal is under section 418 or section 419, to the accused, and shall also furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the case, if such record is not already available in that Court, and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the Court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not, except with the leave of the Court, urge or be heard in support of any other ground.

SIMPLIFIED ACTS

(1) If the higher court (Appellate Court) decides not to reject the appeal right away, it must inform the following people about when and where the appeal will be heard:

(i) The person who is appealing (appellant) or their lawyer.

(ii) A specific officer appointed by the State Government.

(iii) If the appeal is about a conviction from a complaint, the person who made the complaint.

(iv) If the appeal is under section 418 or section 419, the person accused of the crime. The court must also give a copy of the appeal reasons to the officer, the complainant, and the accused.

(2) The higher court will then request the case records if they don't already have them and will listen to both sides:

Provided that if the appeal is only about the length or legality of the sentence, the court can decide the appeal without needing the case records.

(3) If the only reason for the appeal is that the sentence is too harsh, the person appealing cannot bring up any other reasons unless the court allows it.

Explanation using Example

Example 1:

Scenario: Rajesh, a resident of Mumbai, was convicted of theft and sentenced to two years in prison. He believes the sentence is too harsh and decides to appeal the decision.

Application of Section 426:

Notice of Hearing: The Appellate Court does not dismiss Rajesh's appeal summarily. Therefore, the court sends a notice to Rajesh and his advocate, informing them of the time and place of the hearing.

Notification to State Officer: The court also notifies the officer appointed by the State Government about the appeal.

Notification to Complainant: Since the case was initiated by a complaint from the shop owner, the court sends a notice to the complainant as well.

Record of the Case: The Appellate Court requests the record of the case from the lower court to review the details.

Hearing: During the hearing, Rajesh's advocate argues that the sentence is too severe. The court listens to both parties and reviews the case records.

Decision: The court may decide to reduce the sentence if it finds the original punishment too harsh.

Example 2:

Scenario: Priya, a school teacher in Delhi, was convicted of causing grievous hurt and sentenced to five years in prison. She appeals the conviction, arguing that the evidence was insufficient to prove her guilt.

Application of Section 426:

Notice of Hearing: The Appellate Court does not dismiss Priya's appeal summarily. The court sends a notice to Priya and her advocate, informing them of the time and place of the hearing.

Notification to State Officer: The court also notifies the officer appointed by the State Government about the appeal.

Notification to Complainant: Since the case was initiated by a complaint from the victim, the court sends a notice to the complainant.

Record of the Case: The Appellate Court requests the record of the case from the lower court to review the details.

Hearing: During the hearing, Priya's advocate argues that the evidence was insufficient to support the conviction. The court listens to both parties and reviews the case records.

Decision: The court may decide to overturn the conviction if it finds that the evidence was indeed insufficient.

Example 3:

Scenario: Anil, a businessman in Bangalore, was convicted of fraud and sentenced to three years in prison. He appeals the conviction, but his primary argument is that the sentence is too severe.

Application of Section 426:

Notice of Hearing: The Appellate Court does not dismiss Anil's appeal summarily. The court sends a notice to Anil and his advocate, informing them of the time and place of the hearing.

Notification to State Officer: The court also notifies the officer appointed by the State Government about the appeal.

Notification to Complainant: Since the case was initiated by a complaint from a client, the court sends a notice to the complainant.

Record of the Case: The Appellate Court requests the record of the case from the lower court to review the details.

Hearing: During the hearing, Anil's advocate argues that the sentence is too severe. The court listens to both parties and reviews the case records.

Decision: The court may decide to reduce the sentence if it finds the original punishment too harsh.

Example 4:

Scenario: Sunita, a college student in Chennai, was convicted of drug possession and sentenced to one year in prison. She appeals the conviction, arguing that the search conducted by the police was illegal.

Application of Section 426:

Notice of Hearing: The Appellate Court does not dismiss Sunita's appeal summarily. The court sends a notice to Sunita and her advocate, informing them of the time and place of the hearing.

Notification to State Officer: The court also notifies the officer appointed by the State Government about the appeal.

Notification to Complainant: Since the case was initiated by a complaint from the police, the court sends a notice to the complainant.

Record of the Case: The Appellate Court requests the record of the case from the lower court to review the details.

Hearing: During the hearing, Sunita's advocate argues that the search was illegal and thus the evidence obtained should be inadmissible. The court listens to both parties and reviews the case records.

Decision: The court may decide to overturn the conviction if it finds that the search was indeed illegal and the evidence should not have been admitted.

Section 427: Powers of Appellate Court.

After perusing such record and hearing the appellant or his advocate, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 418 or section 419, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may -

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law ;

(b) in an appeal from a conviction -

(i) reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial ; or

(ii) alter the finding, maintaining the sentence ; or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same ;

(c) in an appeal for enhancement of sentence -

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by a Court competent to try the offence ; or

(ii) alter the finding maintaining the sentence ; or

(iii) with or without altering the finding, alter the nature or the extent, or, the nature and extent, of the sentence, so as to enhance or reduce the same ;

(d) in an appeal from any other order, alter or reverse such order ;

(e) make any amendment or any consequential or incidental order that may be just or proper ;

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement :

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal.

SIMPLIFIED ACTS

After looking at the records and listening to the appellant (the person who filed the appeal) or their lawyer, if they show up, and the Public Prosecutor, if they show up, and in cases of

appeal under section 418 or section 419, the accused person, if they show up, the Appellate Court can decide to dismiss the appeal if it thinks there is no good reason to interfere, or it can:

(a) In an appeal against an acquittal (when someone was found not guilty):

Reverse the acquittal and order a new investigation, a new trial, or send the accused for trial, or find the accused guilty and give a sentence according to the law.

(b) In an appeal against a conviction (when someone was found guilty):

(i) Reverse the decision and sentence, and either acquit (find not guilty) or discharge the accused, or order a new trial by a lower court or send the accused for trial.

(ii) Change the decision but keep the same sentence.

(iii) Change the decision and/or the sentence, but not make the sentence harsher.

(c) In an appeal to increase the sentence:

(i) Reverse the decision and sentence, and either acquit or discharge the accused, or order a new trial by a competent court.

(ii) Change the decision but keep the same sentence.

(iii) Change the decision and/or the sentence, making it either harsher or lighter.

(d) In an appeal against any other order:

Change or reverse the order.

(e) Make any changes or additional orders that are fair and appropriate.

However, the sentence cannot be made harsher unless the accused has had a chance to explain why it shouldn't be.

Also, the Appellate Court cannot give a harsher punishment than what the original court could have given for the same offence.

Explanation using Example

Example 1:

Scenario: Rajesh was acquitted by a lower court for charges of theft due to lack of evidence. The prosecution believes that the lower court made an error in judgment and files an appeal.

Application of Section 427:

The Appellate Court reviews the records and hears arguments from both Rajesh's advocate and the Public Prosecutor.

The Appellate Court finds that the lower court's decision was incorrect and decides to reverse the acquittal.

The court directs that Rajesh be re-tried in a lower court or finds him guilty and sentences him according to the law.

Example 2:

Scenario: Priya was convicted of fraud and sentenced to 3 years in prison by a lower court. She believes the sentence is too harsh and files an appeal.

Application of Section 427:

The Appellate Court reviews the case records and hears arguments from Priya's advocate and the Public Prosecutor.

The Appellate Court decides that the conviction was correct but agrees that the sentence was too harsh.

The court alters the sentence, reducing it to 1 year in prison without changing the conviction.

Example 3:

Scenario: The prosecution believes that the sentence given to Anil for assault (6 months imprisonment) is too lenient and files an appeal for enhancement of the sentence.

Application of Section 427:

The Appellate Court reviews the case records and hears arguments from Anil's advocate and the Public Prosecutor.

The Appellate Court decides to enhance the sentence, increasing it to 1 year in prison.

Before enhancing the sentence, the court gives Anil an opportunity to present his case against the enhancement.

Example 4:

Scenario: A lower court issued an order for the attachment of Suresh's property in a civil dispute. Suresh believes the order is unjust and files an appeal.

Application of Section 427:

The Appellate Court reviews the records and hears arguments from Suresh's advocate and the opposing party.

The Appellate Court finds that the lower court's order was incorrect and decides to reverse the order, lifting the attachment on Suresh's property.

Example 5:

Scenario: Meera was convicted of a minor offense and sentenced to a fine of Rs. 5000. She believes the conviction was incorrect and files an appeal.

Application of Section 427:

The Appellate Court reviews the case records and hears arguments from Meera's advocate and the Public Prosecutor.

The Appellate Court finds that the conviction was incorrect and reverses the finding, acquitting Meera of the charges.

Section 428: Judgments of subordinate Appellate Court.

The rules contained in Chapter XXIX as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

SIMPLIFIED ACTS

The rules in Chapter XXIX about how a Criminal Court makes a judgment will also apply, as much as possible, to the judgment made in an appeal by a Court of Session or Chief Judicial Magistrate.

However, unless the Appellate Court says otherwise, the accused person does not need to be present or attend the court to hear the judgment being delivered.

Explanation using Example

Example 1:

Scenario: Rajesh was convicted of theft by a Magistrate Court and sentenced to one year in prison. Rajesh believes the judgment was unfair and decides to appeal to the Sessions Court.

Application of Section 428: When the Sessions Court reviews Rajesh's appeal, it will follow the same rules for delivering judgments as the original Magistrate Court did. This means the Sessions Court will consider the evidence, arguments, and legal principles in a similar manner. However, Rajesh does not need to be physically present in the Sessions Court to hear the judgment unless the court specifically orders him to attend.

Example 2:

Scenario: Priya was found guilty of fraud by a Chief Judicial Magistrate and sentenced to two years in prison. She appeals the decision to the Sessions Court, arguing that there were errors in the trial process.

Application of Section 428: The Sessions Court will handle Priya's appeal by applying the same judgment rules as the original trial court. This includes reviewing the trial records, evidence, and legal arguments. Priya will not be required to attend the judgment delivery in person unless the Sessions Court explicitly directs her to be present. This allows the court to efficiently manage the appeal process without unnecessary delays or logistical issues.

Section 429: Order of High Court on appeal to be certified to lower Court.

(1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed and if such Court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate, and if such Court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and if necessary, the record shall be amended in accordance therewith.

SIMPLIFIED ACTS

(1) When the High Court makes a decision on an appeal, it will send a copy of its decision to the court that made the original decision. If the original decision was made by a Judicial Magistrate (except the Chief Judicial Magistrate), the High Court's decision will be sent through the Chief Judicial Magistrate. If the original decision was made by an Executive Magistrate, the High Court's decision will be sent through the District Magistrate.

(2) The court that receives the High Court's decision must then make any necessary changes to match the High Court's decision. If needed, the official records will be updated to reflect these changes.

Explanation using Example

Example 1:

Scenario: Rajesh was convicted by a Judicial Magistrate for theft and sentenced to two years in prison. Rajesh appealed the decision to the High Court.

Application of Section 429:

The High Court reviews the case and decides to reduce Rajesh's sentence to one year.

The High Court certifies its judgment and sends it to the Chief Judicial Magistrate.

The Chief Judicial Magistrate then forwards the High Court's judgment to the Judicial Magistrate who originally passed the sentence.

The Judicial Magistrate updates the court records to reflect the new sentence of one year as per the High Court's order.

Example 2:

Scenario: Priya was fined by an Executive Magistrate for violating local municipal regulations. She appealed the fine to the High Court.

Application of Section 429:

The High Court reviews the case and decides to cancel the fine imposed on Priya.

The High Court certifies its judgment and sends it to the District Magistrate.

The District Magistrate then forwards the High Court's judgment to the Executive Magistrate who originally imposed the fine.

The Executive Magistrate updates the court records to reflect the cancellation of the fine as per the High Court's order.

Section 430: Suspension of sentence pending appeal ; release of appellant on bail.

Section Title

(1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond or bail bond:

Provided that the Appellate Court shall, before releasing on his own bond or bail bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto.

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall, -

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years; or

(ii) where the offence of which such person has been convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

SIMPLIFIED ACTS

Section Title

(1) If someone who has been convicted of a crime is appealing their conviction, the Appellate Court can decide to pause the punishment or order being appealed. The court must write down the reasons for this decision. If the convicted person is in jail, the court can also decide to release them on bail or on their own promise to return:

However, if the convicted person is found guilty of a crime that could result in death, life imprisonment, or at least ten years in prison, the court must first give the Public Prosecutor a chance to explain in writing why the person should not be released:

Additionally, if the convicted person is released on bail, the Public Prosecutor can ask for the bail to be canceled.

(2) The High Court also has the power to make these decisions if the convicted person is appealing to a lower court.

(3) If the convicted person tells the court that convicted them that they plan to appeal, the court must:

(i) Release the person on bail if they are already on bail and have been sentenced to three years or less in prison; or

(ii) Release the person on bail if the crime they were convicted of is one that allows for bail and they are already on bail,

unless there are special reasons not to grant bail. This release on bail should last long enough for the person to file their appeal and get a decision from the Appellate Court as mentioned in point (1). While the person is out on bail, their prison sentence is considered paused.

(4) If the person appealing is eventually sentenced to prison or life imprisonment, the time they spent out on bail will not count towards their prison sentence.

Explanation using Example

Example 1:

Rajesh, a 35-year-old man from Mumbai, was convicted of theft and sentenced to two years in prison. Rajesh believes that he was wrongfully convicted and decides to appeal the decision. While his appeal is pending, Rajesh's lawyer requests the Appellate Court to suspend his sentence and release him on bail. The Appellate Court, after recording its reasons in writing, agrees to suspend Rajesh's sentence and releases him on bail. This allows Rajesh to remain out of prison while his appeal is being heard.

Example 2:

Meena, a 28-year-old woman from Delhi, was convicted of a serious crime and sentenced to life imprisonment. Meena decides to appeal the conviction. Her lawyer requests the Appellate Court to release her on bail while the appeal is pending. Since Meena's conviction is for a crime punishable with life imprisonment, the Appellate Court gives the Public Prosecutor an opportunity to present written reasons against her release. After considering the Public Prosecutor's arguments, the Appellate Court decides to release Meena on bail. However, the Public Prosecutor later files an application to cancel Meena's bail, arguing that she poses a flight risk.

Example 3:

Vikram, a 40-year-old businessman from Bangalore, was convicted of a bailable offense and sentenced to six months in prison. Vikram informs the trial court that he intends to appeal the conviction. Since Vikram was already out on bail during the trial and the offense is bailable, the trial court orders his release on bail for a sufficient period to allow him to file his appeal and obtain orders from the Appellate Court. During this period, Vikram's sentence is considered suspended.

Example 4:

Anil, a 50-year-old resident of Kolkata, was convicted of fraud and sentenced to five years in prison. Anil appeals the conviction and requests the Appellate Court to suspend his sentence and release him on bail. The Appellate Court, after recording its reasons, agrees to suspend Anil's sentence and releases him on bail. However, after a few months, the Public Prosecutor files an application to cancel Anil's bail, citing new evidence that Anil might tamper with witnesses. The Appellate Court reviews the application and decides to cancel Anil's bail, ordering him back to prison while his appeal is pending.

Section 431: Arrest of accused in appeal from acquittal.

When an appeal is presented under section 419, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

SIMPLIFIED ACTS

If someone files an appeal under section 419, the High Court can order the police to arrest the accused person and bring them to the High Court or a lower court.

The court where the accused is brought can either send them to jail until the appeal is decided or let them go on bail.

Explanation using Example

Example 1:

Rajesh was acquitted by the trial court in a case of alleged embezzlement of funds. The prosecution, dissatisfied with the acquittal, decided to file an appeal under Section 419 of The Bharatiya Nagarik Suraksha Sanhita 2023. The High Court, upon receiving the appeal, issued a warrant for Rajesh's arrest. Rajesh was subsequently arrested and brought before the High Court. The High Court decided to commit Rajesh to prison pending the disposal of the appeal, considering the seriousness of the charges and the risk of him absconding.

Example 2:

Meera was acquitted by the trial court in a case involving charges of fraud. The state, believing that the trial court erred in its judgment, filed an appeal under Section 419 of The Bharatiya Nagarik Suraksha Sanhita 2023. The High Court issued a warrant for Meera's arrest. Meera was arrested and brought before a subordinate court. After considering her clean record and the nature of the case, the subordinate court decided to admit Meera to bail while the appeal was pending, allowing her to remain free under certain conditions until the High Court made a final decision on the appeal.

Section 432: Appellate Court may take further evidence or direct it to be taken.

Appeal Procedure

(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his advocate shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

SIMPLIFIED ACTS

Appeal Procedure

(1) If the Appellate Court (the court that reviews the decision of a lower court) thinks more evidence is needed for an appeal, it must explain why. The court can either collect this evidence itself or ask a Magistrate, or if it's a High Court, a Court of Session or a Magistrate, to collect it.

(2) If the Court of Session or the Magistrate collects the additional evidence, they must send it to the Appellate Court. The Appellate Court will then continue with the appeal.

(3) The person accused of the crime or their lawyer has the right to be there when the additional evidence is collected.

(4) The process of collecting this evidence must follow the rules outlined in Chapter XXV, just like it would in an investigation.

Explanation using Example

Example 1:

Case: Rajesh vs. State of Maharashtra

Scenario: Rajesh was convicted by a lower court for theft. He appealed the conviction in the High Court, arguing that the lower court did not consider crucial evidence that could prove his innocence.

Application of Section 432:

High Court's Decision: The High Court, upon reviewing the appeal, decides that the additional evidence Rajesh mentioned is necessary for a fair judgment.

Recording Reasons: The High Court records its reasons for requiring the additional evidence.

Directing Evidence Collection: The High Court directs a Court of Session to collect the additional evidence.

Certification: The Court of Session collects the evidence and certifies it to the High Court.

Presence of Accused: Rajesh and his advocate are present during the collection of this additional evidence.

Disposal of Appeal: The High Court then proceeds to dispose of the appeal, considering the newly collected evidence.

Example 2:

Case: Priya vs. State of Karnataka

Scenario: Priya was convicted of fraud by a Magistrate's court. She appealed to the Sessions Court, claiming that there were witnesses who were not examined during the trial.

Application of Section 432:

Sessions Court's Decision: The Sessions Court, upon reviewing the appeal, finds that the testimony of the unexamined witnesses is crucial.

Recording Reasons: The Sessions Court records its reasons for needing the additional witness testimonies.

Taking Evidence: The Sessions Court decides to take the evidence itself rather than directing a Magistrate to do so.

Presence of Accused: Priya and her advocate are present during the examination of the new witnesses.

Disposal of Appeal: After taking the additional evidence, the Sessions Court proceeds to dispose of the appeal, taking into account the new testimonies.

Example 3:

Case: Anil vs. State of Tamil Nadu

Scenario: Anil was convicted of assault by a Magistrate's court. He appealed to the High Court, arguing that a crucial CCTV footage was not considered during the trial.

Application of Section 432:

High Court's Decision: The High Court, upon reviewing the appeal, determines that the CCTV footage is essential for a just decision.

Recording Reasons: The High Court records its reasons for requiring the CCTV footage.

Directing Evidence Collection: The High Court directs a Magistrate to obtain and review the CCTV footage.

Certification: The Magistrate reviews the footage and certifies it to the High Court.

Presence of Accused: Anil and his advocate are present when the footage is reviewed.

Disposal of Appeal: The High Court then proceeds to dispose of the appeal, considering the CCTV footage.

Example 4:

Case: Meera vs. State of West Bengal

Scenario: Meera was convicted of embezzlement by a lower court. She appealed to the High Court, claiming that a financial expert's analysis was not included in the trial.

Application of Section 432:

High Court's Decision: The High Court, upon reviewing the appeal, decides that the financial expert's analysis is necessary.

Recording Reasons: The High Court records its reasons for requiring the expert analysis.

Directing Evidence Collection: The High Court directs a Court of Session to obtain the financial expert's analysis.

Certification: The Court of Session obtains the analysis and certifies it to the High Court.

Presence of Accused: Meera and her advocate are present during the presentation of the expert analysis.

Disposal of Appeal: The High Court then proceeds to dispose of the appeal, considering the expert analysis.

Section 433: Procedure where Judges of Court of appeal are equally divided.

When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that Court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

SIMPLIFIED ACTS

When an appeal is heard by a group of Judges in a High Court and they can't agree on a decision, the appeal and their opinions will be given to another Judge in the same Court. This new Judge will listen to the case as they see fit and then give their opinion. The final judgment or order will be based on this new Judge's opinion.

However, if one of the original Judges or the new Judge thinks it's necessary, the appeal will be heard again and decided by a larger group of Judges.

Explanation using Example

Example 1:

Scenario: Rajesh has been convicted of a crime and has appealed to the High Court. His appeal is heard by a Bench of two Judges.

Situation: The two Judges on the Bench have different opinions. Judge A believes Rajesh should be acquitted, while Judge B believes the conviction should be upheld.

Application of Section 433: Since the Judges are equally divided in their opinions, the appeal, along with their opinions, is referred to a third Judge of the High Court. This third Judge reviews the case and delivers his opinion. If the third Judge believes Rajesh should be acquitted, the judgment will follow that opinion, and Rajesh will be acquitted. Conversely, if the third Judge agrees with the conviction, the judgment will uphold the conviction.

Outcome: The final judgment or order will be based on the opinion of the third Judge.

Example 2:

Scenario: Meera has filed an appeal in the High Court against a civil judgment. Her appeal is heard by a Bench of three Judges.

Situation: The three Judges are split in their opinions. Two Judges believe the appeal should be dismissed, while one Judge believes it should be allowed.

Application of Section 433: Since the majority of the Judges (two out of three) have a common opinion, the appeal does not need to be referred to another Judge. The judgment will follow the majority opinion, and Meera's appeal will be dismissed.

Outcome: The appeal is dismissed based on the majority opinion of the Bench.

Example 3:

Scenario: An appeal is filed by a company against a tax assessment order. The appeal is heard by a Bench of two Judges in the High Court.

Situation: The two Judges have differing opinions. Judge X believes the tax assessment should be set aside, while Judge Y believes it should be upheld.

Application of Section 433: The appeal, along with the differing opinions, is referred to a third Judge. The third Judge reviews the case and delivers his opinion. If the third Judge requires, the appeal can be re-heard and decided by a larger Bench of Judges.

Outcome: If the third Judge decides the case without referring it to a larger Bench, the judgment will follow his opinion. If the third Judge refers it to a larger Bench, the larger Bench will re-hear and decide the appeal.

Example 4:

Scenario: A criminal appeal is filed by an individual against a sentence. The appeal is heard by a Bench of two Judges in the High Court.

Situation: The two Judges are equally divided in their opinions. Judge M believes the sentence should be reduced, while Judge N believes it should be maintained.

Application of Section 433: The appeal, along with the opinions of Judge M and Judge N, is referred to a third Judge. The third Judge reviews the case and delivers his opinion. If the third Judge requires, the appeal can be re-heard and decided by a larger Bench of Judges.

Outcome: The final judgment or order will be based on the opinion of the third Judge or the larger Bench, if the third Judge decides to refer it to a larger Bench.

Section 434: Finality of judgments and orders on appeal.

Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the cases provided for in section 418, section 419, sub-section (4) of section 425 or Chapter XXXII:

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispose of, on the merits, -

- (a) an appeal against acquittal under section 419, arising out of the same case; or
- (b) an appeal for the enhancement of sentence under section 418, arising out of the same case.

SIMPLIFIED ACTS

Decisions and orders made by an Appellate Court after an appeal are final, except in the situations mentioned in section 418, section 419, sub-section (4) of section 425, or Chapter XXXII:

However, even after the final decision of an appeal against a conviction in any case, the Appellate Court can still hear and decide on:

- (a) an appeal against an acquittal under section 419, if it is related to the same case; or
- (b) an appeal to increase the sentence under section 418, if it is related to the same case.

Explanation using Example

Example 1:

Ravi was convicted of theft and sentenced to two years in prison by a lower court. He appealed the conviction in the Appellate Court, which reviewed the case and upheld the original judgment. According to Section 434 of The Bharatiya Nagarik Suraksha Sanhita 2023, this judgment by the Appellate Court is final and cannot be appealed further, except in specific cases mentioned in sections 418, 419, sub-section (4) of section 425, or Chapter XXXII.

However, in the same case, the prosecution believed that the sentence was too lenient and filed an appeal for enhancement of the sentence under section 418. The Appellate Court, despite having given a final judgment on Ravi's conviction, can still hear and decide on this appeal for a harsher sentence.

Example 2:

Priya was acquitted of fraud charges by a lower court. The complainant was dissatisfied with the acquittal and filed an appeal in the Appellate Court. The Appellate Court reviewed the case and decided to convict Priya, overturning the lower court's decision. According to Section 434, this judgment by the Appellate Court is final and cannot be appealed further, except in specific cases mentioned in sections 418, 419, sub-section (4) of section 425, or Chapter XXXII.

Simultaneously, Priya's co-accused, Suresh, was also acquitted in the same case. The prosecution filed an appeal against Suresh's acquittal under section 419. Despite the final judgment on Priya's conviction, the Appellate Court can still hear and decide on the appeal against Suresh's acquittal.

Section 435: Abatement of appeals.

Appeals Under Section 418 or Section 419

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

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

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

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

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Appeals Under Section 418 or Section 419

(1) If the person accused in a case dies, any appeal they made under section 418 or section 419 will automatically end.

(2) For any other type of appeal under this Chapter (except for appeals against fines), the appeal will end if the person who made the appeal dies:

However, if the appeal is against a conviction and a death sentence or imprisonment, and the person who made the appeal dies while the appeal is still ongoing, any close family member can apply to the Appellate Court within thirty days of the person's death to continue the appeal. If the court allows it, the appeal will not end.

Explanation: In this section, "close family member" means a parent, spouse, direct descendant, brother, or sister.

Explanation using Example

Example 1:

Rajesh was convicted of a serious crime and sentenced to 10 years in prison. He filed an appeal under Section 418 of the Bharatiya Nagarik Suraksha Sanhita 2023. Unfortunately, Rajesh passed away while his appeal was still pending. According to Section 435(1), his appeal will finally abate, meaning it will come to an end and will not be heard further because the accused (Rajesh) has died.

Example 2:

Sita was convicted of a crime and sentenced to life imprisonment. She filed an appeal under a different section of Chapter XXXI, not under Section 418 or 419. While her appeal was pending, Sita died. According to Section 435(2), her appeal would normally abate. However, Sita's brother, who is a near relative, applied to the Appellate Court within thirty days of her death, seeking permission to continue the appeal. The court granted him leave to continue the appeal, so the appeal did not abate and will proceed as if Sita were still alive.

CHAPTER XXXII: REFERENCE AND REVISION

Section 436: Reference to High Court.

Legal Provisions

(1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the

case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation: In this section, "Regulation" means any Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(2) A Court of Session may, if it thinks fit in any case pending before it to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any Court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

SIMPLIFIED ACTS

Legal Provisions

(1) If a Court is handling a case and believes that the case involves a question about whether a law, ordinance, or regulation (or any part of them) is valid or not, and this question needs to be answered to resolve the case, and the Court thinks that the law, ordinance, or regulation is invalid or not working, but this has not been officially declared by the High Court or the Supreme Court, then the Court must write down its opinion and reasons and send it to the High Court for a decision.

Explanation: In this section, "Regulation" refers to any regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(2) A Court of Session (a type of court) can, if it wants to, send any legal question that comes up during a case it is hearing to the High Court for a decision, even if the situation described in sub-section (1) does not apply.

(3) Any Court that sends a question to the High Court under sub-section (1) or (2) can, while waiting for the High Court's decision, either keep the accused person in jail or release them on bail, requiring them to come back when called.

Explanation using Example

Example 1:

Scenario: A District Court is hearing a case where a new state regulation imposes a ban on a certain type of business activity. The business owner argues that the regulation is unconstitutional and violates their right to trade and commerce under the Indian Constitution.

Application of Section 436:

The District Court examines the case and finds that the validity of the state regulation is crucial for deciding the case.

The Court believes that the regulation might be invalid but notes that neither the High Court nor the Supreme Court has declared it so.

The District Court then prepares a detailed statement outlining its opinion and reasons for considering the regulation invalid.

The Court refers this statement to the High Court for a final decision on the validity of the regulation.

While waiting for the High Court's decision, the District Court decides to release the business owner on bail.

Example 2:

Scenario: A Sessions Court is dealing with a criminal case where the accused claims that a particular provision of a central Act under which they are being prosecuted is unconstitutional.

Application of Section 436:

The Sessions Court reviews the case and determines that the question of the provision's validity is essential for the case's outcome.

The Court believes that the provision might be invalid but notes that neither the High Court nor the Supreme Court has declared it so.

The Sessions Court drafts a statement explaining its opinion and the reasons for considering the provision invalid.

The Court refers this statement to the High Court for a final decision on the provision's validity.

While awaiting the High Court's decision, the Sessions Court decides to commit the accused to jail, considering the seriousness of the charges.

Example 3:

Scenario: A Magistrate Court is handling a case where a local ordinance imposes a curfew in a specific area. The defendant argues that the ordinance is beyond the powers of the local authority and thus invalid.

Application of Section 436:

The Magistrate Court finds that the validity of the local ordinance is crucial for resolving the case.

The Court believes that the ordinance might be invalid but notes that neither the High Court nor the Supreme Court has declared it so.

The Magistrate Court prepares a statement detailing its opinion and reasons for considering the ordinance invalid.

The Court refers this statement to the High Court for a final decision on the ordinance's validity.

While waiting for the High Court's decision, the Magistrate Court decides to release the defendant on bail.

Example 4:

Scenario: A Sessions Court is hearing a case involving a complex legal question about the interpretation of a central Act. The question does not involve the validity of the Act but requires a legal interpretation that could affect the outcome of the case.

Application of Section 436:

The Sessions Court identifies that the legal question is significant for the case's resolution.

The Court decides that it would be appropriate to seek the High Court's interpretation of the legal question.

The Sessions Court drafts a statement outlining the legal question and the context in which it arises.

The Court refers this statement to the High Court for a decision on the legal question.

While awaiting the High Court's decision, the Sessions Court decides to release the accused on bail, considering the nature of the case.

Section 437: Disposal of case according to decision of High Court.

Bare Act

(1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Court by which the reference was made, which shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

SIMPLIFIED ACTS

(1) When a question is sent to the High Court for a decision, the High Court will make a decision and send a copy of that decision to the original court that asked the question. The original court must then follow the High Court's decision in handling the case.

(2) The High Court can decide who should pay the costs related to sending the question to the High Court.

Explanation using Example

Example 1:

Rajesh was accused of theft and his case was being heard in the Sessions Court. During the trial, a complex legal question arose regarding the interpretation of a specific provision of the law. The Sessions Court decided to refer this question to the High Court for clarification. The High Court reviewed the question and issued an order clarifying the legal provision. The High Court also directed that the costs of the reference should be borne by the state. The Sessions Court received the High Court's order and proceeded to dispose of Rajesh's case in accordance with the High Court's decision.

Example 2:

Meena was involved in a property dispute case in the District Court. During the proceedings, the District Court found that there was a significant ambiguity in the application of a particular section of the property law. The District Court referred this legal question to the High Court for a definitive ruling. The High Court examined the matter and issued an order providing a clear interpretation of the law. Additionally, the High Court ordered that the costs incurred for the reference should be paid by the losing party in the property dispute. The District Court received the High Court's order and resolved Meena's case based on the High Court's interpretation.

Section 438: Calling for records to exercise powers of revision.

Section

Revision by High Court or Sessions Judge

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.

Explanation. - All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

SIMPLIFIED ACTS

Section

Review by High Court or Sessions Judge

(1) The High Court or any Sessions Judge can look at the records of any case from a lower Criminal Court within their area. They do this to check if the decision, sentence, or order was correct, legal, or appropriate, and to ensure the process was followed properly. While reviewing, they can pause the execution of any sentence or order. If the accused is in jail, they can be released on their own promise or bail until the review is done.

Explanation. - All Magistrates, whether they handle administrative or judicial matters, and whether they deal with cases first-hand or on appeal, are considered lower than the Sessions Judge for this section and section 439.

(2) The power to review given in part (1) cannot be used for temporary orders made during an appeal, inquiry, trial, or other proceedings.

(3) If someone has already asked either the High Court or the Sessions Judge to review a case, they cannot ask the other one to review the same case.

Explanation using Example

Example 1:

Rajesh was convicted by a Magistrate Court in Mumbai for theft and sentenced to six months in prison. Rajesh believes that the Magistrate made a legal error in his judgment. Rajesh's lawyer files an application to the Sessions Judge in Mumbai, requesting a revision of the case. The Sessions Judge calls for the records of the Magistrate Court to examine the correctness and legality of the conviction and sentence. While the Sessions Judge reviews the case, he orders that Rajesh be released on bail. After examining the records, the Sessions Judge finds that there was indeed a legal error and sets aside the conviction, ordering a retrial.

Example 2:

Priya was fined by a Judicial Magistrate in Delhi for a minor traffic violation. She believes that the fine was unjust and decides to challenge it. Priya's lawyer files a revision application to the High Court of Delhi. The High Court calls for the records of the Judicial Magistrate to verify the propriety of the order. During this period, the High Court suspends the execution of the fine. After reviewing the records, the High Court concludes that the fine was imposed correctly and upholds the Magistrate's order.

Example 3:

Sunil was involved in a property dispute case and the Magistrate Court issued an interlocutory order during the trial, directing Sunil to maintain the status quo on the property. Sunil is unhappy with this order and wants to challenge it. However, since the order is interlocutory (temporary and not final), the Sessions Judge or High Court cannot exercise their revision powers over this order as per sub-section (2) of Section 438. Sunil will have to wait for a final order to seek a revision.

Example 4:

Anita was convicted by a Magistrate Court in Bangalore for fraud and sentenced to one year in prison. She files a revision application to the Sessions Judge in Bangalore. The Sessions Judge calls for the records and suspends the execution of the sentence, releasing Anita on bail. Meanwhile, Anita's friend, unaware of the ongoing revision, files a similar application to the High Court of Karnataka. The High Court, upon learning that a revision application is already pending before the Sessions Judge, dismisses the new application as per sub-section (3) of Section 438.

Section 439: Power to order inquiry.

On examining any record under section 438 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 226 or sub-section (4) of section 227, or into the case of any person accused of an offence who has been discharged:

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.

SIMPLIFIED ACTS

If the High Court or the Sessions Judge looks at any record under section 438 or for any other reason, they can ask the Chief Judicial Magistrate or any Magistrate working under him to investigate further into a complaint that was dismissed under section 226 or section 227(4), or into the case of a person accused of a crime who has been let go.

The Chief Judicial Magistrate can also do this investigation himself or ask a subordinate Magistrate to do it.

However, no court can order such an investigation into the case of a person who has been let go unless that person has been given a chance to explain why the investigation should not happen.

Explanation using Example

Example 1:

Scenario: Rajesh files a complaint against his neighbor, Suresh, alleging that Suresh has been harassing him. The complaint is dismissed by the Magistrate under Section 226 due to lack of evidence.

Application of Section 439: Rajesh believes that the dismissal was unjust and approaches the High Court. The High Court examines the record and finds that there might be merit in Rajesh's complaint. The High Court then directs the Chief Judicial Magistrate to conduct a further inquiry into the complaint. The Chief Judicial Magistrate can either conduct the inquiry himself or assign it to a subordinate Magistrate. This ensures that Rajesh's complaint is thoroughly investigated before a final decision is made.

Example 2:

Scenario: Priya is accused of theft and is discharged by the Magistrate under sub-section (4) of Section 227 due to insufficient evidence. The complainant, the shop owner, believes that the discharge was premature and approaches the Sessions Judge for a review.

Application of Section 439: The Sessions Judge reviews the case records and finds that there might be additional evidence that was not considered. The Sessions Judge directs the Chief Judicial Magistrate to conduct a further inquiry into Priya's case. Before making this direction, the Sessions Judge ensures that Priya is given an opportunity to present her case and show why such an inquiry should not be ordered. This ensures that Priya's rights are protected while also allowing for a thorough investigation of the allegations against her.

Section 440: Sessions Judge's powers of revision.

Legal Provisions

(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 442.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 442 shall, so far

as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(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.

SIMPLIFIED ACTS

Legal Provisions

(1) If a Sessions Judge asks for the records of a case, he can use all or some of the powers that the High Court has under section 442(1).

(2) When a Sessions Judge starts a review of a case under point (1), the rules in section 442(2), (3), (4), and (5) will apply to this review. Any mention of the High Court in those rules should be understood as referring to the Sessions Judge.

(3) If someone asks the Sessions Judge to review a case, the decision made by the Sessions Judge will be final for that person. They cannot ask the High Court or any other court to review the case again.

Explanation using Example

Example 1:

Scenario: Rajesh was convicted by a Magistrate for a minor theft and sentenced to six months in jail. Rajesh believes that the Magistrate made a legal error in his judgment and decides to challenge the conviction.

Application of Section 440:

Rajesh files an application for revision before the Sessions Judge.

The Sessions Judge calls for the record of the proceedings from the Magistrate's court.

The Sessions Judge reviews the case and exercises the powers similar to those of the High Court under Section 442(1), which may include altering the sentence, setting aside the conviction, or ordering a retrial.

The Sessions Judge decides that the Magistrate indeed made a legal error and reduces Rajesh's sentence to three months.

Rajesh cannot further appeal this decision to the High Court or any other court, as the decision of the Sessions Judge is final under Section 440(3).

Example 2:

Scenario: Priya was acquitted by a Magistrate in a case of alleged fraud. The complainant, Mr. Sharma, believes that the acquittal was unjust and decides to seek a revision of the judgment.

Application of Section 440:

Mr. Sharma files an application for revision before the Sessions Judge.

The Sessions Judge calls for the record of the proceedings from the Magistrate's court.

The Sessions Judge reviews the case and exercises the powers similar to those of the High Court under Section 442(1), which may include ordering a retrial or setting aside the acquittal.

The Sessions Judge finds that there were procedural errors in the Magistrate's judgment and orders a retrial.

Mr. Sharma cannot further appeal this decision to the High Court or any other court, as the decision of the Sessions Judge is final under Section 440(3).

Example 3:

Scenario: Sunita was fined by a Magistrate for a traffic violation. She believes the fine was excessive and decides to challenge it.

Application of Section 440:

Sunita files an application for revision before the Sessions Judge.

The Sessions Judge calls for the record of the proceedings from the Magistrate's court.

The Sessions Judge reviews the case and exercises the powers similar to those of the High Court under Section 442(1), which may include reducing the fine or setting aside the penalty.

The Sessions Judge decides that the fine was indeed excessive and reduces it to a more reasonable amount.

Sunita cannot further appeal this decision to the High Court or any other court, as the decision of the Sessions Judge is final under Section 440(3).

Section 441: 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.

SIMPLIFIED ACTS

An Additional Sessions Judge can use all the powers of a Sessions Judge for any case that is given to them by the Sessions Judge through a general or special order.

Explanation using Example

Example 1:

Rajesh is accused of a serious crime and his case is initially assigned to the Sessions Judge in Mumbai. Due to a heavy backlog of cases, the Sessions Judge decides to transfer Rajesh's case to an Additional Sessions Judge, Ms. Sharma, through a special order. Ms. Sharma now has all the powers of the Sessions Judge to hear and decide Rajesh's case, including the authority to pass judgments, issue warrants, and conduct the trial.

Example 2:

In the city of Bangalore, there is an ongoing high-profile corruption case involving multiple defendants. The Sessions Judge, Mr. Kumar, is handling the case but realizes that it would be more efficient to split the case into two parts due to its complexity. He issues a general order transferring part of the case to an Additional Sessions Judge, Mr. Rao. Mr. Rao now has the same powers as Mr. Kumar to handle his portion of the case, including examining evidence, summoning witnesses, and delivering verdicts.

Section 442: High Court's powers of revision.

(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 427, 430, 431 and 432 or on a Court of Session by section 344, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 433.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by advocate in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

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

(5) Where under this Sanhita an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

SIMPLIFIED ACTS

(1) If the High Court gets a case record either by requesting it or by some other means, it can use the same powers as a Court of Appeal (under sections 427, 430, 431, and 432) or a Court of Session (under section 344). If the judges in the High Court can't agree on a decision, the case will be resolved as described in section 433.

(2) The High Court cannot make a decision that harms the accused or any other person unless that person has had a chance to defend themselves, either in person or through a lawyer.

(3) This section does not allow the High Court to change a "not guilty" verdict to a "guilty" one.

(4) If someone has the right to appeal but does not do so, they cannot later ask for a revision of the case.

(5) If someone mistakenly asks for a revision instead of an appeal, and the High Court believes it is necessary for justice, the High Court can treat the revision request as an appeal and handle it accordingly.

Explanation using Example

Example 1:

Scenario: Rajesh was acquitted by a lower court in a theft case. The prosecution believes that the acquittal was due to a legal error and wants to challenge the decision.

Application of Section 442:

The High Court can review the case if it comes to its knowledge or if the record is called for.

The High Court can exercise powers similar to those of an appellate court or a Court of Session.

Rajesh will be given an opportunity to be heard either personally or through his advocate.

The High Court cannot convert Rajesh's acquittal into a conviction.

If the prosecution could have appealed the acquittal but did not, they cannot seek revision.

Outcome: The High Court reviews the case, hears arguments from both sides, and decides whether to uphold the acquittal or order a retrial, but it cannot convict Rajesh directly.

Example 2:

Scenario: Priya was convicted of fraud by a lower court. She did not file an appeal within the stipulated time but later filed a revision application in the High Court, believing that no appeal was possible.

Application of Section 442:

The High Court receives Priya's revision application.

The High Court realizes that Priya could have filed an appeal but did not do so due to a mistaken belief.

The High Court decides that it is in the interest of justice to treat the revision application as an appeal.

Outcome: The High Court treats Priya's revision application as an appeal, allowing her to present her case as if she had filed an appeal initially. The court then reviews the merits of her case and makes a decision accordingly.

Section 443: Power of High Court to withdraw or transfer revision cases.

Revision Applications

(1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the questions involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that all the applications for revision should be disposed of by itself, the High Court shall direct that the applications for revision pending before the Sessions Judge be transferred to itself and where the High Court decides that it is not necessary for it to dispose of the applications for revision, it shall direct that the applications for revision made to it be transferred to the Sessions Judge.

(2) Whenever any application for revision is transferred to the High Court, that Court shall deal with the same as if it were an application duly made before itself.

(3) Whenever any application for revision is transferred to the Sessions Judge, that Judge shall deal with the same as if it were an application duly made before himself.

(4) Where an application for revision is transferred by the High Court to the Sessions Judge, no further application for revision shall lie to the High Court or to any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

SIMPLIFIED ACTS

Revision Applications

(1) If multiple people convicted in the same trial want to ask for a review of their case, and some of them apply to the High Court while others apply to the Sessions Judge, the High

Court will decide which court should handle all the review requests. The High Court will consider what is most convenient for everyone involved and how important the questions are. If the High Court decides to handle all the review requests itself, it will take over the requests that were made to the Sessions Judge. If the High Court decides it doesn't need to handle the requests, it will send the requests made to it to the Sessions Judge.

(2) If a review request is sent to the High Court, the High Court will treat it as if it was originally made to the High Court.

(3) If a review request is sent to the Sessions Judge, the Sessions Judge will treat it as if it was originally made to the Sessions Judge.

(4) If the High Court sends a review request to the Sessions Judge, the person who made the request cannot ask for another review from the High Court or any other court after the Sessions Judge has made a decision.

Explanation using Example

Example 1:

Scenario: Multiple Convictions in a Fraud Case

Background: Rajesh, Priya, and Anil were all convicted in a fraud case by a lower court. Rajesh and Priya decide to file a revision application to the High Court, while Anil files his revision application to the Sessions Judge.

Application of Section 443:

The High Court will review the situation considering the convenience of all parties and the importance of the legal questions involved.

If the High Court decides that it should handle all the revision applications, it will transfer Anil's application from the Sessions Judge to itself.

Conversely, if the High Court decides that the Sessions Judge should handle all the applications, it will transfer Rajesh and Priya's applications to the Sessions Judge.

Once transferred, the respective court (High Court or Sessions Judge) will treat the applications as if they were originally filed there.

Outcome: The High Court decides that due to the complexity and importance of the legal questions, it will handle all the revision applications. Therefore, Anil's application is transferred to the High Court, and all three applications are disposed of by the High Court.

Example 2:

Scenario: Traffic Violation Convictions

Background: Sunita and Ramesh were convicted for a traffic violation in the same trial. Sunita files a revision application to the High Court, while Ramesh files his application to the Sessions Judge.

Application of Section 443:

The High Court assesses the situation and determines that the questions involved are straightforward and do not require its intervention.

The High Court decides that the Sessions Judge should handle both applications for the sake of convenience.

The High Court transfers Sunita's application to the Sessions Judge.

The Sessions Judge will then treat both applications as if they were originally filed there.

Outcome: The High Court transfers Sunita's application to the Sessions Judge, and the Sessions Judge disposes of both Sunita and Ramesh's applications. No further revision application can be made to the High Court by Sunita or Ramesh regarding this matter.

Section 444: Option of Court to hear parties.

Save as otherwise expressly provided by this Sanhita, no party has any right to be heard either personally or by an advocate before any Court exercising its powers of revision; but the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by an advocate.

SIMPLIFIED ACTS

Unless this specific law says otherwise, no one has the automatic right to speak in person or through a lawyer in a Court that is reviewing a case.

However, the Court can choose to allow someone to speak in person or through a lawyer if it decides to do so.

Explanation using Example

Example 1:

Rajesh was convicted of theft by a lower court and sentenced to six months in prison. He believes the judgment was unfair and files a revision petition in the High Court. According to Section 444 of The Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh does not have an automatic right to be heard in person or through his lawyer during the revision process. However, the High Court, after reviewing the petition, decides that it would be beneficial to hear Rajesh's arguments. The court then allows Rajesh and his lawyer to present their case.

Example 2:

Meena's property dispute case was dismissed by a district court. She files a revision petition in the High Court, hoping to overturn the dismissal. Under Section 444, Meena does not have the inherent right to be heard during the revision. The High Court reviews the documents and decides that the case can be decided based on the written submissions alone. Therefore, the court does not call Meena or her lawyer for a hearing and proceeds to make a decision based on the existing records.

Section 445: High Court's order to be certified to lower Court.

When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 429, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith.

SIMPLIFIED ACTS

When a case is reviewed by the High Court or a Sessions Judge under this Chapter, they must follow the procedure in section 429 to officially record their decision or order.

The decision or order must be sent to the original Court that made the initial finding, sentence, or order.

The original Court must then follow the decision or order from the High Court or Sessions Judge.

If needed, the original Court must update the case records to match the new decision or order.

Explanation using Example

Example 1:

Scenario: A person named Rajesh was convicted by a lower court in Mumbai for theft and sentenced to two years in prison. Rajesh believes that the conviction was based on insufficient evidence and decides to appeal to the High Court.

Application of Section 445:

The High Court reviews the case and finds that the lower court made an error in its judgment.

The High Court decides to revise the sentence and acquits Rajesh of all charges.

According to Section 445, the High Court certifies its decision and sends it to the lower court in Mumbai.

The lower court receives the certified decision and updates its records to reflect Rajesh's acquittal.

The lower court then issues an order to release Rajesh from prison immediately, conforming to the High Court's decision.

Example 2:

Scenario: A Sessions Judge in Delhi reviews a case where a person named Priya was fined ₹50,000 by a lower court for a traffic violation. Priya argues that the fine is excessively high and appeals to the Sessions Judge.

Application of Section 445:

The Sessions Judge examines the case and concludes that the fine imposed by the lower court was indeed excessive.

The Sessions Judge decides to reduce the fine to ₹10,000.

As per Section 445, the Sessions Judge certifies this revised decision and sends it to the lower court in Delhi.

The lower court receives the certified decision and updates its records to reflect the reduced fine.

The lower court then issues an order to Priya, informing her of the revised fine amount and ensuring that any excess amount already paid is refunded to her.

Example 3:

Scenario: A lower court in Chennai sentences a person named Anil to community service for six months for vandalism. Anil appeals to the High Court, arguing that the sentence is too harsh given the minor nature of the offense.

Application of Section 445:

The High Court reviews the case and agrees with Anil, deciding to reduce the community service to three months.

The High Court certifies its decision and sends it to the lower court in Chennai.

The lower court receives the certified decision and updates its records to reflect the reduced community service period.

The lower court then issues an order to Anil, informing him of the revised community service duration and ensuring that the new order is enforced accordingly.

Example 4:

Scenario: A lower court in Kolkata imposes a ban on a local business owned by Suman for violating health regulations. Suman appeals to the Sessions Judge, claiming that the ban is unjustified and too severe.

Application of Section 445:

The Sessions Judge reviews the case and finds that the lower court's decision was overly harsh.

The Sessions Judge decides to lift the ban but imposes a fine instead.

The Sessions Judge certifies this decision and sends it to the lower court in Kolkata.

The lower court receives the certified decision and updates its records to reflect the lifting of the ban and the imposition of the fine.

The lower court then issues an order to Suman, informing her of the new penalty and ensuring that the business can resume operations.

Example 5:

Scenario: A lower court in Bangalore sentences a person named Ravi to probation for one year for a minor drug offense. Ravi appeals to the High Court, arguing that the probation period is too long.

Application of Section 445:

The High Court reviews the case and agrees with Ravi, deciding to reduce the probation period to six months.

The High Court certifies its decision and sends it to the lower court in Bangalore.

The lower court receives the certified decision and updates its records to reflect the reduced probation period.

The lower court then issues an order to Ravi, informing him of the revised probation period and ensuring that the new order is enforced accordingly.

CHAPTER XXXIII: TRANSFER OF CRIMINAL CASES

Section 446: Power of Supreme Court to transfer cases and appeals.

Transfer of Cases

(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be

transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation.

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum as it may consider appropriate in the circumstances of the case.

SIMPLIFIED ACTS

Transfer of Cases

(1) If the Supreme Court believes that moving a case or appeal to a different court will help achieve justice, it can order that the case or appeal be transferred from one High Court to another High Court, or from a lower criminal court under one High Court to a similar or higher criminal court under a different High Court.

(2) The Supreme Court can only make such a transfer if the Attorney-General of India or someone involved in the case requests it. This request must be made formally, and if the person making the request is not the Attorney-General of India or the Advocate-General of the State, they must provide a sworn statement to support their request.

(3) If the Supreme Court rejects a request to transfer a case and thinks the request was made without good reason or to cause trouble, it can order the person who made the request to pay compensation to the person who opposed the request. The amount of compensation will be decided based on the specifics of the case.

Explanation using Example

Example 1:

Scenario: A high-profile criminal case involving a prominent politician is being tried in the High Court of Uttar Pradesh. The politician's influence in the state is substantial, and there are concerns about the impartiality of the trial due to potential local biases and pressures.

Application: The Attorney-General of India files an application to the Supreme Court, requesting the transfer of the case from the High Court of Uttar Pradesh to the High Court of Delhi. The application is supported by an affidavit detailing the reasons for the transfer, including concerns about local influence and the need for a fair trial.

Supreme Court Decision: The Supreme Court, after reviewing the application and considering the ends of justice, directs that the case be transferred to the High Court of Delhi to ensure an impartial trial.

Example 2:

Scenario: A businessman is involved in a criminal case being tried in the Criminal Court of Mumbai. The businessman believes that the local media coverage and public opinion in Mumbai are heavily biased against him, which could affect the fairness of the trial.

Application: The businessman's legal team files an application to the Supreme Court, requesting the transfer of the case from the Criminal Court of Mumbai to the Criminal Court of Bangalore. The application is supported by an affidavit outlining the reasons for the transfer, including the biased media coverage and the potential impact on the jury.

Supreme Court Decision: The Supreme Court, after considering the application and the supporting affidavit, determines that transferring the case is expedient for the ends of justice. The Court orders the transfer of the case to the Criminal Court of Bangalore to ensure a fair trial.

Example 3:

Scenario: A criminal appeal is pending in the High Court of West Bengal. The appellant, a social activist, argues that the local political climate and previous threats against him in West Bengal could jeopardize his safety and the fairness of the appeal process.

Application: The social activist files an application to the Supreme Court, requesting the transfer of the appeal from the High Court of West Bengal to the High Court of Karnataka. The application is supported by an affidavit detailing the threats and the hostile political environment in West Bengal.

Supreme Court Decision: The Supreme Court, after reviewing the application and the affidavit, concludes that transferring the appeal is necessary for the ends of justice. The Court orders the transfer of the appeal to the High Court of Karnataka to ensure the appellant's safety and a fair hearing.

Example 4:

Scenario: A frivolous application is filed by an individual seeking to transfer a minor criminal case from the Criminal Court of Chennai to the Criminal Court of Hyderabad, without any substantial grounds or evidence.

Application: The individual files the application to the Supreme Court, but the application lacks any supporting affidavit or substantial reasons for the transfer.

Supreme Court Decision: The Supreme Court, upon reviewing the application, finds it to be frivolous and without merit. The Court dismisses the application and orders the individual

to pay compensation to the respondent for opposing the application, considering it appropriate in the circumstances of the case.

Section 447: Power of High Court to transfer cases and appeals.

High Court Transfer of Cases

(1) Whenever it is made to appear to the High Court -

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto; or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section is required by any provision of this Sanhita, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order -

(i) that any offence be inquired into or tried by any Court not qualified under sections 197 to 205 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond or bail bond for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interest of justice, order that, pending the disposal of the application the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court's power of remand under section 346.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of the Government under section 218.

SIMPLIFIED ACTS

High Court Transfer of Cases

(1) The High Court can decide to move a case to a different court if:

(a) a fair trial can't happen in the current court;

(b) a complicated legal question is likely to come up;

(c) moving the case would be more convenient for everyone involved or is necessary for justice.

In such cases, the High Court can:

(i) have the case investigated or tried by a different court that is not normally allowed to handle such cases but is otherwise capable;

(ii) move a specific case or group of cases from one lower court to another court of equal or higher authority;

(iii) send a case to a higher court for trial;

(iv) take over the case and handle it itself.

(2) The High Court can make these decisions based on a report from a lower court, a request from someone involved in the case, or on its own:

However, you can't ask the High Court to move a case to another court in the same area unless you've already asked the local judge and they said no.

(3) If you want the High Court to move a case, you need to make a formal request, usually with a sworn statement unless you're the State's top lawyer.

(4) If the accused person asks to move the case, the High Court might require them to pay a bond or bail to cover any compensation the court might order later.

(5) The accused person must inform the Public Prosecutor in writing about their request and provide the reasons. The court will wait at least 24 hours after this notice before making a decision.

(6) If the request is to move a case from a lower court, the High Court can pause the lower court's proceedings if it thinks it's necessary for justice, but this pause won't stop the lower court from sending someone back to jail if needed.

(7) If the High Court rejects the request to move the case and thinks the request was made just to cause trouble, it can order the person who made the request to pay compensation to the other party.

(8) If the High Court decides to take over a case itself, it will follow the same procedures that the original court would have followed.

(9) This section doesn't change any orders made by the Government under section 218.

Explanation using Example

Example 1:

Scenario: A high-profile politician is accused of corruption in a small town in Uttar Pradesh. The local court is under immense pressure from various political groups, and there are concerns that a fair trial may not be possible due to local biases and influence.

Application of Section 447:

The defense lawyer files an application to the High Court of Allahabad, arguing that a fair and impartial trial cannot be conducted in the local court (sub-section 1(a)).

The High Court reviews the application and agrees that the local environment may compromise the fairness of the trial.

The High Court orders that the case be transferred to a criminal court in Lucknow, which is of equal jurisdiction but not influenced by local political pressures (sub-section 1(ii)).

Example 2:

Scenario: A complex financial fraud case involving multiple companies and intricate financial transactions is being tried in a district court in Maharashtra. The case involves complicated questions of law that the lower court may not be equipped to handle.

Application of Section 447:

The public prosecutor files an application to the High Court of Bombay, stating that the case involves questions of law of unusual difficulty (sub-section 1(b)).

The High Court, recognizing the complexity of the legal issues, decides to transfer the case to itself for trial (sub-section 1(iv)).

The High Court follows the same procedural rules that the district court would have followed if the case had not been transferred (sub-section 8).

Example 3:

Scenario: A criminal case involving a violent crime is being tried in a district court in Tamil Nadu. The witnesses and the victim's family are facing threats and intimidation from the accused's associates, making it difficult for them to attend court proceedings.

Application of Section 447:

The victim's family files an application to the High Court of Madras, requesting a transfer of the case for the general convenience of the parties and witnesses (sub-section 1(c)).

The High Court, considering the safety and convenience of the witnesses, orders that the case be transferred to a court in Chennai, which is better equipped to ensure their safety (sub-section 1(ii)).

Example 4:

Scenario: An accused person in a criminal case believes that the local court is biased against him and files an application for the transfer of his case to another court within the same sessions division.

Application of Section 447:

The accused first applies to the Sessions Judge for the transfer of the case. The Sessions Judge rejects the application.

The accused then files an application to the High Court of Karnataka, as required by the proviso to sub-section 2.

The High Court reviews the application and decides whether to transfer the case to another court within the same sessions division or to a different division altogether.

Example 5:

Scenario: An accused person files a frivolous application to the High Court for the transfer of his case, hoping to delay the trial.

Application of Section 447:

The High Court reviews the application and finds it to be frivolous and without merit.

The High Court dismisses the application and orders the accused to pay compensation to the public prosecutor for wasting the court's time (sub-section 7).

Section 448: 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 447 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 447, except that sub-section (7) of that section shall so apply as if for the word "sum" occurring therein, the words "sum not exceeding ten thousand rupees" were substituted.

SIMPLIFIED ACTS

(1) If a Sessions Judge believes that it is necessary for justice, he can order that a specific case be moved from one Criminal Court to another within his area of authority.

(2) The Sessions Judge can make this decision based on a report from a lower court, a request from someone involved in the case, or on his own decision.

(3) The rules mentioned in sub-sections (3), (4), (5), (6), (7), and (9) of section 447 will also apply to a request made to the Sessions Judge for moving a case, just like they apply to a request made to the High Court for moving a case. However, for sub-section (7) of that section, the term "sum" will be replaced with "sum not exceeding ten thousand rupees."

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, is facing a criminal trial in a local court in Mumbai. He believes that the local court is biased against him due to local influence and media pressure. Ramesh's lawyer files an application to the Sessions Judge of Mumbai, requesting the transfer of his case to another criminal court within the same sessions division.

Application: Ramesh's lawyer submits an application to the Sessions Judge, citing the need for a fair trial and the potential bias in the current court.

Outcome: The Sessions Judge reviews the application and finds that transferring the case is necessary for the ends of justice. The Sessions Judge orders the transfer of Ramesh's case to another criminal court in the Mumbai sessions division.

Example 2:

Scenario: A lower court in Delhi is handling a high-profile criminal case involving multiple accused persons. The lower court reports to the Sessions Judge that due to the complexity and high-profile nature of the case, it would be more appropriate for another court with more resources to handle it.

Report: The lower court submits a report to the Sessions Judge, explaining the reasons why the case should be transferred to another criminal court within the sessions division.

Outcome: The Sessions Judge, after considering the report and the interests of justice, decides to transfer the case to another criminal court in the Delhi sessions division that is better equipped to handle such a complex and high-profile case.

Example 3:

Scenario: Priya, a victim in a criminal case, feels that the current court handling her case is not progressing efficiently and there are unnecessary delays. She believes that another court within the same sessions division would handle her case more expeditiously. Priya files an application to the Sessions Judge for the transfer of her case.

Application: Priya submits an application to the Sessions Judge, detailing the delays and inefficiencies in the current court and requesting a transfer to another court.

Outcome: The Sessions Judge reviews Priya's application and finds that transferring the case would expedite the proceedings and serve the ends of justice. The Sessions Judge orders the transfer of Priya's case to another criminal court within the same sessions division.

Example 4:

Scenario: The Sessions Judge in Bangalore, on his own initiative, identifies a case that has been pending for an unusually long time in a particular criminal court. The Sessions Judge believes that transferring the case to another court would help in faster resolution.

Initiative: The Sessions Judge, acting on his own initiative, decides to transfer the case to another criminal court within the Bangalore sessions division.

Outcome: The Sessions Judge issues an order transferring the case to another criminal court, aiming to ensure a quicker resolution and better administration of justice.

Section 449: Withdrawal of 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 a 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 case or appeal under sub-section (1) or sub-section (2), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Sanhita to another Court for trial or hearing, as the case may be.

SIMPLIFIED ACTS

(1) A Sessions Judge can take back any case or appeal that he has given to a Chief Judicial Magistrate who works under him.

(2) Before the trial or hearing of a case or appeal starts in front of an Additional Sessions Judge, a Sessions Judge can take back any case or appeal that he has given to the Additional Sessions Judge.

(3) If a Sessions Judge takes back a case or appeal as mentioned in points (1) or (2), he can either handle the case or appeal himself, or give it to another court to handle, following the rules of this law.

Explanation using Example

Example 1:

Ravi is accused of theft and his case is initially assigned to the Chief Judicial Magistrate (CJM) by the Sessions Judge. However, midway through the pre-trial proceedings, the Sessions Judge learns that the CJM is overloaded with cases and unable to give timely attention to Ravi's case. To ensure a fair and speedy trial, the Sessions Judge decides to withdraw the case from the CJM and take it up himself. Alternatively, the Sessions Judge could assign the case to another competent court under his jurisdiction.

Example 2:

Priya files an appeal against her conviction in a fraud case. The Sessions Judge initially assigns the appeal to an Additional Sessions Judge. Before the hearing of the appeal begins, the Sessions Judge realizes that the Additional Sessions Judge has a conflict of interest in the case. To maintain impartiality, the Sessions Judge recalls the appeal from the Additional Sessions Judge. The Sessions Judge then decides to hear the appeal himself or assigns it to another court that can handle the appeal without any conflict of interest.

Section 450: Withdrawal of cases by Judicial Magistrates.

(1) Any Chief Judicial Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of section 212 to any other Magistrate and may inquire into or try such cases himself.

SIMPLIFIED ACTS

(1) A Chief Judicial Magistrate can take back any case from a Magistrate who works under him. He can either handle the case himself or give it to another qualified Magistrate to handle.

(2) A Judicial Magistrate can take back any case he has given to another Magistrate under section 212(2) and can handle the case himself.

Explanation using Example

Example 1:

Scenario: A theft case in Mumbai

Details:

A theft case is initially assigned to Magistrate A, who is a subordinate to the Chief Judicial Magistrate (CJM) of Mumbai.

During the proceedings, it is discovered that Magistrate A has a conflict of interest because the accused is a distant relative.

The CJM, upon learning about this conflict, decides to withdraw the case from Magistrate A.

The CJM then reassigns the case to Magistrate B, who is also competent to handle theft cases.

Alternatively, the CJM could choose to handle the case personally.

Application of Section 450:

The CJM uses the power under Section 450(1) to withdraw the case from Magistrate A and reassign it to Magistrate B or take it up himself.

Example 2:

Scenario: A fraud case in Delhi

Details:

A fraud case is initially assigned to Magistrate X by the Chief Judicial Magistrate of Delhi.

Magistrate X, due to an overwhelming caseload, decides to transfer the case to Magistrate Y, who is also competent to handle fraud cases.

After some time, Magistrate X realizes that the case is not progressing efficiently under Magistrate Y.

Magistrate X decides to recall the case from Magistrate Y and take over the inquiry and trial himself.

Application of Section 450:

Magistrate X uses the power under Section 450(2) to recall the case from Magistrate Y and proceed with the inquiry and trial himself.

Section 451: 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 Magistrate subordinate to him;

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

SIMPLIFIED ACTS

Any District Magistrate or Sub-divisional Magistrate can -

(a) give any case that has started in their court to another Magistrate who works under them to handle;

(b) take back any case from a Magistrate they gave it to, and either handle the case themselves or give it to another Magistrate to handle.

Explanation using Example

Example 1:

Ravi, a local shopkeeper, files a complaint against his neighbor for causing a public nuisance. The case is initially taken up by the Sub-divisional Magistrate (SDM). However, due to a heavy workload, the SDM decides to transfer the case to a Junior Magistrate under his jurisdiction for quicker resolution. This transfer is done under Section 451(a) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Example 2:

In another scenario, a District Magistrate (DM) is handling a case involving illegal construction. Midway through the proceedings, the DM realizes that the case requires more experienced handling due to its complexity. The DM decides to withdraw the case from the Junior Magistrate to whom it was initially assigned and takes over the case personally to ensure a fair and thorough investigation. This action is taken under Section 451(b) of The Bharatiya Nagarik Suraksha Sanhita 2023.

Section 452: Reasons to be recorded.

A Sessions Judge or Magistrate making an order under section 448, section 449, section 450 or section 451 shall record his reasons for making it.

SIMPLIFIED ACTS

If a Sessions Judge or Magistrate makes a decision under section 448, section 449, section 450, or section 451, they must write down the reasons for their decision.

Explanation using Example

Example 1:

Scenario: A Sessions Judge decides to transfer a criminal case from one district to another due to concerns about the impartiality of the local jury.

Application of Section 452: The Sessions Judge must document the reasons for this decision. The recorded reasons might include:

Evidence of local bias against the defendant.

Previous incidents of jury tampering in the district.

Requests from the defense or prosecution citing specific concerns about a fair trial.

Example 2:

Scenario: A Magistrate orders the transfer of a case involving a high-profile politician to a different jurisdiction to ensure the safety of witnesses.

Application of Section 452: The Magistrate must provide a written explanation for the transfer. The reasons could include:

Threats received by witnesses in the current jurisdiction.

Media influence potentially affecting the trial's outcome.

Recommendations from law enforcement agencies highlighting security concerns.

Example 3:

Scenario: A Sessions Judge transfers a case to another court because the original court is overloaded with cases, causing significant delays in the trial process.

Application of Section 452: The Sessions Judge must record the reasons for the transfer. The documented reasons might include:

The current court's docket is excessively crowded, leading to delays.

The need to expedite the trial to ensure timely justice.

Availability of resources and personnel in the new court to handle the case more efficiently.

Example 4:

Scenario: A Magistrate transfers a case involving a minor to a juvenile court better equipped to handle such cases.

Application of Section 452: The Magistrate must document the reasons for the transfer. The reasons could include:

The nature of the crime and the age of the defendant.

The juvenile court's specialized resources and expertise in handling cases involving minors.

Recommendations from child welfare organizations or psychologists.

Example 5:

Scenario: A Sessions Judge transfers a case to another jurisdiction due to a conflict of interest, where the judge has a personal connection to one of the parties involved.

Application of Section 452: The Sessions Judge must record the reasons for the transfer. The documented reasons might include:

The judge's personal relationship with one of the parties, which could affect impartiality.

The need to maintain public confidence in the judicial process.

Ethical guidelines requiring the judge to recuse themselves from the case.

CHAPTER XXXIV: EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A - DEATH SENTENCES

Section 453: Execution of order passed under section 409.

When in a case submitted to the High Court for the confirmation of a sentence of death, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

SIMPLIFIED ACTS

When a case involving a death sentence is sent to the High Court for approval, and the Court of Session gets the High Court's decision,

The Court of Session must make sure the High Court's decision is carried out.

This can be done by issuing a warrant or taking any other necessary actions.

Explanation using Example

Example 1:

Ravi was convicted of a heinous crime and sentenced to death by the Court of Session. As per the legal procedure, the case was submitted to the High Court for confirmation of the death sentence. The High Court reviewed the case and confirmed the death sentence. Upon receiving the confirmation order from the High Court, the Court of Session issued a warrant for Ravi's execution and coordinated with the prison authorities to ensure the execution was carried out as per the legal requirements.

Example 2:

Sita was found guilty of a capital offense and sentenced to death by the Court of Session. The case was then sent to the High Court for confirmation of the death sentence. After reviewing the evidence and legal arguments, the High Court decided to commute Sita's death sentence to life imprisonment. The Court of Session received this commutation order and immediately issued the necessary directives to the prison authorities to update Sita's sentence from death to life imprisonment, ensuring that the new sentence was implemented without delay.

Section 454: Execution of sentence of death passed by High Court.

Bare Act

When a sentence of death is passed by the High Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court, cause the sentence to be carried into effect by issuing a warrant.

SIMPLIFIED ACTS

If the High Court decides that someone should be given the death penalty after an appeal or review,

The Court of Session must, upon receiving this decision from the High Court,

Make sure the death penalty is carried out by issuing an official order.

Explanation using Example

Example 1:

Rajesh was convicted of a heinous crime and sentenced to death by the Sessions Court. He appealed the decision to the High Court. After reviewing the case, the High Court upheld the death sentence. Upon receiving the High Court's order, the Court of Session issued a warrant for Rajesh's execution. The prison authorities then carried out the execution as per the warrant.

Example 2:

Meena was found guilty of a capital offense and sentenced to death by the Sessions Court. She filed a revision petition in the High Court, challenging the sentence. The High Court, after considering the revision petition, decided to maintain the death sentence. The High Court sent its order to the Court of Session, which then issued a warrant for Meena's execution. The warrant was executed by the designated prison officials, ensuring that the sentence was carried out in accordance with the law.

Section 455: Postponement of execution of sentence of death in case of appeal to Supreme Court.

Execution of Sentence of Death

(1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (a) or sub-clause (b) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to

be postponed until the period allowed for preferring such appeal has expired, or if, an appeal is preferred within that period, until such appeal is disposed of.

(2) Where a sentence of death is passed or confirmed by the High Court, and the person sentenced makes an application to the High Court for the grant of a certificate under article 132 or under sub-clause (c) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application, until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired.

(3) Where a sentence of death is passed or confirmed by the High Court, and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition.

SIMPLIFIED ACTS

Execution of Sentence of Death

(1) If someone is sentenced to death by the High Court and they have the right to appeal to the Supreme Court, the High Court must delay the execution of the death sentence. This delay lasts until the time allowed for filing an appeal has passed, or if an appeal is filed within that time, until the appeal is decided.

(2) If the High Court sentences someone to death or confirms a death sentence, and the person asks the High Court for a certificate to appeal to the Supreme Court, the High Court must delay the execution of the death sentence. This delay lasts until the High Court decides on the certificate request, or if the certificate is granted, until the time allowed for filing an appeal to the Supreme Court has passed.

(3) If the High Court sentences someone to death or confirms a death sentence, and the High Court believes the person plans to ask the Supreme Court for special permission to appeal, the High Court must delay the execution of the death sentence. This delay lasts for as long as the High Court thinks is enough time for the person to make their request to the Supreme Court.

Explanation using Example

Example 1:

Rajesh is convicted of a heinous crime and sentenced to death by the High Court of Delhi. Rajesh decides to appeal the decision to the Supreme Court of India. According to Section 455 of The Bharatiya Nagarik Suraksha Sanhita 2023, the High Court orders the execution of Rajesh's death sentence to be postponed. This postponement will last until the period

allowed for filing the appeal has expired. If Rajesh files the appeal within this period, the execution will be further postponed until the Supreme Court disposes of the appeal.

Example 2:

Meena is sentenced to death by the High Court of Karnataka. She applies to the High Court for a certificate under Article 132 of the Constitution, which would allow her to appeal to the Supreme Court. The High Court grants the certificate. According to Section 455, the High Court orders the execution of Meena's death sentence to be postponed until the period allowed for filing the appeal to the Supreme Court has expired. If Meena files the appeal within this period, the execution will be further postponed until the Supreme Court disposes of the appeal.

Example 3:

Suresh is sentenced to death by the High Court of Mumbai. He intends to file a petition for special leave to appeal to the Supreme Court under Article 136 of the Constitution. The High Court, being satisfied with Suresh's intention, orders the execution of his death sentence to be postponed. The postponement period is considered sufficient by the High Court to enable Suresh to present his petition to the Supreme Court. If Suresh files the petition within this period, the execution will be further postponed until the Supreme Court decides on the petition.

Section 456: Commutation of sentence of death on pregnant woman.

If a woman sentenced to death is found to be pregnant, the High Court shall commute the sentence to imprisonment for life.

SIMPLIFIED ACTS

If a woman who has been given the death penalty is discovered to be pregnant, the High Court will change her sentence to life in prison.

Explanation using Example

Example 1:

Anita, a 32-year-old woman, was convicted of a heinous crime and sentenced to death by the trial court in Karnataka. During the appeal process, it was discovered that Anita was pregnant. Her lawyer presented this evidence to the High Court. According to Section 456 of The Bharatiya Nagarik Suraksha Sanhita 2023, the High Court commuted her death sentence to life imprisonment.

Example 2:

Meera, a 28-year-old woman from Maharashtra, was sentenced to death for her involvement in a terrorism-related offense. Before the execution date, a mandatory medical examination revealed that Meera was two months pregnant. As required by Section 456 of The Bharatiya Nagarik Suraksha Sanhita 2023, the High Court was informed and subsequently commuted her sentence from death to life imprisonment.

B - IMPRISONMENT

Section 457: Power to appoint place of imprisonment.

(1) Except when otherwise provided by any law for the time being in force, the State Government may direct in what place any person liable to be imprisoned or committed to custody under this Sanhita shall be confined.

(2) If any person liable to be imprisoned or committed to custody under this Sanhita is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either -

(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been released from the civil jail under section 58 of the Code of Civil Procedure, 1908; or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908.

SIMPLIFIED ACTS

(1) Unless another law says otherwise, the State Government can decide where a person who needs to be imprisoned or kept in custody under this law will be held.

(2) If a person who needs to be imprisoned or kept in custody under this law is currently in a civil jail, the Court or Magistrate who ordered the imprisonment can decide to move the person to a criminal jail.

(3) When a person is moved to a criminal jail under point (2), they will be sent back to the civil jail when they are released from the criminal jail, unless:

(a) Three years have passed since they were moved to the criminal jail, in which case they will be considered released from the civil jail under section 58 of the Code of Civil Procedure, 1908; or

(b) The Court that ordered their imprisonment in the civil jail has informed the officer in charge of the criminal jail that the person is entitled to be released under section 58 of the Code of Civil Procedure, 1908.

Explanation using Example

Example 1:

Ravi, a resident of Maharashtra, is convicted of theft and sentenced to two years of imprisonment under the Bharatiya Nagarik Suraksha Sanhita 2023. The State Government of Maharashtra decides that Ravi will serve his sentence in the Nashik Central Jail. This decision is made under Section 457(1), which allows the State Government to direct where a person liable to be imprisoned shall be confined.

Example 2:

Sita, a businesswoman in Delhi, is involved in a civil dispute and is ordered by the court to be confined in a civil jail for contempt of court. Later, she is also found guilty of fraud under the Bharatiya Nagarik Suraksha Sanhita 2023 and is sentenced to imprisonment. The Magistrate orders that Sita be transferred from the civil jail to Tihar Jail, a criminal jail, as per Section 457(2).

Example 3:

Ramesh, who was initially confined in a civil jail in Karnataka for failing to pay a debt, is later convicted of a criminal offense under the Bharatiya Nagarik Suraksha Sanhita 2023. The court orders his transfer to a criminal jail. After serving his sentence in the criminal jail, Ramesh is due for release. However, since three years have not elapsed since his transfer, he is sent back to the civil jail. If three years had passed, he would have been deemed released from the civil jail under Section 58 of the Code of Civil Procedure, 1908, as per Section 457(3)(a).

Example 4:

Anita, a resident of Gujarat, is confined in a civil jail for a civil offense. She is later convicted of a criminal offense under the Bharatiya Nagarik Suraksha Sanhita 2023 and transferred to a criminal jail. After serving her sentence in the criminal jail, the court that ordered her initial civil imprisonment certifies that she is entitled to be released under Section 58 of the Code of Civil Procedure, 1908. Therefore, she is not sent back to the civil jail upon her release from the criminal jail, as per Section 457(3)(b).

Section 458: Execution of sentence of imprisonment.

(1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 453, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined,

and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

SIMPLIFIED ACTS

(1) If someone is sentenced to life in prison or a set number of years (except in cases covered by section 453), the Court must immediately send a warrant to the jail or place where the person will be held. If the person is not already in that jail or place, the Court must send them there with the warrant:

However, if the person is sentenced to stay in jail only until the Court session ends, there is no need to send a warrant to the jail. The person can be held wherever the Court decides.

(2) If the person is not in Court when they are sentenced to prison as described in section (1), the Court must issue a warrant for their arrest to send them to the jail or place where they will be held. In this case, the prison sentence will start on the day they are arrested.

Explanation using Example

Example 1:

Scenario: Rajesh is convicted of a serious crime and sentenced to life imprisonment by the Sessions Court in Mumbai.

Application of Section 458:

The Sessions Court immediately prepares a warrant for Rajesh's imprisonment.

Rajesh is currently in police custody at the court.

The court forwards the warrant to Arthur Road Jail in Mumbai, where Rajesh is to be confined.

Rajesh is then escorted by police officers to Arthur Road Jail along with the warrant.

Example 2:

Scenario: Priya is convicted of a minor offense and sentenced to imprisonment till the rising of the Court by a Magistrate in Delhi.

Application of Section 458:

The Magistrate sentences Priya to imprisonment till the rising of the Court.

Since this is a short-term imprisonment, the Magistrate does not need to prepare or forward a warrant to a jail.

Priya is confined in a designated holding area within the court premises as directed by the Magistrate.

Priya is released once the court session concludes for the day.

Example 3:

Scenario: Anil is convicted of a crime and sentenced to 5 years of imprisonment by the District Court in Bangalore. However, Anil was not present in court when the sentence was passed.

Application of Section 458:

The District Court issues a warrant for Anil's arrest since he was not present during the sentencing.

The police arrest Anil based on the warrant.

The court forwards the warrant to Central Jail in Bangalore, where Anil is to be confined.

Anil is taken to Central Jail in Bangalore, and his 5-year sentence begins from the date of his arrest.

Section 459: Direction of warrant for execution.

Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

SIMPLIFIED ACTS

Every order for putting someone in jail must be given to the officer in charge of the jail or the place where the person will be kept.

Explanation using Example

Example 1:

Rajesh was convicted of theft and sentenced to two years of imprisonment by the court. The judge issued a warrant for Rajesh's imprisonment. This warrant was directed to the Superintendent of the Central Jail where Rajesh was to be confined. The Superintendent received the warrant and ensured that Rajesh was taken into custody and confined in the jail as per the court's order.

Example 2:

Anita was found guilty of fraud and sentenced to five years of imprisonment. The court issued a warrant for her imprisonment. However, due to overcrowding in the central jail, Anita was to be confined in a district jail. The warrant was directed to the officer in charge of the district jail. Upon receiving the warrant, the officer in charge made the necessary arrangements to confine Anita in the district jail, ensuring that the court's sentence was executed properly.

Section 460: Warrant with whom to be lodged.

When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

C - LEVY OF FINE

Section 461: Warrant for levy of fine.

Recovery of Fine

(1) When an offender has been sentenced to pay a fine, but no such payment has been made, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may -

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 395.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

SIMPLIFIED ACTS

Recovery of Fine

(1) When someone is fined by the court but doesn't pay, the court can try to get the money in one or both of these ways:

(a) The court can issue a warrant to take and sell the person's belongings to cover the fine.

(b) The court can issue a warrant to the district Collector, allowing them to collect the fine as if it were unpaid land taxes, using the person's belongings or property.

However, if the court has already ordered the person to go to jail for not paying the fine and they have served their time, the court cannot issue such a warrant unless there are special reasons written down, or if the court has ordered that the fine be used to pay for expenses or compensation under section 395.

(2) The State Government can make rules about how to carry out the warrants mentioned in (a) above, and how to quickly resolve any claims by other people who say the property taken belongs to them and not the person fined.

(3) If the court issues a warrant to the Collector as mentioned in (b) above, the Collector will collect the fine following the same rules used for collecting unpaid land taxes, as if the warrant were an official certificate for such collection:

However, the warrant cannot be carried out by arresting or jailing the person who owes the fine.

Explanation using Example

Example 1:

Ravi was convicted of theft and sentenced to pay a fine of ₹10,000 by the local court in Mumbai. However, Ravi failed to pay the fine within the stipulated time. The court then decided to take action to recover the fine.

The court issued a warrant for the levy of the amount by attaching and selling Ravi's motorcycle, which was his movable property. The motorcycle was seized and auctioned, and the proceeds were used to pay the fine.

Example 2:

Sunita was found guilty of tax evasion and was fined ₹50,000 by the court in Delhi. Sunita did not pay the fine, and the court needed to recover the amount.

The court issued a warrant to the Collector of the district, authorizing him to realize the amount as arrears of land revenue from Sunita's property. The Collector identified Sunita's agricultural land and movable assets and proceeded to recover the fine amount as per the law relating to the recovery of arrears of land revenue.

Example 3:

Ajay was convicted of assault and fined ₹5,000. The court also ordered that in default of payment, Ajay would be imprisoned for one month. Ajay did not pay the fine and served the one-month imprisonment.

After Ajay completed his imprisonment, the court considered issuing a warrant for the recovery of the fine. However, the court decided not to issue the warrant as Ajay had already served the imprisonment term, and there were no special reasons to record in writing for further action.

Example 4:

The State Government of Karnataka issued new rules regulating the execution of warrants for the levy of fines. These rules included procedures for the attachment and sale of movable property and the summary determination of claims by third parties regarding the attached property.

Ramesh was fined ₹20,000 for illegal construction. He did not pay the fine, and the court issued a warrant for the attachment and sale of his car. Ramesh's neighbor, Suresh, claimed that the car belonged to him. The court followed the new state rules to quickly determine the validity of Suresh's claim before proceeding with the sale of the car.

Section 462: Effect of such warrant.

A warrant issued under clause (a) of sub-section (1) of section 461 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found.

SIMPLIFIED ACTS

A warrant issued by a Court under clause (a) of sub-section (1) of section 461 can be carried out within the area that the Court covers.

This warrant allows the authorities to take and sell any property outside the Court's area if the District Magistrate of the area where the property is located approves it.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, was fined by the local court for violating environmental regulations. The court issued a warrant under clause (a) of sub-section (1) of section 461 to recover the fine amount. Rajesh owns a piece of land in Pune. The Mumbai court's warrant can be executed within Mumbai's jurisdiction. However, to attach and sell Rajesh's land in Pune to recover the fine, the warrant must be endorsed by the District Magistrate of Pune. Once endorsed, the authorities in Pune can proceed with the attachment and sale of the land to recover the fine amount.

Example 2:

Meera, a businesswoman in Delhi, was fined by the Delhi court for tax evasion. The court issued a warrant under clause (a) of sub-section (1) of section 461 to recover the fine. Meera has a commercial property in Gurgaon. The Delhi court's warrant can be executed within Delhi's jurisdiction. To attach and sell Meera's property in Gurgaon, the warrant needs to be endorsed by the District Magistrate of Gurgaon. After endorsement, the Gurgaon authorities can attach and sell the commercial property to recover the fine imposed by the Delhi court.

Section 463: Warrant for levy of fine issued by a Court in any territory to which this Sanhita does not extend.

Notwithstanding anything in this Sanhita or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Sanhita does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Sanhita extends, authorising him to realise the amount as if it were an arrear of land revenue, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 461 by a Court in the territories to which this Sanhita extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

SIMPLIFIED ACTS

Even if there is something different in this law or any other law currently in place, the following rules apply:

If a person is fined by a Criminal Court in an area where this law does not apply, and the court sends a warrant to the Collector of a district where this law does apply, telling him to collect the fine as if it were unpaid land taxes, then:

That warrant will be treated as if it was issued by a court in the area where this law does apply, according to section 461(1)(b).

The rules in section 461(3) about how to carry out such a warrant will also apply in this case.

Explanation using Example

Example 1:

Rajesh, a businessman from Delhi, was convicted of tax evasion by a Criminal Court in Mumbai, which is a territory to which the Bharatiya Nagarik Suraksha Sanhita 2023 does not extend. The Mumbai court sentenced Rajesh to pay a fine of ₹5,00,000. Since Rajesh owns property in Delhi, the Mumbai court issued a warrant to the Collector of Delhi, authorizing him to collect the fine amount as if it were an arrear of land revenue. The Collector of Delhi, acting under the provisions of the Bharatiya Nagarik Suraksha Sanhita 2023, treats the warrant as if it were issued by a court in Delhi and proceeds to recover the fine from Rajesh's property in Delhi.

Example 2:

Priya, a resident of Chennai, was found guilty of illegal construction by a Criminal Court in Pondicherry, a territory where the Bharatiya Nagarik Suraksha Sanhita 2023 does not apply. The court in Pondicherry imposed a fine of ₹2,00,000 on Priya. To enforce the fine, the Pondicherry court issued a warrant to the Collector of Chennai, instructing him to recover the fine amount as if it were an arrear of land revenue. The Collector of Chennai, following the Bharatiya Nagarik Suraksha Sanhita 2023, treats the warrant as if it were issued by a court in Chennai and takes necessary steps to collect the fine from Priya's assets in Chennai.

Section 464: Suspension of execution of sentence of imprisonment.

Section (1)

When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may -

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three installments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days;

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond or bail bond, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the installments thereof, as the case may be, is to be made; and if the amount of the fine or of any installment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

Section (2)

The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

SIMPLIFIED ACTS

Section (1)

If someone is fined and also given a jail sentence if they don't pay the fine, and they don't pay the fine right away, the Court can:

(a) Decide that the fine must be paid either in full within 30 days or in two or three parts, with the first part due within 30 days and the other parts due within 30 days of each other.

(b) Delay the jail sentence and let the person go free if they sign a bond or bail agreement, promising to come back to Court on the dates when the fine or its parts are due. If the fine or any part of it is not paid by the last due date, the Court can order the jail sentence to start immediately.

Section (2)

The rules in Section (1) also apply if someone is ordered to pay money and could go to jail if they don't pay right away. If the person doesn't sign the bond or bail agreement when asked, the Court can immediately order them to go to jail.

Explanation using Example

Example 1:

Rajesh was convicted of a minor theft and was sentenced to pay a fine of ₹10,000. The court also ruled that if he failed to pay the fine, he would have to serve 3 months in jail. Rajesh did not have the money to pay the fine immediately. The court, under Section 464 of The Bharatiya Nagarik Suraksha Sanhita 2023, decided to give him some flexibility.

The judge ordered that Rajesh could pay the fine in three installments:

₹4,000 within 30 days

₹3,000 within the next 30 days

₹3,000 within the following 30 days

Rajesh was released on bail, with the condition that he must appear in court on the dates when the installments were due. If Rajesh failed to pay any installment on time, the court would immediately enforce the 3-month imprisonment sentence.

Example 2:

Meena was ordered by the court to pay ₹50,000 as compensation to a victim in a civil case. The court also ruled that if she failed to pay, she would face 6 months of imprisonment. Meena could not pay the amount immediately.

The court applied Section 464 of The Bharatiya Nagarik Suraksha Sanhita 2023 and allowed her to pay the amount in two installments:

₹25,000 within 30 days

₹25,000 within the next 30 days

Meena was required to sign a bond agreeing to these terms and was released. If she failed to pay the installments on time, the court would enforce the 6-month imprisonment sentence immediately. If Meena refused to sign the bond, the court would have sentenced her to imprisonment right away.

D - GENERAL PROVISIONS REGARDING EXECUTION

Section 465: Who may issue warrant.

Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

SIMPLIFIED ACTS

A warrant to carry out a sentence can be issued by either:

The Judge or Magistrate who gave the sentence, or

The person who takes over their job.

Explanation using Example

Example 1:

Rajesh was convicted of theft and sentenced to six months in prison by Judge Sharma. After the trial, Judge Sharma retired, and Judge Verma took over his position. When it was time to issue the warrant for Rajesh's imprisonment, Judge Verma, as the successor-in-office, issued the warrant for the execution of Rajesh's sentence.

Example 2:

Priya was found guilty of fraud and sentenced to two years in prison by Magistrate Gupta. Before the warrant for her imprisonment could be issued, Magistrate Gupta was transferred to another district. Magistrate Singh, who replaced Magistrate Gupta, issued the warrant for Priya's imprisonment as the successor-in-office.

Section 466: Sentence on escaped convict when to take effect.

Sentences on Escaped Convicts

- (1) When a sentence of death, imprisonment for life or fine is passed under this Sanhita on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.
- (2) When a sentence of imprisonment for a term is passed under this Sanhita on an escaped convict, -
 - (a) if such sentence is severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately;
 - (b) if such sentence is not severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.
- (3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

SIMPLIFIED ACTS

Sentences on Escaped Convicts

- (1) If an escaped convict is given a death sentence, life imprisonment, or a fine under this law, the punishment will start right away.
- (2) If an escaped convict is given a prison sentence for a specific period under this law, -
 - (a) If the new sentence is harsher than the one the convict was serving when they escaped, the new sentence will start right away.
 - (b) If the new sentence is not harsher than the one the convict was serving when they escaped, the new sentence will start after the convict serves the remaining time of their original sentence.
- (3) For the purposes of section (2), a sentence of hard labor in prison is considered harsher than a sentence of regular imprisonment.

Explanation using Example

Example 1:

Ravi was serving a 10-year sentence for robbery. After serving 5 years, he managed to escape from prison. He was on the run for 2 years before being caught again. During his time on the run, he committed another crime and was sentenced to life imprisonment under the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 466:

Since Ravi was sentenced to life imprisonment (which is severer than his original 10-year sentence), the new sentence of life imprisonment will take effect immediately upon his capture.

Example 2:

Sita was serving a 3-year sentence for theft. After serving 1 year, she escaped from prison. She was free for 6 months before being recaptured. During her escape, she committed another theft and was sentenced to 2 years of simple imprisonment under the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 466:

Since the new sentence of 2 years of simple imprisonment is not severer than her original 3-year sentence of rigorous imprisonment, the new sentence will take effect after she serves an additional 2 years (the remaining period of her original sentence) from the time of her recapture.

Example 3:

Arjun was serving a 5-year sentence for fraud. After serving 2 years, he escaped from prison. He was on the run for 1 year before being caught again. During his escape, he committed another fraud and was sentenced to 3 years of rigorous imprisonment under the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 466:

Since the new sentence of 3 years of rigorous imprisonment is severer than his original 5-year sentence of simple imprisonment, the new sentence will take effect immediately upon his capture.

Section 467: Sentence on offender already sentenced for another offence.

(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or

imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 141 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

SIMPLIFIED ACTS

(1) If someone is already in prison and then gets another prison sentence or a life sentence for a new crime, the new sentence will start after the current one ends, unless the court says the new sentence should be served at the same time as the current one.

However, if someone is in prison because they couldn't provide a security (as per section 141) and then gets another prison sentence for a crime they committed before being ordered to provide security, the new sentence will start right away.

(2) If someone is already serving a life sentence and then gets another prison sentence or another life sentence for a new crime, the new sentence will be served at the same time as the current life sentence.

Explanation using Example

Example 1:

Ravi is currently serving a 5-year prison sentence for robbery. While he is still in prison, he is convicted of a separate crime of fraud, which he committed before the robbery, and is sentenced to an additional 3 years in prison. According to Section 467 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi's 3-year sentence for fraud will start only after he completes his 5-year sentence for robbery, unless the court specifically orders that the sentences should run concurrently.

Example 2:

Sita is serving a 2-year sentence for theft. During her imprisonment, she is unable to furnish security under Section 141 and is sentenced to an additional 6 months in prison. Later, it is discovered that she had committed another theft before the order under Section 141 was made, and she is sentenced to 1 year in prison for this prior theft. According to the proviso in Section 467, her 1-year sentence for the prior theft will commence immediately, even though she is still serving the 6-month sentence for default of furnishing security.

Example 3:

Amit is serving a life sentence for murder. While serving this sentence, he is convicted of another murder and is sentenced to another life imprisonment. According to Section 467(2) of The Bharatiya Nagarik Suraksha Sanhita 2023, Amit's second life sentence will run concurrently with his first life sentence, meaning both life sentences will be served at the same time.

Section 468: Period of detention undergone by accused to be set off against sentence of imprisonment.

Where an accused person has, on conviction, been sentenced to imprisonment for a term, not being imprisonment in default of payment of fine, the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him:

Provided that in cases referred to in section 475, such period of detention shall be set off against the period of fourteen years referred to in that section.

SIMPLIFIED ACTS

If a person is found guilty and sentenced to prison (not because they didn't pay a fine), the time they spent in jail during the investigation, inquiry, or trial for that case will be subtracted from their total prison sentence.

This means they will only serve the remaining time left after subtracting the time they were already detained.

However, if the case falls under section 475, the time they were detained will be subtracted from the 14-year period mentioned in that section.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of theft and is arrested on January 1, 2023. He is kept in detention during the investigation and trial, which lasts for 6 months. On July 1, 2023, Rajesh is convicted and sentenced to 2 years of imprisonment.

Application of Section 468:

Rajesh has already spent 6 months in detention.

According to Section 468, this 6-month period will be set off against his 2-year sentence.

Therefore, Rajesh will only need to serve the remaining 1 year and 6 months in prison.

Example 2:

Scenario: Priya is accused of fraud and is arrested on March 1, 2022. She is kept in detention for 1 year during the investigation and trial. On March 1, 2023, Priya is convicted and sentenced to 3 years of imprisonment.

Application of Section 468:

Priya has already spent 1 year in detention.

According to Section 468, this 1-year period will be set off against her 3-year sentence.

Therefore, Priya will only need to serve the remaining 2 years in prison.

Example 3:

Scenario: Anil is accused of assault and is arrested on June 1, 2021. He is kept in detention for 2 years during the investigation and trial. On June 1, 2023, Anil is convicted and sentenced to 5 years of imprisonment.

Application of Section 468:

Anil has already spent 2 years in detention.

According to Section 468, this 2-year period will be set off against his 5-year sentence.

Therefore, Anil will only need to serve the remaining 3 years in prison.

Example 4:

Scenario: Sunita is accused of a serious crime and is arrested on January 1, 2020. She is kept in detention for 3 years during the investigation and trial. On January 1, 2023, Sunita is convicted and sentenced to 10 years of imprisonment.

Application of Section 468:

Sunita has already spent 3 years in detention.

According to Section 468, this 3-year period will be set off against her 10-year sentence.

Therefore, Sunita will only need to serve the remaining 7 years in prison.

Example 5:

Scenario: Ravi is accused of a crime and is arrested on February 1, 2021. He is kept in detention for 2 years during the investigation and trial. On February 1, 2023, Ravi is convicted and sentenced to 14 years of imprisonment.

Application of Section 468:

Ravi has already spent 2 years in detention.

According to Section 468, this 2-year period will be set off against his 14-year sentence.

Therefore, Ravi will only need to serve the remaining 12 years in prison.

Section 469: Saving.

(1) Nothing in section 466 or section 467 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

SIMPLIFIED ACTS

(1) Sections 466 and 467 do not allow anyone to avoid any part of the punishment they deserve for a crime they committed before or after.

(2) If someone is sentenced to prison and also has to go to prison if they don't pay a fine, and they get another prison sentence after finishing the first one, they won't serve the extra prison time for not paying the fine until they finish all their other prison sentences.

Explanation using Example

Example 1:

Ravi was convicted of theft and sentenced to 2 years in prison. Additionally, he was fined ₹10,000, with a stipulation that if he fails to pay the fine, he would serve an additional 6 months in prison. While serving his 2-year sentence, Ravi was convicted of another crime and sentenced to an additional 3 years in prison. According to Section 469(2) of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi will first serve his combined 5-year sentence (2 years for the first crime and 3 years for the second crime). Only after completing these 5 years will the 6-month imprisonment for defaulting on the fine be considered.

Example 2:

Sita was convicted of fraud and sentenced to 1 year in prison. She was also fined ₹20,000, with a condition that failure to pay the fine would result in an additional 4 months in prison. After serving her 1-year sentence, Sita was convicted of another offense and

sentenced to 2 years in prison. According to Section 469(2), Sita will serve the 2-year sentence for the second offense first. Only after completing this 2-year sentence will the 4-month imprisonment for not paying the fine be enforced, if she still hasn't paid the fine by then.

Section 470: Return of warrant on execution of sentence.

When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it is issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

SIMPLIFIED ACTS

Once a sentence has been completely carried out, the officer who carried it out must return the warrant to the Court that issued it.

The officer must also include a signed note explaining how the sentence was carried out.

Explanation using Example

Example 1:

Rajesh was convicted of theft and sentenced to six months in prison by the District Court. After serving his full sentence, the prison warden, Officer Sharma, completes the necessary paperwork and returns the original warrant of imprisonment to the District Court. Officer Sharma includes a signed endorsement stating that Rajesh has served his full sentence and has been released from prison.

Example 2:

Anita was sentenced to community service for three months for a minor offense by the Magistrate Court. Upon completion of her community service, the supervising officer, Inspector Verma, fills out the required documents and returns the warrant to the Magistrate Court. Inspector Verma's endorsement certifies that Anita has successfully completed her community service as per the court's order.

Section 471: Money ordered to be paid recoverable as a fine.

Any money (other than a fine) payable by virtue of any order made under this Sanhita, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine:

Provided that section 461 shall, in its application to an order under section 400, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 461, after the

words and figures "under section 395", the words and figures "or an order for payment of costs under section 400" had been inserted.

SIMPLIFIED ACTS

Any money that someone has to pay because of an order made under this law (except for fines) and for which no specific recovery method is mentioned, will be collected as if it were a fine.

However, when applying section 461 to an order under section 400, it should be understood that in the part of section 461(1) that mentions "under section 395", it should also include "or an order for payment of costs under section 400".

Explanation using Example

Example 1:

Scenario: Rajesh was convicted of a minor offense under the Bharatiya Nagarik Suraksha Sanhita 2023. The court ordered him to pay compensation to the victim for the damages caused. However, Rajesh failed to pay the compensation within the stipulated time.

Application of Section 471: Since the compensation ordered by the court is not a fine but is payable by virtue of the court's order, and there is no other specific method provided for its recovery, the compensation amount can be recovered as if it were a fine. This means that the authorities can use the same procedures they would use to collect a fine, such as attaching Rajesh's property or deducting the amount from his salary.

Example 2:

Scenario: Priya was involved in a civil dispute where the court ordered her to pay the legal costs incurred by the other party under Section 400 of the Bharatiya Nagarik Suraksha Sanhita 2023. Priya did not comply with the order to pay these costs.

Application of Section 471: The order for Priya to pay the legal costs is not a fine, but it is enforceable under the Sanhita. Since there is no specific method provided for recovering these costs, Section 471 allows these costs to be recovered as if they were a fine. This means that the court can take measures such as issuing a warrant for the attachment of Priya's property to recover the amount due.

Example 3:

Scenario: Anil was found guilty of causing public nuisance and the court ordered him to pay for the cleanup costs incurred by the municipal corporation. Anil ignored the court's order and did not pay the cleanup costs.

Application of Section 471: The cleanup costs ordered by the court are not a fine but are payable by virtue of the court's order. Since there is no other specific method provided for

recovering these costs, Section 471 allows these costs to be recovered as if they were a fine. This means that the municipal corporation can request the court to initiate recovery proceedings similar to those used for fines, such as seizing Anil's assets or garnishing his wages.

Example 4:

Scenario: Sunita was ordered by the court to pay restitution to a victim for medical expenses under the Bharatiya Nagarik Suraksha Sanhita 2023. Sunita did not make the payment as ordered.

Application of Section 471: The restitution for medical expenses is not a fine but is payable by virtue of the court's order. Since there is no specific method provided for its recovery, Section 471 allows the restitution amount to be recovered as if it were a fine. This means that the court can use enforcement mechanisms such as issuing a distress warrant to recover the amount from Sunita.

Example 5:

Scenario: The court ordered Ramesh to pay for the damages caused to a public property during a protest. Ramesh did not comply with the court's order.

Application of Section 471: The payment for damages to public property is not a fine but is payable by virtue of the court's order. Since there is no other specific method provided for its recovery, Section 471 allows the damages to be recovered as if they were a fine. This means that the authorities can take actions such as attaching Ramesh's bank accounts or auctioning his property to recover the amount due.

E - SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES.

Section 472: Mercy petition in death sentence cases.

Mercy Petition Process

(1) A convict under the sentence of death or his legal heir or any other relative may, if he has not already submitted a petition for mercy, file a mercy petition before the President of India under article 72 or the Governor of the State under article 161 of the Constitution within a period of thirty days from the date on which the Superintendent of the jail, -

(i) informs him about the dismissal of the appeal, review or special leave to appeal by the Supreme Court; or

(ii) informs him about the date of confirmation of the sentence of death by the High Court and the time allowed to file an appeal or special leave in the Supreme Court has expired.

(2) The petition under sub-section (1) may, initially be made to the Governor and on its rejection or disposal by the Governor, the petition shall be made to the President within a period of sixty days from the date of rejection or disposal of such petition.

(3) The Superintendent of the jail or officer in charge of the jail shall ensure, that every convict, in case there are more than one convict in a case, also files the mercy petition within a period of sixty days and on non-receipt of such petition from the other convicts, Superintendent of the jail shall send the names, addresses, copy of the record of the case and all other details of the case to the Central Government or the State Government for consideration along with the said mercy petition.

(4) The Central Government shall, on receipt of the mercy petition seek the comments of the State Government and consider the petition along with the records of the case and make recommendations to the President in this behalf, as expeditiously as possible, within a period of sixty days from the date of receipt of comments of the State Government and records from Superintendent of the Jail.

(5) The President may, consider, decide and dispose of the mercy petition and, in case there are more than one convict in a case, the petitions shall be decided by the President together in the interests of justice.

(6) Upon receipt of the order of the President on the mercy petition, the Central Government shall within forty-eight hours, communicate the same to the Home Department of the State Government and the Superintendent of the jail or officer in charge of the jail.

(7) No appeal shall lie in any Court against the order of the President or of the Governor made under article 72 or article 161 of the Constitution and it shall be final, and any question as to the arriving of the decision by the President or the Governor shall not be inquired into in any Court.

SIMPLIFIED ACTS

Mercy Petition Process

(1) If someone is sentenced to death, they or their family can ask for mercy from the President of India (under Article 72) or the Governor of the State (under Article 161) within 30 days after the jail superintendent tells them:

- (i) that the Supreme Court has rejected their appeal, review, or special leave to appeal; or
- (ii) that the High Court has confirmed their death sentence and the time to appeal to the Supreme Court has run out.

(2) They can first ask the Governor for mercy. If the Governor rejects it, they can then ask the President within 60 days from the Governor's decision.

(3) The jail superintendent must make sure that every person sentenced to death in the same case also files a mercy petition within 60 days. If others don't file, the superintendent must send their details to the Central or State Government along with the mercy petition.

(4) When the Central Government gets the mercy petition, they will ask the State Government for their comments and consider the petition with all case records. They will then make a recommendation to the President within 60 days of getting the State Government's comments and records.

(5) The President will review and decide on the mercy petition. If there are multiple people sentenced in the same case, the President will decide on all petitions together to ensure fairness.

(6) Once the President makes a decision, the Central Government must inform the State Government's Home Department and the jail superintendent within 48 hours.

(7) No one can challenge the President's or Governor's decision on the mercy petition in any court. Their decision is final and cannot be questioned in court.

Explanation using Example

Example 1:

Scenario: Rajesh, a convict sentenced to death for a heinous crime, has exhausted all his legal appeals up to the Supreme Court, which has dismissed his appeal.

Notification: The Superintendent of the jail informs Rajesh about the dismissal of his appeal by the Supreme Court.

Filing Mercy Petition: Rajesh, or his legal heir, files a mercy petition to the Governor of the State within 30 days of being informed.

Governor's Decision: The Governor reviews the petition and rejects it.

Next Step: Rajesh then files a mercy petition to the President of India within 60 days from the date of the Governor's rejection.

Central Government's Role: The Central Government receives the petition, seeks comments from the State Government, and considers the petition along with the case records.

Recommendation: The Central Government makes a recommendation to the President within 60 days of receiving the State Government's comments.

President's Decision: The President reviews and decides on the mercy petition.

Communication: The Central Government communicates the President's decision to the State Government and the Superintendent of the jail within 48 hours.

Finality: The decision of the President is final and cannot be appealed in any court.

Example 2:

Scenario: Sunita, another convict sentenced to death in the same case as Rajesh, has not filed a mercy petition.

Notification: The Superintendent of the jail informs Sunita about the dismissal of her appeal by the Supreme Court.

Filing Mercy Petition: Sunita does not file a mercy petition within the stipulated time.

Superintendent's Action: The Superintendent of the jail sends Sunita's details, including her name, address, and case records, to the Central Government for consideration along with Rajesh's mercy petition.

Central Government's Role: The Central Government seeks comments from the State Government and considers Sunita's case along with Rajesh's petition.

Recommendation: The Central Government makes a recommendation to the President within 60 days of receiving the State Government's comments.

President's Decision: The President reviews and decides on both Rajesh's and Sunita's cases together in the interest of justice.

Communication: The Central Government communicates the President's decision to the State Government and the Superintendent of the jail within 48 hours.

Finality: The decision of the President is final and cannot be appealed in any court.

Section 473: Power to suspend or remit sentences.

(1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the

suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and -

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Sanhita or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 474, the expression "appropriate Government" means, -

(a) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

SIMPLIFIED ACTS

(1) If someone has been given a punishment for a crime, the government can, at any time, either with or without conditions that the person agrees to, pause the punishment or reduce it completely or partially.

(2) When someone asks the government to pause or reduce their punishment, the government can ask the judge who handled the case to give their opinion on whether the request should be approved or denied, along with reasons and a certified copy of the trial record.

(3) If the person does not follow the conditions set by the government for pausing or reducing the punishment, the government can cancel the pause or reduction. The person can then be arrested by any police officer without a warrant and made to serve the remaining part of the punishment.

(4) The conditions for pausing or reducing the punishment can be something the person has to do or something that is not under their control.

(5) The government can make general rules or special orders about how to pause punishments and the conditions for submitting and handling requests:

Provided that if the punishment (other than a fine) is given to someone over 18 years old, no request by the person or on their behalf will be considered unless the person is in jail, and -

(a) if the request is made by the person, it must be submitted through the jail officer; or

(b) if the request is made by someone else, it must state that the person is in jail.

(6) These rules also apply to any order by a Criminal Court that restricts someone's freedom or imposes any liability on them or their property.

(7) In this section and in section 474, "appropriate Government" means:

(a) for crimes against laws that the Central Government handles, the Central Government;

(b) for other cases, the State Government where the person was sentenced or the order was passed.

Explanation using Example

Example 1:

Rajesh, a 25-year-old man, was sentenced to 5 years in prison for theft. After serving 2 years, Rajesh's behavior in prison was exemplary, and he actively participated in rehabilitation programs. His family submitted a petition to the State Government requesting a remission of his sentence. The State Government, after consulting with the presiding Judge who confirmed Rajesh's conviction, decided to remit the remaining 3 years of his sentence on the condition that Rajesh continues to participate in community service for the next 2 years. Rajesh accepted the condition and was released from prison. However, if Rajesh fails to fulfill the community service condition, the State Government has the power to cancel the remission, and Rajesh can be arrested and required to serve the remaining 3 years of his sentence.

Example 2:

Anita, a 30-year-old woman, was sentenced to 3 years in prison for fraud. After serving 1 year, Anita's health deteriorated, and she required specialized medical treatment that was not available in the prison. Anita's lawyer submitted a petition to the Central Government for the suspension of her sentence on medical grounds. The Central Government requested the opinion of the presiding Judge who confirmed Anita's conviction. The Judge recommended granting the suspension due to Anita's critical health condition. The Central Government decided to suspend Anita's sentence for 1 year to allow her to receive the necessary medical treatment, with the condition that she reports to the local police station every month. If Anita fails to report as required, the Central Government can cancel the suspension, and Anita can be arrested to serve the remaining 2 years of her sentence.

Example 3:

Vikram, a 40-year-old man, was sentenced to 10 years in prison for a serious assault. After serving 6 years, Vikram's family submitted a petition for remission of his sentence. The State Government, after consulting with the presiding Judge, decided to remit the remaining 4 years of Vikram's sentence on the condition that he does not leave the city without prior permission from the authorities. Vikram accepted the condition and was released. However, if Vikram violates this condition, the State Government can cancel the remission, and Vikram can be arrested to serve the remaining 4 years of his sentence.

Example 4:

Suresh, a 50-year-old man, was sentenced to 7 years in prison for embezzlement. After serving 5 years, Suresh's son submitted a petition for remission of his sentence. The petition included a declaration that Suresh was still in jail. The State Government, after consulting with the presiding Judge, decided to remit the remaining 2 years of Suresh's sentence on the condition that he pays back a portion of the embezzled amount. Suresh accepted the condition and was released. If Suresh fails to pay back the agreed amount, the State Government can cancel the remission, and Suresh can be arrested to serve the remaining 2 years of his sentence.

Section 474: Power to commute sentence.

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

- (a) a sentence of death, for imprisonment for life;
- (b) a sentence of imprisonment for life, for imprisonment for a term not less than seven years;
- (c) a sentence of imprisonment for seven years or more, for imprisonment for a term not less than three years;
- (d) a sentence of imprisonment for less than seven years, for fine;

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

SIMPLIFIED ACTS

The government has the power to change a person's punishment without needing their permission. They can:

- (a) Change a death sentence to life in prison;
- (b) Change a life sentence to a prison term of at least seven years;
- (c) Change a prison sentence of seven years or more to a prison term of at least three years;
- (d) Change a prison sentence of less than seven years to a fine;
- (e) Change a sentence of hard labor in prison to a simpler form of imprisonment for any term that the person could have originally received.

Explanation using Example

Example 1:

Rajesh was convicted of a serious crime and sentenced to death by the court. However, after considering various factors such as his good behavior in prison and the circumstances of the crime, the State Government decided to commute his death sentence to life imprisonment. This means Rajesh will now spend the rest of his life in prison instead of facing the death penalty.

Example 2:

Meena was sentenced to life imprisonment for her involvement in a major financial fraud. After serving 10 years in prison, the Central Government reviewed her case and decided to commute her life sentence to a fixed term of 10 more years. This means Meena will now serve a total of 20 years in prison instead of life imprisonment.

Example 3:

Vikram was sentenced to 10 years of imprisonment for a violent crime. After serving 5 years, the State Government decided to commute his sentence to 5 more years, making it a total of 10 years instead of 15. This decision was based on his good conduct and rehabilitation efforts.

Example 4:

Anita was sentenced to 5 years of imprisonment for a non-violent crime. Considering her health condition and the nature of the crime, the State Government decided to commute her sentence to a fine. Anita was released from prison after paying the fine.

Example 5:

Ravi was sentenced to 3 years of rigorous imprisonment for a theft case. Due to his deteriorating health, the State Government decided to commute his rigorous imprisonment to simple imprisonment for the remaining term. This means Ravi will serve the rest of his sentence under less harsh conditions.

Section 475: Restriction on powers of remission or commutation in certain cases.

Notwithstanding anything contained in section 473, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 474 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.

SIMPLIFIED ACTS

Despite what is stated in section 473, if a person is sentenced to life in prison for a crime that could also be punished by death, or if a person's death sentence is changed to life in prison under section 474, that person cannot be released from prison until they have served at least fourteen years.

Explanation using Example

Example 1:

Ravi was convicted of a heinous crime, such as murder, for which the law provides the death penalty. However, the court decided to impose a life imprisonment sentence instead of the death penalty. According to Section 475 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi cannot be released from prison until he has served at least fourteen years of his life sentence. This means that even if there are provisions for remission or commutation of his sentence, Ravi must serve a minimum of fourteen years in prison before any such considerations can be made.

Example 2:

Sita was initially sentenced to death for her involvement in a terrorist act. Later, her death sentence was commuted to life imprisonment under Section 474. As per Section 475, Sita is required to serve a minimum of fourteen years in prison before she can be considered for release. This restriction ensures that individuals convicted of extremely serious crimes serve a substantial amount of time in prison, even if their sentences are commuted from death to life imprisonment.

Section 476: Concurrent power of Central Government in case of death sentences.

The powers conferred by sections 473 and 474 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

SIMPLIFIED ACTS

The authority given to the State Government by sections 473 and 474 can also be used by the Central Government when it comes to death sentences.

Explanation using Example

Example 1:

Rajesh was convicted of a heinous crime and sentenced to death by a state court in Maharashtra. His family, believing that there were mitigating circumstances that were not considered, appealed to the Governor of Maharashtra for clemency under Section 473 and 474 of the Bharatiya Nagarik Suraksha Sanhita 2023. However, the Governor denied the appeal. Rajesh's family then approached the President of India, invoking Section 476, which allows the Central Government to exercise the same powers as the State Government in cases of death sentences. The President reviewed the case and decided to commute Rajesh's death sentence to life imprisonment.

Example 2:

Meena was sentenced to death for a crime she committed in Tamil Nadu. Her legal team filed a petition for suspension of her death sentence with the State Government, but it was rejected. Under Section 476 of the Bharatiya Nagarik Suraksha Sanhita 2023, Meena's legal team then submitted a petition to the Central Government. The Central Government, after reviewing the case, decided to suspend her death sentence pending further investigation, thereby exercising its concurrent power as provided by the act.

Section 477: State Government to act after concurrence with Central Government in certain cases.

(1) The powers conferred by sections 473 and 474 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence -

(a) which was investigated by any agency empowered to make investigation into an offence under any Central Act other than this Sanhita; or

(b) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government; or

(c) which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

shall not be exercised by the State Government except after concurrence with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

SIMPLIFIED ACTS

(1) The powers given by sections 473 and 474 to the State Government to reduce or change a sentence, in any case where the sentence is for an offence -

(a) which was investigated by any agency authorized to investigate under any Central Act other than this Sanhita; or

(b) which involved the misuse, destruction, or damage of any property belonging to the Central Government; or

(c) which was committed by a person working for the Central Government while doing their official duties,

cannot be used by the State Government without agreement from the Central Government.

(2) If the State Government decides to suspend, reduce, or change the sentences of a person convicted of multiple offences, some of which fall under the Central Government's authority, and the sentences are to be served at the same time, this decision will not be effective unless the Central Government also makes a similar decision for the offences under its authority.

Explanation using Example

Example 1:

Rajesh, a government employee working for the Central Government, was convicted of embezzling funds from a Central Government project. The investigation was conducted by the Central Bureau of Investigation (CBI), an agency empowered under a Central Act. Rajesh was sentenced to 10 years in prison by the court. After serving 5 years, Rajesh's family petitions the State Government for remission of his sentence due to his good behavior and deteriorating health. According to Section 477 of The Bharatiya Nagarik Suraksha Sanhita 2023, the State Government cannot grant remission of Rajesh's sentence without first obtaining concurrence from the Central Government, as the offence involved misappropriation of Central Government property and was investigated by a Central agency.

Example 2:

Sunita, an officer in the Indian Revenue Service (IRS), was convicted of destroying important tax documents belonging to the Central Government while discharging her official duties. She was sentenced to 7 years in prison. After serving 3 years, Sunita applies to the State Government for commutation of her sentence to a lesser term. Under Section 477 of The Bharatiya Nagarik Suraksha Sanhita 2023, the State Government must seek concurrence from the Central Government before commuting Sunita's sentence, as the offence involved destruction of Central Government property and was committed by a person in the service of the Central Government.

Example 3:

Vikram was convicted of multiple offences, including a crime involving damage to Central Government property and another unrelated offence under state jurisdiction. He was sentenced to separate terms of imprisonment for each offence, to run concurrently. After serving part of his sentence, Vikram's family requests the State Government for suspension of his sentence. According to Section 477, the State Government's order for suspension will not take effect unless the Central Government also issues an order for suspension of the sentence related to the offence involving Central Government property.

CHAPTER XXXV: PROVISIONS AS TO BAIL AND BONDS

Section 478: In what cases bail to be taken.

(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail bond from such person, discharge him on his executing a bond for his appearance as hereinafter provided.

Explanation. - Where a person is unable to give bail bond within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso:

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 135 or section 492.

(2) Notwithstanding anything in sub-section (1), where a person has failed to comply with the conditions of the bond or bail bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case

he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond or bail bond to pay the penalty thereof under section 491.

SIMPLIFIED ACTS

(1) If someone who is not accused of a serious crime that doesn't allow bail is arrested or held by the police without a warrant, or if they appear or are brought before a court, and they are ready to provide bail at any time while in police custody or during court proceedings, they should be released on bail:

However, if the police officer or the court believes it is appropriate, and if the person is poor and cannot provide a surety (a person who guarantees their bail), they should be released by signing a bond promising to appear in court as required.

Explanation. - If a person cannot provide a bail bond within a week of their arrest, it will be assumed that they are poor for the purposes of this rule:

Additionally, this section does not change the rules in sub-section (3) of section 135 or section 492.

(2) Despite what is said in sub-section (1), if a person does not follow the conditions of their bail bond, such as showing up at the required time and place, the court can refuse to release them on bail if they appear before the court again or are brought in custody for the same case. This refusal does not affect the court's power to make the person or their surety pay the penalty under section 491.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Delhi, is arrested by the police for a minor theft accusation. Since theft is a bailable offense, Ravi is taken to the police station. Ravi informs the officer in charge that he is ready to provide bail. The officer checks the details and finds that Ravi has no prior criminal record and is a resident of the area. The officer then allows Ravi to be released on bail after he provides a surety bond.

However, Ravi is unable to arrange for a surety within a week due to financial constraints. The officer, recognizing Ravi's indigent status, decides to release him on a personal bond, ensuring that Ravi will appear in court on the specified date.

Example 2:

Priya, a college student in Mumbai, is detained by the police for participating in a peaceful protest without prior permission. Since this is a bailable offense, she is taken to the police station. Priya expresses her willingness to post bail. The officer in charge assesses her

situation and finds that she is a student with no prior offenses. Priya is released on bail after providing a surety bond.

Later, Priya fails to appear in court on the scheduled date due to a misunderstanding of the court date. When she is brought before the court again, the judge decides not to grant her bail this time due to her failure to comply with the previous bail conditions. The court also informs Priya that her surety may be required to pay the penalty as per section 491.

Example 3:

Arjun, a daily wage laborer in Bangalore, is arrested for a minor altercation in his neighborhood. Since the offense is bailable, Arjun is taken to the police station. Arjun tells the officer that he is ready to provide bail, but he does not have the financial means to furnish a surety. The officer, considering Arjun's indigent status, releases him on a personal bond, ensuring that Arjun will appear in court on the specified date.

Arjun, however, fails to appear in court due to a family emergency. When he is brought before the court again, the judge decides not to grant him bail this time due to his failure to comply with the previous bail conditions. The court also informs Arjun that he may be required to pay the penalty as per section 491.

Section 479: Maximum period for which undertrial prisoner can be detained.

Legal Provision

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

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

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

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

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

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

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

SIMPLIFIED ACTS

Legal Provision

(1) If someone is being investigated, questioned, or tried for a crime (except for crimes that could result in death or life imprisonment) and has been in jail for up to half of the maximum time they could be sentenced for that crime, the Court must release them on bail:

If this person has never been convicted of any crime before, they should be released on a bond if they have been in jail for up to one-third of the maximum time they could be sentenced for that crime.

The Court can decide to keep the person in jail for longer than half the maximum time or release them on a bail bond instead of a regular bond, but they must explain their reasons in writing after hearing from the Public Prosecutor.

No one should be kept in jail during the investigation, inquiry, or trial for longer than the maximum time they could be sentenced for that crime.

Explanation: When calculating how long someone has been in jail for the purpose of granting bail, any delays caused by the accused person will not be counted.

(2) Despite what is said in section (1), and considering the third point mentioned, if a person is being investigated, questioned, or tried for more than one crime or in multiple cases, they cannot be released on bail by the Court.

(3) The jail superintendent, where the accused person is being held, must immediately write to the Court to start the process of releasing the person on bail once they have completed half or one-third of the time mentioned in section (1), depending on the situation.

Explanation using Example

Example 1:

Ravi, a 25-year-old man, is accused of theft, an offense punishable with a maximum imprisonment of 6 years under Indian law. During the investigation and trial, Ravi has been in jail for 3 years, which is half of the maximum period of imprisonment for theft. According to Section 479 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi should be released on bail by the Court since he has already undergone detention for half of the maximum period specified for the offense.

Example 2:

Meera, a 30-year-old woman, is accused of forgery, an offense punishable with a maximum imprisonment of 9 years under Indian law. Meera is a first-time offender and has been in jail for 3 years, which is one-third of the maximum period of imprisonment for forgery. According to the first proviso of Section 479, Meera should be released on bond by the Court since she has undergone detention for one-third of the maximum period specified for the offense and is a first-time offender.

Example 3:

Ajay, a 40-year-old man, is accused of embezzlement, an offense punishable with a maximum imprisonment of 10 years under Indian law. Ajay has been in jail for 5 years, which is half of the maximum period of imprisonment for embezzlement. However, the Public Prosecutor argues that Ajay should remain in detention due to the complexity of the case and potential risk to public safety. The Court, after hearing the Public Prosecutor and recording the reasons in writing, orders the continued detention of Ajay for a period longer than half of the maximum period.

Example 4:

Suresh, a 35-year-old man, is accused of both burglary and fraud, each punishable with a maximum imprisonment of 7 years under Indian law. Suresh has been in jail for 3.5 years, which is half of the maximum period for each offense. However, since there are multiple cases pending against Suresh, according to sub-section (2) of Section 479, he shall not be released on bail by the Court despite having served half of the maximum period for each offense.

Example 5:

The Superintendent of the jail where Priya, a 28-year-old woman accused of assault, is detained, notices that Priya has been in jail for 2 years, which is half of the maximum period of 4 years for the offense. The Superintendent promptly makes an application in writing to the Court, as required by sub-section (3) of Section 479, to proceed with the release of Priya on bail.

Section 480: When bail may be taken in case of non-bailable offence.

Legal Provisions for Bail

(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but -

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but less than seven years:

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is a child or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation or for police custody beyond the first fifteen days shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:

Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, subject to the provisions of section 494 and pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond for his appearance as hereinafter provided.

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

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

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

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence,

and may also impose, in the interests of justice, such other conditions as it considers necessary.

(4) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons or special reasons for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time, after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond for his appearance to hear judgment delivered.

SIMPLIFIED ACTS

Legal Provisions for Bail

(1) If someone is accused or suspected of a serious crime that doesn't allow automatic bail and is arrested or brought to a lower court (not the High Court or Court of Session), they can be released on bail, but:

(i) They won't be released if there are good reasons to believe they committed a crime that could lead to death penalty or life imprisonment.

(ii) They won't be released if the crime is serious, and they have been previously convicted of a crime punishable by death, life imprisonment, or imprisonment for seven years or more, or if they have been convicted twice or more for a serious crime punishable by three to seven years in prison.

However, the court can decide to release them on bail if they are a child, a woman, or if they are sick or weak.

Additionally, the court can release them on bail for any special reason it finds just and proper.

Also, just because the accused might need to be identified by witnesses or kept in police custody beyond the first fifteen days, it is not enough reason to deny bail if they are otherwise eligible and promise to follow the court's directions.

Moreover, if the crime they are accused of is punishable by death, life imprisonment, or imprisonment for seven years or more, the court must give the Public Prosecutor a chance to speak before granting bail.

(2) If at any point during the investigation, inquiry, or trial, the officer or court believes there aren't enough reasons to think the accused committed a serious crime, but there are enough reasons to investigate further, the accused can be released on bail or on a bond promising to appear in court.

(3) If someone accused of a crime punishable by seven years or more, or certain serious crimes under specific chapters of the Bharatiya Nyaya Sanhita, 2023, is released on bail, the court will set conditions:

(a) They must follow the conditions of the bond they signed.

(b) They must not commit a similar crime.

(c) They must not threaten, bribe, or influence anyone involved in the case to hide the truth or tamper with evidence.

The court can also set other conditions if it thinks it's necessary for justice.

(4) Any officer or court that releases someone on bail must write down the reasons for doing so.

(5) Any court that has released someone on bail can order their arrest and return to custody if it thinks it's necessary.

(6) If a trial for a serious crime in a Magistrate's court isn't finished within sixty days from the start of taking evidence, the accused must be released on bail if they have been in custody the whole time, unless the Magistrate writes down reasons for not doing so.

(7) If, after the trial but before the judgment, the court believes the accused is likely not guilty, it must release them on bail with a bond to appear for the judgment.

Explanation using Example

Example 1:

Scenario: Rajesh, a 35-year-old man, is accused of committing a non-bailable offence of theft under Chapter XVII of the Bharatiya Nyaya Sanhita, 2023. He is arrested by the police without a warrant.

Application of the Act:

Initial Arrest and Bail Consideration: Rajesh is brought before a Magistrate. The Magistrate considers whether Rajesh can be released on bail.

Grounds for Denial: The Magistrate finds that Rajesh has a previous conviction for a similar offence punishable with imprisonment for seven years. Therefore, under clause (ii) of sub-section (1), Rajesh should not be released on bail.

Special Consideration: However, Rajesh's lawyer argues that Rajesh is suffering from a severe illness. The Magistrate, considering Rajesh's health condition, decides to release him on bail under the first proviso of sub-section (1).

Conditions Imposed: The Magistrate imposes conditions under sub-section (3), such as:

Rajesh must attend all court hearings.

Rajesh must not commit any similar offence.

Rajesh must not tamper with evidence or influence witnesses.

Recording Reasons: The Magistrate records the reasons for granting bail in writing as required by sub-section (4).

Example 2:

Scenario: Priya, a 28-year-old woman, is accused of a non-bailable offence of forgery under Chapter XVII of the Bharatiya Nyaya Sanhita, 2023. She is detained by the police.

Application of the Act:

Initial Arrest and Bail Consideration: Priya is brought before a Magistrate. The Magistrate considers whether Priya can be released on bail.

Grounds for Denial: The Magistrate finds no previous convictions against Priya and no reasonable grounds to believe she committed an offence punishable with death or life imprisonment. Therefore, Priya is eligible for bail under sub-section (1).

Conditions Imposed: The Magistrate imposes conditions under sub-section (3), such as:

Priya must attend all court hearings.

Priya must not commit any similar offence.

Priya must not tamper with evidence or influence witnesses.

Recording Reasons: The Magistrate records the reasons for granting bail in writing as required by sub-section (4).

Example 3:

Scenario: Anil, a 40-year-old man, is accused of a non-bailable offence of kidnapping under Chapter VI of the Bharatiya Nyaya Sanhita, 2023. He is detained by the police.

Application of the Act:

Initial Arrest and Bail Consideration: Anil is brought before a Magistrate. The Magistrate considers whether Anil can be released on bail.

Grounds for Denial: The Magistrate finds that Anil has no previous convictions and there are no reasonable grounds to believe he committed an offence punishable with death or life imprisonment. Therefore, Anil is eligible for bail under sub-section (1).

Conditions Imposed: The Magistrate imposes conditions under sub-section (3), such as:

Anil must attend all court hearings.

Anil must not commit any similar offence.

Anil must not tamper with evidence or influence witnesses.

Recording Reasons: The Magistrate records the reasons for granting bail in writing as required by sub-section (4).

Example 4:

Scenario: Sunita, a 50-year-old woman, is accused of a non-bailable offence of cheating under Chapter XVII of the Bharatiya Nyaya Sanhita, 2023. She is detained by the police.

Application of the Act:

Initial Arrest and Bail Consideration: Sunita is brought before a Magistrate. The Magistrate considers whether Sunita can be released on bail.

Grounds for Denial: The Magistrate finds that Sunita has a previous conviction for a similar offence punishable with imprisonment for seven years. Therefore, under clause (ii) of sub-section (1), Sunita should not be released on bail.

Special Consideration: However, Sunita's lawyer argues that Sunita is a woman and has no other criminal record. The Magistrate, considering Sunita's gender and lack of other criminal history, decides to release her on bail under the first proviso of sub-section (1).

Conditions Imposed: The Magistrate imposes conditions under sub-section (3), such as:

Sunita must attend all court hearings.

Sunita must not commit any similar offence.

Sunita must not tamper with evidence or influence witnesses.

Recording Reasons: The Magistrate records the reasons for granting bail in writing as required by sub-section (4).

Section 481: Bail to require accused to appear before next Appellate Court.

(1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute a bond or bail bond, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bond shall be in force for six months.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 491 shall apply.

SIMPLIFIED ACTS

(1) Before the trial ends and before any appeal is decided, the Court handling the case or the higher Court (if there is an appeal) will ask the accused person to sign a bond or bail bond. This bond means the accused promises to show up in a higher Court if that Court asks them to, regarding any appeal or petition against the current Court's decision. This bond will last for six months.

(2) If the accused does not show up when required, the bond will be lost (forfeited), and the rules in section 491 will apply.

Explanation using Example

Example 1:

Rajesh is accused of theft and is currently on trial in a Sessions Court in Mumbai. Before the trial concludes, the Sessions Court requires Rajesh to execute a bail bond. This bond ensures that Rajesh will appear before the Bombay High Court if an appeal is filed against the Sessions Court's judgment. Rajesh signs the bond, which will be valid for six months. If the Bombay High Court issues a notice for an appeal within this period, Rajesh must appear before the High Court. If Rajesh fails to appear, his bond will be forfeited, and the procedure under Section 491 will be initiated, which may include issuing a warrant for his arrest.

Example 2:

Sunita is convicted of fraud by a Magistrate Court in Delhi. She decides to appeal the conviction in the Delhi High Court. Before her appeal is heard, the Magistrate Court

requires Sunita to execute a bail bond to ensure her appearance before the High Court. Sunita complies and signs the bond, which is valid for six months. During this period, if the High Court issues a notice regarding her appeal, Sunita must appear before the High Court. If she does not appear, her bond will be forfeited, and the procedure under Section 491 will apply, potentially leading to her arrest and further legal consequences.

Section 482: Direction for grant of bail to person apprehending arrest.

(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including -

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 65 and sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

SIMPLIFIED ACTS

(1) If someone thinks they might be arrested for a serious crime that doesn't allow for automatic bail, they can ask the High Court or the Court of Session for help. The court can then decide to allow them to be released on bail if they get arrested.

(2) When the High Court or the Court of Session agrees to this request, they can set certain conditions based on the specifics of the case, such as:

(i) The person must be available for questioning by the police whenever needed.

(ii) The person must not try to influence or threaten anyone who knows about the case to stop them from sharing information with the court or police.

(iii) The person must not leave India without the court's permission.

(iv) Any other conditions that might be required under another section of the law, as if the bail was granted under that section.

(3) If the person is arrested without a warrant by a police officer and is ready to provide bail either at the time of arrest or while in custody, they should be released on bail. If a Magistrate decides that a warrant should be issued for this person, it should be a bailable warrant, following the court's direction from the first point.

(4) This section does not apply to cases where someone is arrested for crimes under section 65 and sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

Explanation using Example

Example 1:

Scenario: Rajesh, a businessman, has been informed by a reliable source that he is likely to be arrested for allegedly committing a non-bailable offence related to financial fraud. Rajesh believes that the accusation is baseless and wants to avoid the trauma of being arrested.

Application: Rajesh applies to the High Court for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023. The High Court, after considering his application, directs that in the event of his arrest, he should be released on bail.

Conditions Imposed: The High Court includes the following conditions in its direction:

Rajesh must make himself available for interrogation by the police whenever required.

Rajesh must not threaten or induce any witnesses related to the case.

Rajesh must not leave India without the Court's permission.

Outcome: Rajesh is later arrested by the police. He presents the High Court's direction and is released on bail immediately. The Magistrate, upon taking cognizance of the offence, issues a bailable warrant in line with the High Court's direction.

Example 2:

Scenario: Priya, a social activist, is informed that she might be arrested for allegedly inciting a protest that turned violent, a non-bailable offence. Priya believes the charges are politically motivated and seeks to avoid arrest.

Application: Priya applies to the Court of Session for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023. The Court of Session, after reviewing her case, directs that she should be released on bail if arrested.

Conditions Imposed: The Court of Session includes the following conditions in its direction:

Priya must cooperate with the police investigation and appear for questioning when summoned.

Priya must not influence or intimidate any witnesses.

Priya must not travel outside the country without prior permission from the Court.

Outcome: Priya is subsequently arrested by the police. She shows the Court of Session's direction and is released on bail. The Magistrate, upon taking cognizance of the offence, issues a bailable warrant in accordance with the Court of Session's direction.

Section 483: Special powers of High Court or Court of Session regarding bail.

Legal Provisions for Bail

(1) A High Court or Court of Session may direct, -

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public

Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(2) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

SIMPLIFIED ACTS

Legal Provisions for Bail

(1) A High Court or Court of Session can decide to:

(a) release a person accused of a crime and in jail on bail. If the crime is serious as mentioned in sub-section (3) of section 480, the court can set any conditions it thinks are necessary;

(b) change or remove any conditions set by a Magistrate when releasing someone on bail:

However, before granting bail to someone accused of a crime that can only be tried by the Court of Session or a crime punishable with life imprisonment, the court must inform the Public Prosecutor about the bail application unless it is not possible to do so for specific reasons that must be written down:

Additionally, before granting bail to someone accused of a crime under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, the court must inform the Public Prosecutor within fifteen days of receiving the bail application notice.

(2) The person who reported the crime or someone authorized by them must be present during the bail hearing for crimes under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session can order that a person who was released on bail be arrested and put back in jail.

Explanation using Example

Example 1:

Rajesh, a resident of Mumbai, is accused of a serious financial fraud case and is in custody. His lawyer files an application for bail in the High Court. The High Court, considering the nature of the offence, decides to grant bail but imposes strict conditions such as surrendering his passport, reporting to the local police station every week, and not

leaving the city without prior permission. This ensures that Rajesh does not flee the country or tamper with evidence while on bail.

Example 2:

Priya, accused of a minor theft, is granted bail by a Magistrate with the condition that she must provide a surety of ₹50,000. Priya's lawyer believes this condition is too harsh and approaches the Court of Session to modify it. The Court of Session reviews the case and decides to reduce the surety amount to ₹10,000, making it easier for Priya to comply with the bail conditions.

Example 3:

Anil is accused of a crime that is exclusively triable by the Court of Session and is punishable with life imprisonment. His lawyer applies for bail in the High Court. Before granting bail, the High Court gives notice to the Public Prosecutor, who then has the opportunity to present any objections. After considering the Public Prosecutor's input, the High Court decides to grant bail with conditions to ensure Anil's presence during the trial.

Example 4:

Sunita is accused of an offence under section 65 of the Bharatiya Nyaya Sanhita, 2023. Her lawyer files for bail in the Court of Session. The Court of Session gives notice to the Public Prosecutor within fifteen days of receiving the bail application. During the bail hearing, the informant who reported the crime is also present, as required by law. After hearing all parties, the Court decides to grant bail to Sunita.

Example 5:

Vikram, who was previously granted bail by the High Court, violates the conditions of his bail by attempting to contact a witness. The Public Prosecutor brings this to the attention of the High Court. The High Court then orders Vikram's arrest and commits him back to custody, ensuring that he does not interfere with the ongoing investigation or trial.

Section 484: Amount of bond and reduction thereof.

(1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The High Court or the Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

SIMPLIFIED ACTS

(1) The amount of money required for a bond (a legal promise to pay if certain conditions are not met) should be set based on the specific details of the case and should not be too high.

(2) The High Court or the Court of Session can order that the bail amount set by a police officer or a Magistrate be lowered.

Explanation using Example

Example 1:

Rajesh is accused of a minor theft and is arrested by the police. The Magistrate sets the bail amount at ₹50,000. Rajesh's family finds this amount excessive given their financial situation. They approach the High Court, explaining their financial constraints and the minor nature of the offense. The High Court reviews the circumstances and directs that the bail amount be reduced to ₹10,000, making it more affordable for Rajesh's family to secure his release.

Example 2:

Priya is arrested for a non-violent protest and the police officer sets her bail at ₹1,00,000. Priya's lawyer argues that the amount is excessive considering the non-violent nature of the offense and Priya's clean record. The lawyer files an application in the Court of Session. After reviewing the case details, the Court of Session agrees that the bail amount is too high and orders it to be reduced to ₹20,000, ensuring that Priya can be released on bail without undue financial burden.

Section 485: Bond of accused and sureties.

Bond or Bail Bond Conditions

(1) Before any person is released on bond or bail bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bond or bail bond, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond or bail bond shall also contain that condition.

(3) If the case so requires, the bond or bail bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an enquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

SIMPLIFIED ACTS

Bond or Bail Bond Conditions

(1) Before someone can be released on bond or bail, they must sign a bond for an amount of money that the police officer or Court thinks is enough. This person, and sometimes one or more people who promise to make sure they show up in court, must agree to attend court at the specified time and place until the police officer or Court says otherwise.

(2) If there are any special conditions for releasing someone on bail, these conditions must be included in the bond or bail bond.

(3) If needed, the bond or bail bond will also require the person to appear in higher courts like the High Court or Court of Session when asked to answer the charges against them.

(4) To decide if the people promising to ensure the person shows up in court (the sureties) are reliable and have enough money, the Court can accept written statements (affidavits) proving their reliability and financial status. If necessary, the Court can investigate or ask a lower-ranking judge to investigate their reliability and financial status.

Explanation using Example

Example 1:

Ravi is arrested for a minor theft in Mumbai. The police decide to release him on bail. Before releasing him, the police officer asks Ravi to sign a bond of ₹10,000. Ravi's friend, Suresh, agrees to be his surety and also signs the bond. The bond states that Ravi must appear at the Mumbai Magistrate Court on the 15th of every month until the case is resolved. If Ravi fails to appear, Suresh will be responsible for paying the ₹10,000.

Example 2:

Priya is accused of fraud and is granted bail by the Delhi High Court. The court imposes a condition that Priya must surrender her passport to ensure she does not leave the country. Priya signs a bail bond of ₹50,000, and her uncle, Rajesh, acts as her surety. The bond includes the condition about the passport and states that Priya must appear in court whenever summoned. The court verifies Rajesh's financial status through an affidavit to ensure he is a sufficient surety.

Example 3:

Amit is charged with assault and is granted bail by the Sessions Court in Chennai. The court requires Amit to sign a bail bond of ₹20,000 and provide two sureties. Amit's colleagues, Ramesh and Sunil, agree to be his sureties. The bond specifies that Amit must attend all court hearings and not leave the city without permission. The court conducts an inquiry to verify the financial stability of Ramesh and Sunil before accepting them as sureties.

Example 4:

Neha is arrested for a cybercrime offense in Bangalore. The police decide to release her on bail with a bond of ₹30,000. Neha's sister, Anjali, agrees to be her surety. The bond includes a condition that Neha must report to the local police station every Monday. The police officer verifies Anjali's financial status through an affidavit to ensure she is a sufficient surety. Neha signs the bond and is released on bail.

Section 486: Declaration by sureties.

Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.

SIMPLIFIED ACTS

Anyone who agrees to be a guarantor for someone getting out on bail must tell the Court how many people they have already guaranteed bail for, including the current person. They need to provide all the necessary details.

Explanation using Example

Example 1:

Rajesh is a businessman in Mumbai. His friend, Suresh, has been accused of a minor offense and is granted bail by the court. Rajesh decides to stand as a surety for Suresh's bail. When Rajesh appears before the court, he is required to make a declaration stating how many people he has previously stood surety for, including Suresh. Rajesh declares that he has stood surety for two other individuals in the past year, providing their names and case details. The court records this information before approving Rajesh as a surety for Suresh.

Example 2:

Priya, a school teacher in Delhi, agrees to stand as a surety for her neighbor, Anil, who has been accused of a non-violent crime and is eligible for bail. When Priya goes to the court, she must declare the number of people she has stood surety for, including Anil. Priya informs the court that she has never stood surety for anyone before. She provides her personal details and confirms that Anil is the only person she is currently standing surety

for. The court accepts her declaration and allows Anil to be released on bail with Priya as his surety.

Section 487: Discharge from custody.

(1) As soon as the bond or bail bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

(2) Nothing in this section, section 478 or section 480, shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond or bail bond was executed.

SIMPLIFIED ACTS

(1) Once the bond or bail bond is signed, the person it was signed for should be let go. If this person is in jail, the court that allowed the bail will send a release order to the jail officer. The jail officer must release the person as soon as they get the order.

(2) This rule, and the rules in sections 478 and 480, do not mean that a person must be released if they are being held for another reason besides the one the bond or bail bond was for.

Explanation using Example

Example 1:

Scenario: Rajesh is arrested for a minor theft and is taken into custody. His family arranges for a lawyer who applies for bail.

Application of Section 487:

Bail Granted: The court grants bail to Rajesh and sets a bail amount of ₹10,000.

Bond Execution: Rajesh's family pays the bail amount and executes the bail bond.

Release Order: The court issues an order of release to the officer in charge of the jail.

Discharge from Custody: Upon receiving the release order, the jail officer releases Rajesh from custody.

Outcome: Rajesh is released from jail as soon as the bail bond is executed and the release order is received by the jail officer.

Example 2:

Scenario: Priya is arrested for a traffic violation and is taken into custody. Her lawyer applies for bail, and the court grants it.

Application of Section 487:

Bail Granted: The court grants bail to Priya and sets a bail amount of ₹5,000.

Bond Execution: Priya's lawyer arranges for the bail amount and executes the bail bond.

Release Order: The court issues an order of release to the officer in charge of the jail.

Discharge from Custody: Upon receiving the release order, the jail officer releases Priya from custody.

Outcome: Priya is released from jail as soon as the bail bond is executed and the release order is received by the jail officer.

Example 3:

Scenario: Anil is arrested for a financial fraud case and is taken into custody. His lawyer applies for bail, and the court grants it. However, Anil is also wanted in another case of tax evasion.

Application of Section 487:

Bail Granted: The court grants bail to Anil for the financial fraud case and sets a bail amount of ₹50,000.

Bond Execution: Anil's lawyer arranges for the bail amount and executes the bail bond.

Release Order: The court issues an order of release to the officer in charge of the jail.

Detention for Another Matter: Despite the release order, Anil is not released because he is liable to be detained for the tax evasion case.

Outcome: Anil is not released from jail even after the bail bond is executed and the release order is received because he is required to be detained for another matter (tax evasion case).

Section 488: Power to order sufficient bail when that first taken is insufficient.

If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

SIMPLIFIED ACTS

If someone was let out on bail with not enough security (money or property) by mistake, fraud, or any other reason, or if the security becomes not enough later on, the Court can take action.

The Court can issue an arrest warrant to bring the person back to court.

The Court can then order the person to provide enough security.

If the person cannot provide enough security, the Court can send them to jail.

Explanation using Example

Example 1:

Rahul was arrested for a non-bailable offense and was granted bail by the court. His friend, Amit, stood as his surety, guaranteeing that Rahul would appear in court as required. However, it was later discovered that Amit had provided false information about his financial status and was not capable of fulfilling the surety obligations. The court, upon realizing this mistake, issued a warrant for Rahul's arrest. Rahul was brought back to court and was asked to provide a new, sufficient surety. Since Rahul failed to find a new surety, the court ordered that he be sent to jail until a proper surety could be arranged.

Example 2:

Priya was granted bail in a case of alleged fraud, with her uncle, Mr. Sharma, acting as her surety. Initially, Mr. Sharma had sufficient assets to cover the bail amount. However, due to a sudden financial downturn, Mr. Sharma's assets significantly depreciated, making him an insufficient surety. The court, upon reviewing the surety's current financial status, determined that Mr. Sharma could no longer serve as a valid surety. Consequently, the court issued a warrant for Priya's arrest. Priya was brought before the court and was required to find a new surety who met the financial criteria. Priya managed to find a new surety, and thus, she was allowed to remain out on bail.

Section 489: Discharge of sureties.

(1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

SIMPLIFIED ACTS

(1) Any or all people who have promised to ensure that someone released on bail shows up in court can ask a Magistrate to cancel their promise, either completely or just for themselves.

(2) When they make this request, the Magistrate will issue an arrest warrant to bring the person who was released on bail back to court.

(3) When the person shows up in court because of the warrant or if they come in on their own, the Magistrate will cancel the promise either completely or just for the people who asked. The Magistrate will then ask the person to find new people to make the promise. If the person can't find new people, the Magistrate can send them to jail.

Explanation using Example

Example 1:

Ravi is arrested for a minor offense and is granted bail by the court. His friends, Suresh and Mahesh, agree to be his sureties, meaning they promise to ensure Ravi will attend all court hearings. After a few months, Suresh faces financial difficulties and can no longer afford to be a surety. Suresh applies to the Magistrate to discharge his bond. The Magistrate issues a warrant for Ravi's arrest to bring him before the court. Once Ravi appears, the Magistrate discharges Suresh from his surety obligations and asks Ravi to find another surety. Ravi fails to find a new surety, so the Magistrate orders him to be taken into custody until he can provide a new surety.

Example 2:

Priya is accused of a non-violent crime and is released on bail. Her parents, Mr. and Mrs. Sharma, act as her sureties. After some time, Mr. Sharma falls seriously ill and can no longer fulfill his surety duties. Mr. Sharma applies to the Magistrate to be discharged from the bond. The Magistrate issues a warrant for Priya's arrest to ensure she appears in court. Priya voluntarily surrenders before the Magistrate. The Magistrate discharges Mr. Sharma from his surety obligations and instructs Priya to find another surety. Priya successfully finds her uncle to act as her new surety, and she remains out on bail.

Example 3:

Amit is granted bail in a theft case, and his colleagues, Raj and Neha, become his sureties. After a year, Neha gets a job transfer to another city and cannot continue as a surety. Neha applies to the Magistrate to discharge her bond. The Magistrate issues a warrant for Amit's arrest to bring him to court. Amit appears in court as directed. The Magistrate discharges Neha from her surety obligations and asks Amit to find another surety. Amit finds his neighbor to act as his new surety, and he continues to remain out on bail.

Example 4:

Sunita is released on bail in a fraud case, with her brother, Ramesh, and her friend, Anjali, as her sureties. Anjali decides to move abroad for higher studies and applies to the Magistrate to discharge her bond. The Magistrate issues a warrant for Sunita's arrest to ensure her appearance in court. Sunita voluntarily surrenders before the Magistrate. The Magistrate discharges Anjali from her surety obligations and instructs Sunita to find another surety. Sunita is unable to find a new surety, so the Magistrate orders her to be taken into custody until she can provide a new surety.

Section 490: Deposit instead of recognizance.

When any person is required by any Court or officer to execute a bond or bail bond, 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.

SIMPLIFIED ACTS

If a court or an officer asks someone to sign a bond or bail bond, they can allow the person to deposit money or government promissory notes instead of signing the bond.

This option is not available for bonds related to good behavior.

The amount of money or promissory notes to be deposited will be decided by the court or officer.

Explanation using Example

Example 1:

Ravi is arrested for a minor theft and is required to appear in court. The court asks Ravi to execute a bail bond of ₹10,000 to ensure his appearance at the next hearing. However, instead of finding a surety to sign the bond, Ravi requests the court to allow him to deposit ₹10,000 in cash. The court agrees, and Ravi deposits the money. This deposit serves as a guarantee for his appearance in court, and he is released from custody.

Example 2:

Priya is involved in a civil dispute and the court requires her to execute a bond of ₹50,000 to ensure she will not leave the jurisdiction until the case is resolved. Priya does not have anyone to act as a surety for her bond. She asks the court if she can deposit ₹50,000 in Government promissory notes instead. The court permits this, and Priya deposits the promissory notes. This deposit acts as a security for her compliance with the court's conditions.

Section 491: Procedure when bond has been forfeited.

Legal Provisions

(1) Where, -

(a) a bond under this Sanhita is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited; or

(b) in respect of any other bond under this Sanhita, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited,

the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation. - A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Sanhita:

Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.

(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(5) Where any person who has furnished security under section 125 or section 136 or section 401 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 494, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

SIMPLIFIED ACTS

Legal Provisions

(1) If:

(a) a bond is made for someone to appear in court or to bring property to court, and it is proven to the court's satisfaction (or any court the case is transferred to) that the bond has been broken; or

(b) any other type of bond is broken, and it is proven to the satisfaction of the court that took the bond (or any court the case is transferred to, or any first-class magistrate's court), the court will write down the reasons for this proof and may ask the person who made the bond to pay the penalty or explain why they shouldn't have to pay.

Explanation. - A bond condition for appearing in court or bringing property to court includes appearing or bringing property to any court the case is transferred to.

(2) If the person doesn't give a good reason and doesn't pay the penalty, the court can collect the penalty as if it were a fine:

Provided that if the penalty isn't paid and can't be collected, the person who guaranteed the bond can be sent to civil jail for up to six months by court order.

(3) The court can reduce the penalty and only enforce part of it, but must explain why in writing.

(4) If the person who guaranteed the bond dies before the bond is broken, their estate (property) is no longer responsible for the bond.

(5) If someone who provided security under sections 125, 136, or 401 is convicted of a crime that breaks the bond conditions, a certified copy of the conviction can be used as evidence against their guarantor(s). The court will assume the crime was committed unless proven otherwise.

Explanation using Example

Example 1:

Scenario: Ramesh is granted bail by the court on the condition that he appears for his trial on a specified date. He provides a bond with his friend Suresh as the surety.

Situation: Ramesh fails to appear in court on the trial date.

Application of Section 491:

The court determines that Ramesh's bond has been forfeited because he did not appear as required.

The court records the reasons for the forfeiture and calls upon Suresh to pay the penalty specified in the bond or to show cause why he should not pay it.

Suresh fails to show sufficient cause and does not pay the penalty.

The court proceeds to recover the penalty as if it were a fine.

If the penalty is not paid and cannot be recovered, Suresh may be ordered to serve up to six months in civil jail.

The court may decide to remit a portion of the penalty and enforce only part of the payment, depending on the circumstances.

Example 2:

Scenario: Priya is required to produce certain property in court as part of a legal proceeding. She provides a bond with her uncle, Rajesh, as the surety.

Situation: Priya fails to produce the property in court as required.

Application of Section 491:

The court determines that Priya's bond has been forfeited because she did not produce the property as required.

The court records the reasons for the forfeiture and calls upon Rajesh to pay the penalty specified in the bond or to show cause why he should not pay it.

Rajesh shows sufficient cause, explaining that the property was lost due to circumstances beyond Priya's control.

The court, after considering Rajesh's explanation, decides to remit a portion of the penalty and enforces only part of the payment.

If Rajesh had not shown sufficient cause and the penalty was not paid, the court could have proceeded to recover the penalty as if it were a fine.

If the penalty could not be recovered, Rajesh could have been ordered to serve up to six months in civil jail.

Example 3:

Scenario: Sunil is required to maintain peace and good behavior under a bond taken under Section 125. He commits an offense that breaches the conditions of his bond.

Situation: Sunil is convicted of the offense by the court.

Application of Section 491:

The court uses a certified copy of the judgment convicting Sunil as evidence in proceedings against his surety, Amit.

The court presumes that Sunil committed the offense unless Amit can prove otherwise.

The court records the reasons for the forfeiture of the bond and calls upon Amit to pay the penalty or to show cause why he should not pay it.

If Amit fails to show sufficient cause and does not pay the penalty, the court proceeds to recover the penalty as if it were a fine.

If the penalty is not paid and cannot be recovered, Amit may be ordered to serve up to six months in civil jail.

The court may decide to remit a portion of the penalty and enforce only part of the payment, depending on the circumstances.

Section 492: Cancellation of bond and bail bond.

Without prejudice to the provisions of section 491, where a bond or bail bond under this Sanhita is for appearance of a person in a case and it is forfeited for breach of a condition, -

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond in that case, if the police officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provisions of this Sanhita he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the police officer or the Court, as the case may be, thinks sufficient.

SIMPLIFIED ACTS

Without affecting the rules in section 491, if someone has a bond or bail bond to show up in court and they break the rules of that bond, -

(a) the bond they signed, and any bond signed by their guarantors, will be cancelled; and

(b) after that, the person won't be released just on their own bond in that case, unless the police officer or the Court is convinced that there was a good reason for them not following the bond's rules:

However, according to other rules in this law, the person can be released in that case if they sign a new personal bond for a certain amount of money and get one or more guarantors to sign a bond that the police officer or the Court thinks is enough.

Explanation using Example

Example 1:

Scenario: Rajesh is arrested for a minor theft and is granted bail by the court. He signs a bail bond agreeing to appear in court on a specified date, and his friend Suresh acts as his surety, also signing a bond.

Situation: Rajesh fails to appear in court on the specified date without any valid reason.

Application of Section 492:

Forfeiture: Since Rajesh breached the condition of his bail bond by not appearing in court, the bond he signed and the bond signed by Suresh (his surety) are both forfeited.

Cancellation: Both Rajesh's bond and Suresh's bond are cancelled.

No Release on Own Bond: Rajesh cannot be released on his own bond again in this case unless the court or police officer is convinced that there was a sufficient reason for his failure to appear.

Fresh Bond: If the court or police officer is not satisfied with Rajesh's reason for not appearing, Rajesh can only be released if he executes a new personal bond and provides a new surety bond as deemed sufficient by the court or police officer.

Example 2:

Scenario: Priya is arrested for a traffic violation and is granted bail. She signs a bail bond agreeing to appear in court, and her colleague Anil acts as her surety.

Situation: Priya misses her court date because she was hospitalized due to an emergency.

Application of Section 492:

Forfeiture: Priya's bail bond and Anil's surety bond are initially forfeited due to her failure to appear in court.

Cancellation: Both bonds are cancelled.

No Release on Own Bond: Priya cannot be released on her own bond again unless the court or police officer is satisfied that her hospitalization was a sufficient cause for her failure to appear.

Fresh Bond: If the court or police officer accepts Priya's hospitalization as a valid reason, she may be released upon executing a fresh personal bond and providing a new surety bond as required by the court or police officer.

Section 493: Procedure in case of insolvency of death of surety or when bond is forfeited.

When any surety to a bail bond under this Sanhita becomes insolvent or dies, or when any bond is forfeited under the provisions of section 491, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

SIMPLIFIED ACTS

If a person who has promised to pay money as part of a bail bond becomes bankrupt or dies, or if the bail bond is broken according to section 491, the Court that required the bond, or a top-level Magistrate, can ask the person who needed to provide the bond to give a new one.

If the new bond is not provided, the Court or Magistrate can treat it as if the person did not follow the original order.

Explanation using Example

Example 1:

Rajesh was arrested for a non-violent crime and was granted bail by the court. His friend, Suresh, agreed to be his surety and signed a bail bond for Rs. 50,000. Unfortunately, a few months later, Suresh's business went bankrupt, and he was declared insolvent. According to Section 493 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court that granted Rajesh's bail can now order Rajesh to find a new surety who can provide fresh security of Rs. 50,000. If Rajesh fails to find a new surety, the court may treat it as a default on the original bail order and take appropriate action, which could include revoking Rajesh's bail and taking him back into custody.

Example 2:

Priya was granted bail in a theft case, and her uncle, Mr. Sharma, stood as her surety by signing a bail bond for Rs. 1,00,000. Sadly, Mr. Sharma passed away unexpectedly. Under Section 493 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate of the first class can now require Priya to provide a new surety who can furnish the same amount of security as per the original bail order. If Priya is unable to provide a new surety, the Magistrate may proceed as if Priya had defaulted on the original bail conditions, potentially leading to her bail being revoked and her being taken back into custody.

Example 3:

Amit was granted bail in a fraud case, and his colleague, Ramesh, stood as his surety by signing a bail bond for Rs. 2,00,000. Later, Amit violated the conditions of his bail, leading to the forfeiture of the bond under Section 491. According to Section 493 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court can now order Amit to provide fresh security of Rs. 2,00,000 as per the original bail order. If Amit fails to furnish the new security, the court may treat it as a default on the original order and take necessary actions, which could include revoking Amit's bail and taking him back into custody.

Section 494: Bond required from child.

When the person required by any Court, or officer to execute a bond is a child, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

SIMPLIFIED ACTS

If a child is asked by a Court or an officer to sign a bond, the Court or officer can accept a bond signed only by a guarantor or guarantors instead.

Explanation using Example

Example 1:

Scenario: Rohan, a 15-year-old boy, is accused of a minor theft and is required to appear in court.

Application of the Act: The court requires Rohan to execute a bond to ensure his appearance at the next hearing. However, since Rohan is a child, the court decides to accept a bond executed by his father, Mr. Sharma, as a surety. Mr. Sharma signs the bond, guaranteeing that Rohan will appear in court as required.

Example 2:

Scenario: Priya, a 17-year-old girl, is involved in a case of vandalism and is required to be released on bail.

Application of the Act: The officer in charge at the police station requires Priya to execute a bond for her release on bail. Given that Priya is a minor, the officer accepts a bond executed by her elder brother, Rajesh, as a surety. Rajesh signs the bond, ensuring that Priya will comply with the conditions of her bail and appear in court when summoned.

Section 495: Appeal from orders under section 491.

All orders passed under section 491 shall be appealable, -

- (i) in the case of an order made by a Magistrate, to the Sessions Judge;
- (ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

SIMPLIFIED ACTS

All decisions made under section 491 can be appealed, -

- (i) if a Magistrate made the decision, you can appeal to the Sessions Judge;
- (ii) if a Court of Session made the decision, you can appeal to the higher court that handles appeals from that Court.

Explanation using Example

Example 1:

Ravi was arrested and subsequently released on bail by a Magistrate under Section 491 of The Bharatiya Nagarik Suraksha Sanhita 2023. However, the complainant, Suresh, believes that the bail was granted improperly and decides to challenge the Magistrate's order. According to Section 495, Suresh can file an appeal against the Magistrate's order to the Sessions Judge. The Sessions Judge will then review the case and decide whether the bail order should be upheld or overturned.

Example 2:

Priya was accused of a serious crime and her bail application was denied by the Court of Session under Section 491 of The Bharatiya Nagarik Suraksha Sanhita 2023. Priya believes that the Court of Session made an error in denying her bail. According to Section 495, Priya has the right to appeal the decision. She can file an appeal to the High Court, which is the court to which an appeal lies from an order made by the Court of Session. The High Court will then review the case and decide whether the denial of bail was justified or if Priya should be granted bail.

Section 496: Power to direct levy of amount due on certain recognizances.

The High Court or Court of Session

The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

SIMPLIFIED ACTS

The High Court or Court of Session

The High Court or Court of Session can instruct any Magistrate to collect the money owed on a bond that was made to ensure someone appears or attends at the High Court or Court of Session.

Explanation using Example

Example 1:

Ravi was granted bail by the Magistrate's court on the condition that he would appear for his trial at the High Court. Ravi signed a bond agreeing to pay ₹50,000 if he failed to appear. On the day of the trial, Ravi did not show up. The High Court then directed the Magistrate to collect the ₹50,000 from Ravi as per the bond agreement.

Example 2:

Priya was released on bail by the Court of Session with a bond that required her to attend all court hearings. She agreed to pay ₹1,00,000 if she missed any hearing. Priya missed a crucial hearing without any valid reason. The Court of Session instructed the Magistrate to enforce the bond and collect the ₹1,00,000 from Priya.

CHAPTER XXXVI: DISPOSAL OF PROPERTY

Section 497: Order for custody and disposal of property pending trial in certain cases.

(1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. - For the purposes of this section, "property" includes -

(a) property of any kind or document which is produced before the Court or which is in its custody;

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4) The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

SIMPLIFIED ACTS

(1) When any property is brought before a Criminal Court or a Magistrate who has the authority to handle the case during an investigation, inquiry, or trial, the Court or Magistrate can decide how to keep the property safe until the investigation, inquiry, or trial is over. If the property can spoil quickly or if it's necessary for other reasons, the Court or Magistrate can order it to be sold or disposed of after recording necessary evidence.

Explanation. - For this section, "property" includes:

(a) Any kind of property or document that is brought before the Court or is in its custody;

(b) Any property that seems to be involved in a crime or used to commit a crime.

(2) The Court or Magistrate must, within fourteen days of the property being brought before them, make a detailed list of the property, describing it in a way specified by the State Government rules.

(3) The Court or Magistrate must also take a photograph and, if needed, a video of the property using a mobile phone or any electronic device.

(4) The list made under sub-section (2) and the photograph or video taken under sub-section (3) will be used as evidence in any investigation, trial, or other legal proceeding.

(5) The Court or Magistrate must, within thirty days after making the list and taking the photograph or video, decide what to do with the property. This could include disposing of it, destroying it, confiscating it, or returning it, as specified in the following rules.

Explanation using Example

Example 1:

Scenario: Seizure of Stolen Jewelry

Situation: During a police investigation into a burglary, the police recover stolen jewelry from the suspect's residence. The jewelry is produced before the Magistrate.

Application of Section 497:

Custody Order: The Magistrate orders that the jewelry be kept in the police custody until the trial concludes.

Decay or Expediency: Since jewelry does not decay, the Magistrate does not need to order its sale or disposal.

Documentation: Within 14 days, the Magistrate prepares a detailed statement describing each piece of jewelry.

Photographic Evidence: The Magistrate ensures that photographs and videography of the jewelry are taken.

Use as Evidence: The statement and photographs are used as evidence during the trial.

Final Disposal: Within 30 days after documentation, the Magistrate orders the jewelry to be returned to the rightful owner, destroyed, or otherwise disposed of as per the law.

Example 2:

Scenario: Confiscation of Illegal Firearms

Situation: Police raid a warehouse and confiscate a cache of illegal firearms. The firearms are presented before the Criminal Court.

Application of Section 497:

Custody Order: The Court orders that the firearms be stored securely in a police armory pending the trial.

Decay or Expediency: The Court determines that the firearms are not subject to decay but decides it is expedient to document them thoroughly.

Documentation: Within 14 days, the Court prepares a detailed statement listing each firearm, including make, model, and serial number.

Photographic Evidence: The Court ensures that photographs and videography of the firearms are taken.

Use as Evidence: The statement and visual records are used as evidence during the trial.

Final Disposal: Within 30 days after documentation, the Court orders the firearms to be either destroyed, handed over to the government, or otherwise disposed of according to legal provisions.

Example 3:

Scenario: Confiscation of Perishable Goods

Situation: During an investigation into illegal trading, the police seize a large quantity of perishable food items. The items are presented before the Magistrate.

Application of Section 497:

Custody Order: The Magistrate orders that the perishable goods be stored in a suitable facility.

Decay or Expediency: Recognizing that the goods are subject to speedy decay, the Magistrate records necessary evidence and orders the immediate sale of the goods.

Documentation: Within 14 days, the Magistrate prepares a statement describing the goods.

Photographic Evidence: The Magistrate ensures that photographs and videography of the goods are taken.

Use as Evidence: The statement and visual records are used as evidence during the trial.

Final Disposal: The proceeds from the sale of the perishable goods are held by the Court until the conclusion of the trial, after which they are disposed of according to the legal outcome.

Example 4:

Scenario: Seizure of Counterfeit Currency

Situation: During a raid, police seize a large amount of counterfeit currency. The counterfeit notes are presented before the Criminal Court.

Application of Section 497:

Custody Order: The Court orders that the counterfeit currency be kept in a secure location.

Decay or Expediency: The Court decides it is expedient to document the counterfeit currency thoroughly.

Documentation: Within 14 days, the Court prepares a detailed statement describing the counterfeit notes.

Photographic Evidence: The Court ensures that photographs and videography of the counterfeit currency are taken.

Use as Evidence: The statement and visual records are used as evidence during the trial.

Final Disposal: Within 30 days after documentation, the Court orders the counterfeit currency to be destroyed or otherwise disposed of according to legal provisions.

Section 498: Order for disposal of property at conclusion of trial.

(1) When an investigation, inquiry or trial in any criminal case is concluded, the Court or the Magistrate may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without securities, to the satisfaction of the Court or the Magistrate, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(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 503, 504 and 505.

(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.

SIMPLIFIED ACTS

(1) When a criminal case investigation, inquiry, or trial is finished, the Court or Magistrate can decide what to do with any property or document involved in the case. They can choose to destroy it, confiscate it, give it to someone who claims it, or handle it in another way.

(2) The Court or Magistrate can order that any property be given to someone who claims it. This can be done without any conditions or with the condition that the person signs a bond (a promise), with or without additional guarantees, to return the property if the original order is changed or canceled on appeal.

(3) A higher court (Court of Session) can decide not to make a decision itself and instead tell the Chief Judicial Magistrate to handle the property according to specific rules (sections 503, 504, and 505).

(4) Except for cases where the property is livestock, can spoil quickly, or a bond has been signed, the order to dispose of the property will not be carried out for two months. If an appeal is made, the order will be on hold until the appeal is resolved.

(5) In this section, "property" includes not just the original property involved in the crime but also anything it has been changed into or exchanged for, and anything gained from such changes or exchanges.

Explanation using Example

Example 1:

Scenario: A burglary case where stolen jewelry is recovered.

Details:

Ramesh's house was burgled, and jewelry worth ₹5 lakhs was stolen.

The police arrested the suspect, Suresh, and recovered the stolen jewelry.

During the trial, the jewelry was presented as evidence in court.

Application of Section 498:

At the conclusion of the trial, the court finds Suresh guilty of burglary.

The court then orders the disposal of the recovered jewelry.

The court decides to return the jewelry to Ramesh, the rightful owner, without any conditions.

Ramesh receives the jewelry back after the trial concludes.

Example 2:

Scenario: A case involving counterfeit currency.

Details:

The police raid a counterfeit currency printing operation and seize fake notes worth ₹10 lakhs.

The suspects are arrested and the fake currency is presented as evidence in court.

Application of Section 498:

At the conclusion of the trial, the court finds the suspects guilty of producing counterfeit currency.

The court orders the disposal of the counterfeit currency by destruction, as it is illegal to possess or use.

The fake notes are destroyed under the supervision of the court to prevent any misuse.

Example 3:

Scenario: A hit-and-run case involving a vehicle.

Details:

A car driven by Rajesh hits a pedestrian and flees the scene.

The police locate and seize the car used in the hit-and-run.

The car is presented as evidence in court.

Application of Section 498:

At the conclusion of the trial, the court finds Rajesh guilty of the hit-and-run.

The court orders the disposal of the car.

The court decides to confiscate the car as it was used in the commission of the offence.

The car is then auctioned off, and the proceeds are used as directed by the court.

Example 4:

Scenario: A case involving illegal possession of wildlife.

Details:

The forest department arrests a poacher, Ravi, and seizes a tiger skin.

The tiger skin is presented as evidence in court.

Application of Section 498:

At the conclusion of the trial, the court finds Ravi guilty of illegal possession of wildlife.

The court orders the disposal of the tiger skin.

The court decides to hand over the tiger skin to the forest department for proper disposal.

The forest department ensures the tiger skin is either preserved for educational purposes or destroyed as per wildlife protection laws.

Example 5:

Scenario: A case involving a disputed property document.

Details:

Two parties, Asha and Neha, are in a legal dispute over the ownership of a piece of land.

A property document is presented as evidence in court.

Application of Section 498:

At the conclusion of the trial, the court rules in favor of Asha.

The court orders the disposal of the property document.

The court decides to return the document to Asha, the rightful owner, on the condition that she executes a bond to return the document if the order is modified on appeal.

Asha receives the document after fulfilling the bond condition.

Section 499: Payment to innocent purchaser of money found on accused.

When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him within six months from the date of such order.

SIMPLIFIED ACTS

If someone is found guilty of theft or receiving stolen property, and it is proven that another person bought the stolen property from them without knowing it was stolen, the following can happen:

If the police took money from the person who was convicted when they were arrested, the court can help the person who bought the stolen property.

The person who bought the stolen property can ask the court to get their money back.

If the stolen property is returned to its rightful owner, the court can order that the buyer gets back the money they paid for the stolen property.

The court can order that the buyer gets their money back within six months from the date of the court's decision.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Delhi, unknowingly buys a stolen laptop from a man named Arjun for ₹30,000. Later, Arjun is arrested and convicted of theft. During his arrest, the police recover ₹50,000 from Arjun's possession. Ravi, upon learning that the laptop was stolen, returns it to the rightful owner, Priya. Ravi then applies to the court for compensation. The court, under Section 499 of The Bharatiya Nagarik Suraksha Sanhita 2023, orders that ₹30,000 be paid to Ravi from the ₹50,000 recovered from Arjun, as Ravi had bought the laptop without knowing it was stolen.

Example 2:

Sunita, a resident of Mumbai, purchases a gold necklace from a man named Vikram for ₹1,00,000, not knowing that it was stolen. Vikram is later caught and convicted of the theft. The police recover ₹1,50,000 from Vikram at the time of his arrest. Sunita, upon discovering the necklace was stolen, returns it to the original owner, Meera. Sunita then files an application in court for reimbursement. The court, following Section 499 of The Bharatiya Nagarik Suraksha Sanhita 2023, orders that ₹1,00,000 be paid to Sunita from the ₹1,50,000 recovered from Vikram, as she had purchased the necklace without any knowledge of it being stolen.

Section 500: Appeal against orders under section 498 or section 499.

(1) Any person aggrieved by an order made by a Court or Magistrate under section 498 or section 499, may appeal against it to the Court to which appeals ordinarily lie from convictions by the former Court.

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made.

SIMPLIFIED ACTS

(1) If someone is unhappy with a decision made by a Court or Magistrate under section 498 or section 499, they can appeal to the higher Court that usually handles appeals from that lower Court.

(2) When the appeal is made, the higher Court can pause the original decision until the appeal is resolved. The higher Court can also change, modify, or cancel the original decision and make any other decisions that are fair.

(3) The higher Court's powers mentioned in point (2) can also be used by any Court that is reviewing or confirming the case where the original decision was made.

Explanation using Example

Example 1:

Scenario: Ramesh, a shop owner, had his shop's goods seized by the police under Section 498 of the Bharatiya Nagarik Suraksha Sanhita 2023, which deals with the disposal of property involved in a crime. The Magistrate ordered the goods to be auctioned.

Application of Section 500: Ramesh believes the seizure and auction order is unjust and decides to appeal against the Magistrate's order. He files an appeal in the Sessions Court, which is the court where appeals from the Magistrate's Court are ordinarily heard.

Outcome: The Sessions Court, upon reviewing the appeal, decides to stay the auction order until the appeal is resolved. After hearing the case, the Sessions Court finds that the seizure was not justified and annuls the Magistrate's order, directing the police to return the goods to Ramesh.

Example 2:

Scenario: Priya, a resident of Mumbai, had her car confiscated by the police under Section 499 of the Bharatiya Nagarik Suraksha Sanhita 2023, which deals with the disposal of property used in the commission of an offense. The Magistrate ordered the car to be handed over to the state.

Application of Section 500: Priya feels that the confiscation order is unfair and decides to appeal against the Magistrate's order. She files an appeal in the Sessions Court, which is the appropriate appellate court.

Outcome: The Sessions Court, upon receiving the appeal, decides to stay the confiscation order pending the appeal's resolution. After a thorough review, the Sessions Court modifies the Magistrate's order, allowing Priya to retain her car but imposing a fine for its use in the offense. The court also issues further orders to ensure Priya does not use her car for illegal activities in the future.

Section 501: Destruction of libellous and other matter.

(1) On a conviction under section 294, section 295, or sub-sections (3) and (4) of section 356 of the Bharatiya Nyaya Sanhita, 2023, the Court may order the destruction of all the

copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under section 274, section 275, section 276 or section 277 of the Bharatiya Nyaya Sanhita, 2023, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

SIMPLIFIED ACTS

(1) If someone is found guilty under section 294, section 295, or sub-sections (3) and (4) of section 356 of the Bharatiya Nyaya Sanhita, 2023, the Court can order that all copies of the item related to the crime, which are either with the Court or still with the guilty person, be destroyed.

(2) Similarly, if someone is found guilty under section 274, section 275, section 276, or section 277 of the Bharatiya Nyaya Sanhita, 2023, the Court can order that the food, drink, drug, or medical preparation related to the crime be destroyed.

Explanation using Example

Example 1:

Rajesh runs a small printing press in Mumbai. He was convicted under Section 294 of the Bharatiya Nyaya Sanhita, 2023, for printing and distributing obscene pamphlets. The court, upon his conviction, orders the destruction of all the remaining copies of these pamphlets that are in Rajesh's possession and those that are in the custody of the court. This ensures that the offensive material is completely removed from circulation.

Example 2:

Meena, a shop owner in Delhi, was convicted under Section 275 of the Bharatiya Nyaya Sanhita, 2023, for selling adulterated food products. The court, upon her conviction, orders the destruction of all the adulterated food items that were seized from her shop and those that are still in her possession. This action is taken to prevent any further harm to consumers and to maintain public health and safety.

Section 502: Power to restore possession of immovable property.

Restoration of Possession

(1) When a person is convicted of an offence by use of criminal force or show of force or by criminal intimidation, and it appears to the Court that, by such use of force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Provided that no such order shall be made by the Court more than one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order under sub-section (1), the Court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal, reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions of section 500 shall apply in relation thereto as they apply in relation to an order under section 499.

(4) No order made under this section shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

SIMPLIFIED ACTS

Restoration of Possession

(1) If someone is found guilty of using physical force, threats, or intimidation to take away someone else's property, the Court can order that the property be returned to the original owner. The Court can also remove anyone currently occupying the property by force if needed. However, this order must be made within one month of the conviction.

(2) If the Court that handled the original case did not order the property to be returned, a higher Court (like an appeal or review Court) can make this order when dealing with the appeal or review of the case.

(3) If an order to return the property has been made, the rules in section 500 will apply to this order just like they apply to an order under section 499.

(4) Any order made under this section will not affect any legal rights or claims to the property that someone might prove in a civil court case.

Explanation using Example

Example 1:

Mr. Rajiv owns a small plot of land in a village. One day, a local strongman, Mr. Singh, forcibly evicts Rajiv from his property using threats and physical intimidation. Rajiv files a complaint, and Mr. Singh is convicted of criminal intimidation under the relevant sections of the Bharatiya Nagarik Suraksha Sanhita 2023. The court, upon reviewing the case, decides that Rajiv was dispossessed of his land due to Mr. Singh's criminal actions. Under Section 502(1), the court orders that Rajiv be restored to possession of his land. The police are directed to evict Mr. Singh and ensure Rajiv is reinstated on his property within a month of Mr. Singh's conviction.

Example 2:

Ms. Anita runs a small shop in her neighborhood. A group of local hooligans, led by Mr. Sharma, forcefully takes over her shop, threatening her with dire consequences if she resists. Anita reports the incident, and Mr. Sharma is later convicted of using criminal force. The trial court, however, does not pass an order to restore the possession of the shop to Anita. Anita appeals the decision. The appellate court, upon hearing the appeal and recognizing the misuse of force by Mr. Sharma, exercises its power under Section 502(2) to order the restoration of possession of the shop to Anita. The court directs the local authorities to remove Mr. Sharma from the shop and restore it to Anita.

Example 3:

Mr. Kumar was dispossessed of his ancestral home by his cousin, Mr. Prakash, who used threats and force to take over the property. Mr. Kumar files a case, and Mr. Prakash is convicted of criminal intimidation. The trial court does not issue an order to restore possession to Mr. Kumar within the stipulated one month. Mr. Kumar seeks revision of the order. The court of revision, upon reviewing the facts, orders the restoration of the house to Mr. Kumar as per Section 502(2). Mr. Prakash is evicted, and Mr. Kumar is given back his home.

Example 4:

Mrs. Latha is threatened and intimidated by a local gang, forcing her out of her agricultural land. The gang leader, Mr. Rao, is later convicted of criminal intimidation. The court, under Section 502(1), orders the eviction of the gang and restoration of the land to Mrs. Latha. Despite the order, Mr. Rao claims to have a legitimate lease agreement over the land. As per Section 502(4), the court's order does not affect Mr. Rao's right to prove his claim in a civil suit. Mrs. Latha is restored to possession, but Mr. Rao is entitled to establish his lease rights in civil court if he so chooses.

Section 503: 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 Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(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.

SIMPLIFIED ACTS

(1) When a police officer takes someone's property and reports it to a Magistrate (a type of judge), and the property is not shown in a criminal court during an investigation or trial, the Magistrate can decide what to do with the property. The Magistrate can order the property to be given back to the rightful owner or decide how it should be kept and handled if the owner is not known.

(2) If the rightful owner of the property is known, the Magistrate can order the property to be given back to that person under certain conditions. If the owner is not known, the Magistrate can keep the property and must make a public announcement describing the property. This announcement will ask anyone who thinks the property belongs to them to come forward and prove their claim within six months from the date of the announcement.

Explanation using Example

Example 1:

Scenario: Seizure of Stolen Jewelry

Situation: A police officer seizes a bag of stolen jewelry during a raid on a suspected thief's house. The seizure is reported to the Magistrate, but the jewelry is not produced before a Criminal Court during the trial.

Application of Section 503:

The Magistrate receives the report of the seizure.

The Magistrate decides on the disposal of the jewelry.

If the rightful owner of the jewelry is known (e.g., a person who reported the theft and can provide proof of ownership), the Magistrate may order the jewelry to be returned to them under certain conditions, such as providing a bond or other security.

If the rightful owner is not known, the Magistrate will issue a public proclamation describing the jewelry and inviting anyone who claims ownership to come forward within six months to establish their claim.

If no one claims the jewelry within six months, the Magistrate may decide on its final disposal, which could include auctioning it off and depositing the proceeds in the state treasury.

Example 2:

Scenario: Seizure of Unclaimed Vehicle

Situation: A police officer seizes an abandoned vehicle suspected to be involved in illegal activities. The seizure is reported to the Magistrate, but the vehicle is not produced before a Criminal Court during the trial.

Application of Section 503:

The Magistrate receives the report of the seizure.

The Magistrate decides on the disposal of the vehicle.

If the rightful owner of the vehicle is known (e.g., the vehicle is registered to a person who can provide proof of ownership), the Magistrate may order the vehicle to be returned to them under certain conditions, such as paying any fines or storage fees.

If the rightful owner is not known, the Magistrate will issue a public proclamation describing the vehicle and inviting anyone who claims ownership to come forward within six months to establish their claim.

If no one claims the vehicle within six months, the Magistrate may decide on its final disposal, which could include auctioning it off and depositing the proceeds in the state treasury.

Example 3:

Scenario: Seizure of Counterfeit Currency

Situation: A police officer seizes a large amount of counterfeit currency during a raid on a counterfeit currency printing operation. The seizure is reported to the Magistrate, but the currency is not produced before a Criminal Court during the trial.

Application of Section 503:

The Magistrate receives the report of the seizure.

The Magistrate decides on the disposal of the counterfeit currency.

Since the rightful owner of counterfeit currency cannot be a legitimate claimant, the Magistrate will not return it to any individual.

The Magistrate may order the counterfeit currency to be destroyed to prevent it from re-entering circulation.

The Magistrate ensures that the destruction of the counterfeit currency is carried out in a secure and verifiable manner, often involving law enforcement officials and witnesses to ensure transparency.

Example 4:

Scenario: Seizure of Illegal Firearms

Situation: A police officer seizes a cache of illegal firearms during a raid on a suspected arms smuggling operation. The seizure is reported to the Magistrate, but the firearms are not produced before a Criminal Court during the trial.

Application of Section 503:

The Magistrate receives the report of the seizure.

The Magistrate decides on the disposal of the illegal firearms.

Since the rightful owner of illegal firearms cannot be a legitimate claimant, the Magistrate will not return them to any individual.

The Magistrate may order the firearms to be destroyed to prevent them from being used in criminal activities.

The Magistrate ensures that the destruction of the firearms is carried out in a secure and verifiable manner, often involving law enforcement officials and witnesses to ensure transparency.

Section 504: Procedure where no claimant appears within six months.

(1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the Magistrate may by order direct that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as the State Government may, by rules, provide.

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

SIMPLIFIED ACTS

(1) If no one comes forward to claim the property within a certain time, and the person who has the property cannot prove that they got it legally, the Magistrate can order that the property be given to the State Government. The State Government can then sell the property and decide how to use the money from the sale according to their rules.

(2) If someone disagrees with the Magistrate's order, they can appeal to the court that normally handles appeals from the Magistrate's decisions.

Explanation using Example

Example 1:

Ravi, a shopkeeper in Mumbai, finds a bag full of jewelry in his store. He reports it to the local police station. The police take possession of the bag and make a public announcement asking the rightful owner to come forward within six months. Despite the announcement, no one claims the jewelry within the stipulated period. Ravi, who found the bag, is unable to provide any legal documentation proving that the jewelry belongs to him. As per Section 504 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate orders that the jewelry be handed over to the State Government. The State Government then decides to auction the jewelry, and the proceeds from the sale are used as per the rules established by the State Government.

Example 2:

During a routine patrol, the police in Delhi find an abandoned car with no registration plates parked in a suspicious manner. The car is taken to the police station, and an announcement is made for the owner to claim it within six months. No one comes forward to claim the car, and the person from whom the car was seized cannot provide any proof of legal ownership. According to Section 504 of The Bharatiya Nagarik Suraksha Sanhita 2023, the Magistrate orders that the car be transferred to the State Government. The State Government decides to sell the car through a public auction, and the money obtained from the sale is used according to the rules set by the State Government. The person who lost the car has the right to appeal the Magistrate's decision in the appropriate court.

Section 505: Power to sell perishable property.

If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten thousand rupees, the Magistrate may at any time direct it to be sold; and the provisions of sections 503 and 504 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

SIMPLIFIED ACTS

If the person who should get the property is not known or is not around, and the property can quickly go bad or spoil, or

If the Magistrate (the official in charge) thinks that selling the property would be good for the owner, or

If the property is worth less than ten thousand rupees,

Then the Magistrate can order the property to be sold at any time. The rules in sections 503 and 504 will apply to the money made from the sale as much as possible.

Explanation using Example

Example 1:

Scenario: A truck carrying fresh fruits is involved in an accident in Mumbai. The police seize the fruits as part of the investigation. The owner of the fruits is unknown and cannot be contacted.

Application of Section 505: The Magistrate, upon realizing that the fruits are perishable and will decay quickly, decides that selling the fruits immediately would be beneficial. The Magistrate directs the sale of the fruits, and the proceeds from the sale are kept in accordance with the provisions of sections 503 and 504, to be given to the rightful owner if identified later.

Example 2:

Scenario: During a raid in a local market in Delhi, the police seize a large quantity of fish from an unlicensed vendor. The vendor flees the scene, and his identity remains unknown.

Application of Section 505: Given that the fish are perishable and will spoil soon, the Magistrate determines that selling the fish promptly is in the best interest of the owner and the public. The Magistrate orders the sale of the fish, and the money obtained from the sale is held according to the provisions of sections 503 and 504, awaiting any claims from the rightful owner.

Example 3:

Scenario: In a small town in Kerala, a shopkeeper is arrested for selling expired dairy products. The police seize the remaining dairy products from the shop. The shopkeeper is absent as he is in custody, and the dairy products are at risk of spoiling.

Application of Section 505: The Magistrate, understanding that the dairy products will decay quickly, decides that selling them immediately would be beneficial. The Magistrate orders the sale of the dairy products, and the proceeds are managed as per sections 503 and 504, to be returned to the shopkeeper or rightful owner once identified or released.

Example 4:

Scenario: In a village in Punjab, a farmer's cart carrying vegetables is confiscated by the police due to a legal dispute. The farmer is not present at the scene, and his whereabouts are unknown.

Application of Section 505: The Magistrate, recognizing that the vegetables are perishable, decides that selling them quickly is in the best interest of the farmer. The Magistrate directs the sale of the vegetables, and the proceeds are handled according to sections 503 and 504, to be given to the farmer once he is located or comes forward.

CHAPTER XXXVII: IRREGULAR PROCEEDINGS

Section 506: Irregularities which do not vitiate proceedings.

If any Magistrate not empowered by law to do any of the following things, namely:

- (a) to issue a search-warrant under section 97;
- (b) to order, under section 174, the police to investigate an offence;
- (c) to hold an inquest under section 196;
- (d) to issue process under section 207, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;
- (e) to take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 210;
- (f) to make over a case under sub-section (2) of section 212;
- (g) to tender a pardon under section 343;
- (h) to recall a case and try it himself under section 450; or
- (i) to sell property under section 504 or section 505,

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

SIMPLIFIED ACTS

If a Magistrate, who is not legally allowed to do any of the following things, does them by mistake but with good intentions, their actions will not be invalidated just because they didn't have the authority to do so:

- (a) issue a search warrant under section 97;
- (b) order the police to investigate a crime under section 174;
- (c) conduct an investigation into a death under section 196;
- (d) issue a warrant to arrest someone within their area for a crime committed outside their area under section 207;
- (e) officially recognize a crime under section 210(1)(a) or 210(1)(b);
- (f) transfer a case to another court under section 212(2);
- (g) offer a pardon under section 343;

(h) take back a case and try it themselves under section 450; or

(i) sell property under section 504 or 505.

Explanation using Example

Example 1:

Scenario: A Magistrate in a small town, who is not legally authorized to issue search warrants, mistakenly issues a search warrant for a suspected drug dealer's house.

Application of Section 506: Even though the Magistrate was not empowered to issue the search warrant, the proceedings will not be invalidated solely because of this error. The search conducted under the warrant will still be considered valid, provided the Magistrate acted in good faith.

Example 2:

Scenario: A Magistrate orders the local police to investigate a theft case under Section 174, but later it is discovered that the Magistrate did not have the authority to issue such an order.

Application of Section 506: The investigation carried out by the police will not be deemed invalid just because the Magistrate was not authorized to order it. The proceedings will continue as usual, assuming the Magistrate acted in good faith.

Example 3:

Scenario: A Magistrate, not empowered to hold an inquest under Section 196, conducts an inquest into a suspicious death.

Application of Section 506: The inquest and its findings will not be invalidated merely because the Magistrate was not authorized to conduct it. The proceedings will be upheld as long as the Magistrate acted in good faith.

Example 4:

Scenario: A Magistrate issues a process for the apprehension of a person who committed an offense outside his jurisdiction, under Section 207, without having the authority to do so.

Application of Section 506: The apprehension of the person will not be invalidated just because the Magistrate was not empowered to issue the process. The proceedings will remain valid if the Magistrate acted in good faith.

Example 5:

Scenario: A Magistrate takes cognizance of an offense under Section 210 without having the authority to do so.

Application of Section 506: The cognizance taken by the Magistrate will not be set aside merely because the Magistrate was not empowered to take cognizance of the offense. The proceedings will continue, assuming the Magistrate acted in good faith.

Example 6:

Scenario: A Magistrate, not authorized to tender a pardon under Section 343, mistakenly tenders a pardon to an accused person.

Application of Section 506: The pardon granted will not be invalidated solely because the Magistrate was not empowered to tender it. The proceedings will remain valid if the Magistrate acted in good faith.

Example 7:

Scenario: A Magistrate recalls a case and tries it himself under Section 450, without having the authority to do so.

Application of Section 506: The trial conducted by the Magistrate will not be invalidated merely because the Magistrate was not authorized to recall and try the case. The proceedings will be upheld as long as the Magistrate acted in good faith.

Example 8:

Scenario: A Magistrate sells property under Section 504 or Section 505 without having the authority to do so.

Application of Section 506: The sale of the property will not be invalidated just because the Magistrate was not empowered to sell it. The proceedings will continue to be valid if the Magistrate acted in good faith.

Section 507: Irregularities which vitiate proceedings.

If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:

- (a) attaches and sells property under section 85;
- (b) issues a search-warrant for a document, parcel or other things in the custody of a postal authority;
- (c) demands security to keep the peace;
- (d) demands security for good behaviour;
- (e) discharges a person lawfully bound to be of good behaviour;
- (f) cancels a bond to keep the peace;

- (g) makes an order for maintenance;
 - (h) makes an order under section 152 as to a local nuisance;
 - (i) prohibits, under section 162, the repetition or continuance of a public nuisance;
 - (j) makes an order under Part C or Part D of Chapter XI;
 - (k) takes cognizance of an offence under clause (c) of sub-section (1) of section 210;
 - (l) tries an offender;
 - (m) tries an offender summarily;
 - (n) passes a sentence, under section 364, on proceedings recorded by another Magistrate;
 - (o) decides an appeal;
 - (p) calls, under section 438, for proceedings; or
 - (q) revises an order passed under section 491,
- his proceedings shall be void.

SIMPLIFIED ACTS

If any Magistrate, who is not legally allowed to do so, does any of the following things:

- (a) takes and sells property under section 85;
- (b) issues a search warrant for a document, package, or other items held by a postal authority;
- (c) asks for a guarantee to keep the peace;
- (d) asks for a guarantee for good behavior;
- (e) releases a person who is legally required to behave well;
- (f) cancels a guarantee to keep the peace;
- (g) makes an order for financial support;
- (h) makes an order about a local problem under section 152;
- (i) stops a public nuisance from happening again under section 162;
- (j) makes an order under Part C or Part D of Chapter XI;
- (k) takes notice of an offense under clause (c) of sub-section (1) of section 210;
- (l) tries a person accused of a crime;

- (m) tries a person accused of a crime in a quick manner;
 - (n) gives a sentence under section 364 based on records made by another Magistrate;
 - (o) decides on an appeal;
 - (p) calls for proceedings under section 438; or
 - (q) reviews an order made under section 491,
- then whatever he does will be considered invalid.

Explanation using Example

Example 1:

Scenario: A local Magistrate, Mr. Sharma, who is not authorized to handle property attachment cases, decides to attach and sell the property of Mr. Verma under Section 85 of the Bharatiya Nagarik Suraksha Sanhita 2023.

Application of Section 507: Since Mr. Sharma is not empowered by law to attach and sell property, his actions are considered irregular. According to Section 507, these proceedings are void, meaning Mr. Verma can challenge the attachment and sale of his property, and the court will nullify Mr. Sharma's actions.

Example 2:

Scenario: Magistrate Ms. Rao, who does not have the authority to issue search warrants for documents in the custody of postal authorities, issues a search warrant to seize a parcel belonging to Mr. Singh.

Application of Section 507: Ms. Rao's issuance of the search warrant is an irregularity because she is not empowered by law to do so. Under Section 507, this proceeding is void. Mr. Singh can contest the search warrant, and the court will declare it invalid, protecting Mr. Singh's rights.

Example 3:

Scenario: Magistrate Mr. Patel, who is not authorized to demand security for good behavior, orders Mr. Khan to provide security to ensure his good behavior.

Application of Section 507: Mr. Patel's order is an irregularity as he is not empowered to demand such security. According to Section 507, this proceeding is void. Mr. Khan can appeal against the order, and the court will invalidate Mr. Patel's demand for security.

Example 4:

Scenario: Magistrate Ms. Desai, who does not have the authority to make maintenance orders, issues an order for Mr. Mehta to pay maintenance to his estranged wife.

Application of Section 507: Ms. Desai's maintenance order is an irregularity because she is not empowered by law to make such orders. Under Section 507, this proceeding is void. Mr. Mehta can challenge the maintenance order, and the court will nullify Ms. Desai's order.

Example 5:

Scenario: Magistrate Mr. Gupta, who is not authorized to try offenders summarily, conducts a summary trial for Mr. Roy, who is accused of theft.

Application of Section 507: Mr. Gupta's summary trial is an irregularity as he is not empowered to conduct such trials. According to Section 507, this proceeding is void. Mr. Roy can contest the summary trial, and the court will declare it invalid, ensuring that Mr. Roy's case is handled by a properly authorized Magistrate.

section 508: Proceedings in wrong place.

No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

SIMPLIFIED ACTS

A decision, sentence, or order from a Criminal Court will not be canceled just because the trial or other legal process happened in the wrong location (like the wrong district or area). This will only happen if it is clear that this mistake caused a failure of justice.

Explanation using Example

Example 1:

Ravi was accused of theft in Mumbai, but due to a clerical error, his trial was conducted in Pune. Despite the trial being held in the wrong district, the court found Ravi guilty based on strong evidence. Ravi's lawyer argued that the trial should be invalidated because it was held in the wrong place. However, the court determined that the location error did not affect the fairness of the trial or the evidence presented. Therefore, Ravi's conviction was upheld as there was no failure of justice.

Example 2:

Meena was charged with fraud in Delhi, but her case was mistakenly transferred to a court in Gurgaon. During the trial, all procedures were followed correctly, and Meena was given a fair chance to present her defense. She was eventually acquitted. Later, the prosecution appealed, claiming the trial should be nullified because it was held in the wrong jurisdiction. The appellate court reviewed the case and concluded that the error in location did not impact the fairness or outcome of the trial. Hence, Meena's acquittal was maintained since there was no failure of justice.

Section 509: Non-compliance with provisions of section 183 or section 316.

(1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 183 or section 316, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 94 of the Bharatiya Sakshya Adhiniyam, 2023, take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

SIMPLIFIED ACTS

(1) If a court is presented with a confession or statement made by an accused person, which was recorded under section 183 or section 316, and the court finds that the rules in those sections were not followed by the Magistrate who recorded it, the court can still consider the statement. This is true even if section 94 of the Bharatiya Sakshya Adhiniyam, 2023 says otherwise. The court can look into whether the rules were followed and, if it believes that not following the rules did not harm the accused's defense and that the accused did indeed make the statement, it can accept the statement as evidence.

(2) These rules also apply to courts that are handling appeals, references, and revisions.

Explanation using Example

Example 1:

Rajesh is accused of theft and is brought before a Magistrate. During the proceedings, Rajesh confesses to the crime. The confession is recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita 2023. Later, during the trial, Rajesh's lawyer argues that the Magistrate did not follow the proper procedure outlined in Section 183 while recording the confession. The trial court examines the claim and finds that although there was a procedural lapse, Rajesh's confession was made voluntarily and the lapse did not harm his defense. Therefore, the court decides to admit the confession as evidence.

Example 2:

Priya is accused of fraud and her statement is recorded under Section 316 of the Bharatiya Nagarik Suraksha Sanhita 2023. During the appeal, Priya's lawyer points out that the Magistrate did not comply with certain procedural requirements of Section 316 while recording her statement. The appellate court reviews the case and takes additional evidence regarding the non-compliance. The court concludes that the procedural error did not

prejudice Priya's defense and that she made the statement willingly. As a result, the appellate court admits the statement as evidence.

Section 510: Effect of omission to frame, or absence of, or error in, charge.

(1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision, is of opinion that a failure of justice has in fact been occasioned, it may, -

(a) in the case of an omission to frame a charge, order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge;

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

SIMPLIFIED ACTS

(1) A decision, sentence, or order made by a proper court is not automatically invalid just because there was no formal charge, or because there was a mistake, omission, or mix-up in the charges. This is true unless the appeals court believes that these issues actually caused a failure of justice.

(2) If the appeals court believes that a failure of justice did happen because of these issues, it can:

(a) If no charge was made, order that a charge be created and the trial start again from the point right after the charge is made;

(b) If there was a mistake, omission, or mix-up in the charge, order a new trial with a properly made charge:

However, if the court believes that the facts of the case do not support any valid charge against the accused based on the proven facts, it will cancel the conviction.

Explanation using Example

Example 1:

Ravi was accused of theft and brought to trial. During the trial, it was discovered that the charge sheet did not explicitly mention the exact items stolen. Despite this omission, the court found Ravi guilty based on the evidence presented. Ravi appealed the decision, arguing that the omission in the charge sheet invalidated the conviction. The appellate court reviewed the case and determined that the omission did not cause a failure of justice because the evidence clearly proved Ravi's guilt. Therefore, the conviction was upheld.

Example 2:

Sita was charged with both fraud and forgery in a single trial. However, the charge sheet mistakenly listed both charges under a single heading, creating a misjoinder of charges. Sita was convicted on both counts. On appeal, the higher court found that this misjoinder did not affect the fairness of the trial or the outcome, as the evidence for both charges was clear and separate. Therefore, the appellate court upheld the conviction, stating that the error in the charge sheet did not result in a failure of justice.

Example 3:

Amit was on trial for assault, but the charge sheet failed to specify the exact nature of the assault. During the trial, the prosecution presented evidence of grievous bodily harm. Amit was convicted based on this evidence. On appeal, the appellate court found that the omission in the charge sheet led to a failure of justice because Amit was not adequately informed of the specific charge against him, which affected his ability to defend himself. The appellate court ordered that a proper charge be framed and that the trial be recommenced from the point immediately after the framing of the charge.

Example 4:

Priya was charged with embezzlement, but the charge sheet contained several clerical errors, including incorrect dates and amounts. Despite these errors, Priya was convicted based on the evidence. Priya appealed, arguing that the errors in the charge sheet invalidated her conviction. The appellate court reviewed the case and found that the errors were minor and did not affect the overall fairness of the trial or the evidence presented. Therefore, the conviction was upheld, as the errors did not result in a failure of justice.

Section 511: Finding or sentence when reversible by reason of error, omission or irregularity.

(1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Sanhita, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in any proceeding under this Sanhita, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

SIMPLIFIED ACTS

(1) Unless stated otherwise in the previous sections, a decision, sentence, or order made by a properly authorized court cannot be changed or overturned by an appeal court just because there was a mistake, missing information, or something done incorrectly in the complaint, summons, warrant, announcement, order, judgment, or other legal steps taken before or during the trial, or in any investigation or other legal steps under this law. This also applies to any mistakes or issues in the approval for prosecution. The only exception is if the court believes that these mistakes or issues actually caused an unfair trial.

(2) When deciding if a mistake, missing information, or something done incorrectly in any legal step under this law, or in the approval for prosecution, caused an unfair trial, the court will consider whether the problem could have been brought up earlier in the process.

Explanation using Example

Example 1:

Scenario: Rajesh is convicted of theft by a Sessions Court. During the trial, it was discovered that the summons issued to Rajesh had a typographical error in his address. Rajesh appeals the conviction, arguing that the error in the summons should invalidate the entire trial.

Application of Section 511: The appellate court reviews the case and determines that the typographical error in the summons did not cause any failure of justice. Rajesh was present at the trial, had legal representation, and was able to present his defense. Therefore, the appellate court decides that the conviction should not be reversed solely because of the error in the summons.

Example 2:

Scenario: Priya is charged with fraud and during the trial, it is found that the warrant for her arrest was issued without the proper signature of the magistrate. Priya's lawyer argues that this procedural irregularity should lead to the dismissal of the case.

Application of Section 511: The trial court examines whether the lack of a proper signature on the warrant caused any failure of justice. Since Priya was lawfully arrested, informed of the charges, and given a fair trial, the court concludes that the irregularity did not affect the overall fairness of the proceedings. Therefore, the court decides not to dismiss the case based on this procedural error.

Example 3:

Scenario: During the trial of Anil for assault, it is discovered that the complaint filed by the victim did not include the exact date of the incident. Anil's defense team argues that this omission should lead to the reversal of any sentence passed.

Application of Section 511: The court considers whether the omission of the exact date in the complaint led to a failure of justice. Since Anil was aware of the charges, had the opportunity to cross-examine witnesses, and present his defense, the court determines that the omission did not prejudice Anil's right to a fair trial. Consequently, the court decides that the sentence should not be reversed due to this omission.

Example 4:

Scenario: Sunita is prosecuted for embezzlement, and it is later found that the sanction for her prosecution was granted by an official who did not have the authority to do so. Sunita's lawyer contends that this irregularity should nullify the trial.

Application of Section 511: The court evaluates whether the unauthorized sanction for prosecution resulted in a failure of justice. Given that Sunita was given a fair trial, had the opportunity to defend herself, and the evidence against her was substantial, the court concludes that the irregularity in the sanction did not affect the fairness of the proceedings. Therefore, the court decides not to nullify the trial based on this irregularity.

Section 512: Defect or error not to make attachment unlawful.

No attachment made under this Sanhita shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

SIMPLIFIED ACTS

If someone attaches property under this law, it won't be considered illegal.

The person who attaches the property won't be considered a trespasser.

This is true even if there are mistakes or missing details in the legal documents like the summons, conviction, or writ of attachment.

Explanation using Example

Example 1:

Rajesh, a businessman, has defaulted on a loan from a bank. The bank obtains a writ of attachment from the court to seize Rajesh's property to recover the loan amount. However, there is a minor clerical error in the writ of attachment, such as a misspelling of Rajesh's name. Despite this defect, the attachment of Rajesh's property is still considered lawful

under Section 512 of the Bharatiya Nagarik Suraksha Sanhita 2023. The bank officials executing the writ are not considered trespassers due to this minor error.

Example 2:

Priya owes a significant amount of money to a creditor and fails to repay it. The creditor gets a court order to attach Priya's car. The court summons issued to Priya has a formatting error, such as an incorrect date format. Despite this defect in the summons, the attachment of Priya's car remains lawful under Section 512 of the Bharatiya Nagarik Suraksha Sanhita 2023. The officers carrying out the attachment are not considered trespassers because of this minor defect in the legal documents.

CHAPTER XXXVIII: LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

Section 513: Definitions.

For the purposes of this Chapter, unless the context otherwise requires, "period of limitation" means the period specified in section 514 for taking cognizance of an offence.

SIMPLIFIED ACTS

For this part of the law, unless it clearly means something else, "period of limitation" refers to the time limit mentioned in section 514 for starting legal action for a crime.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, discovers that his neighbor, Suresh, has been illegally dumping waste on his property. Ravi decides to file a complaint against Suresh for this offense. According to Section 514 of The Bharatiya Nagarik Suraksha Sanhita 2023, the period of limitation for taking cognizance of such an offense is 6 months. Ravi must ensure that he files his complaint within 6 months from the date he discovered the illegal dumping. If he files the complaint after this period, the court may not take cognizance of the offense due to the expiration of the limitation period.

Example 2:

Priya, a software engineer in Bangalore, finds out that her colleague, Anil, has been harassing her at the workplace. She decides to take legal action against Anil for harassment. According to Section 514 of The Bharatiya Nagarik Suraksha Sanhita 2023, the period of limitation for taking cognizance of harassment offenses is 1 year. Priya must file her complaint within 1 year from the date of the last incident of harassment. If she delays beyond this period, the court may refuse to take cognizance of the offense due to the limitation period having lapsed.

Section 514: Bar to taking cognizance after lapse of period of limitation.

Section on Limitation of Offences

(1) Except as otherwise provided in this Sanhita, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be -

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

Explanation. - For the purpose of computing the period of limitation, the relevant date shall be the date of filing complaint under section 223 or the date of recording of information under section 173.

SIMPLIFIED ACTS

Section on Time Limits for Prosecuting Crimes

(1) Unless stated otherwise in this law, a court cannot start a case for certain crimes after a specific time period has passed.

(2) The time limits are:

(a) Six months, if the crime is only punishable by a fine;

(b) One year, if the crime is punishable by imprisonment for up to one year;

(c) Three years, if the crime is punishable by imprisonment for more than one year but not more than three years.

(3) If multiple crimes can be tried together, the time limit will be based on the crime with the most severe punishment.

Explanation. - To calculate the time limit, the relevant date is either the date the complaint is filed under section 223 or the date information is recorded under section 173.

Explanation using Example

Example 1:

Ravi, a shop owner in Mumbai, was accused of selling expired food products. The offence is punishable with a fine only. The incident occurred on January 1, 2022. According to Section 514 of The Bharatiya Nagarik Suraksha Sanhita 2023, the court cannot take cognizance of this offence after six months from the date of the incident. Therefore, if a complaint is filed after July 1, 2022, the court will not entertain it due to the lapse of the limitation period.

Example 2:

Priya, a resident of Delhi, was accused of minor theft, which is punishable with imprisonment for a term not exceeding one year. The theft occurred on March 15, 2021. According to Section 514, the court cannot take cognizance of this offence after one year from the date of the incident. Therefore, if a complaint is filed after March 15, 2022, the court will not take cognizance of the offence due to the expiration of the limitation period.

Example 3:

Arjun, a software engineer in Bangalore, was accused of causing grievous hurt, which is punishable with imprisonment for a term exceeding one year but not exceeding three years. The incident occurred on April 10, 2020. According to Section 514, the court cannot take cognizance of this offence after three years from the date of the incident. Therefore, if a complaint is filed after April 10, 2023, the court will not take cognizance of the offence due to the lapse of the limitation period.

Example 4:

Meera and Suresh were involved in a case of cheating and forgery, which are offences that can be tried together. Cheating is punishable with imprisonment for a term not exceeding one year, while forgery is punishable with imprisonment for a term exceeding one year but not exceeding three years. The incident occurred on May 5, 2019. According to Section 514(3), the period of limitation will be determined with reference to the offence with the more severe punishment, which is forgery. Therefore, the limitation period is three years, and the court cannot take cognizance of the offences after May 5, 2022.

Section 515: Commencement of period of limitation.

Limitation Period

- (1) The period of limitation, in relation to an offender, shall commence, -
 - (a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

SIMPLIFIED ACTS

Limitation Period

(1) The time limit for taking action against someone who committed an offence starts:

(a) on the day the offence happened; or

(b) if the person affected by the offence or any police officer did not know about the offence when it happened, the time limit starts on the first day they find out about it, whichever comes first; or

(c) if it is not known who committed the offence, the time limit starts on the first day the person affected or the police officer investigating the offence finds out who did it, whichever comes first.

(2) When calculating this time limit, do not count the day the time limit starts.

Explanation using Example

Example 1:

Scenario: Ramesh discovers a theft in his house on January 1, 2023.

Application of Section 515:

Date of Offence: January 1, 2023

Commencement of Limitation Period: January 1, 2023 (as per Section 515(1)(a))

Ramesh must file a complaint within the limitation period starting from January 1, 2023. If the limitation period is three years, he has until January 1, 2026, to take legal action.

Example 2:

Scenario: Sita finds out on March 1, 2023, that her business partner, Raj, embezzled funds from their company. The embezzlement occurred on January 1, 2022, but Sita was unaware until March 1, 2023.

Application of Section 515:

Date of Offence: January 1, 2022

Date of Knowledge: March 1, 2023

Commencement of Limitation Period: March 1, 2023 (as per Section 515(1)(b))

Sita must file a complaint within the limitation period starting from March 1, 2023. If the limitation period is three years, she has until March 1, 2026, to take legal action.

Example 3:

Scenario: A hit-and-run accident occurs on January 1, 2023. The victim, Ravi, does not know who the offender is. On June 1, 2023, the police identify the offender.

Application of Section 515:

Date of Offence: January 1, 2023

Date of Offender's Identity Known: June 1, 2023

Commencement of Limitation Period: June 1, 2023 (as per Section 515(1)(c))

Ravi must file a complaint within the limitation period starting from June 1, 2023. If the limitation period is three years, he has until June 1, 2026, to take legal action.

Example 4:

Scenario: Priya discovers on April 1, 2023, that her neighbor, Sunil, has been illegally dumping waste on her property since January 1, 2022. She reports it to the police on April 1, 2023.

Application of Section 515:

Date of Offence: January 1, 2022

Date of Knowledge: April 1, 2023

Commencement of Limitation Period: April 1, 2023 (as per Section 515(1)(b))

Priya must file a complaint within the limitation period starting from April 1, 2023. If the limitation period is three years, she has until April 1, 2026, to take legal action.

Section 516: Exclusion of time in certain cases.

Computation of Period of Limitation

(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation: In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender:

(a) has been absent from India or from any territory outside India which is under the administration of the Central Government; or

(b) has avoided arrest by absconding or concealing himself,

shall be excluded.

SIMPLIFIED ACTS

Computation of Period of Limitation

(1) When calculating the time limit for taking legal action, the time spent by a person diligently pursuing another legal case against the offender, whether in a lower court or an appeal court, should not be counted:

However, this time will only be excluded if the other case is about the same facts and was pursued in good faith in a court that couldn't handle it due to lack of jurisdiction or a similar reason.

(2) If starting a legal case for an offense has been delayed by a court order or injunction, then the time during which the order or injunction was in effect, including the day it was issued and the day it was lifted, should not be counted in the time limit.

(3) If a notice of prosecution for an offense has been given, or if the law requires prior consent or approval from the Government or another authority to start a prosecution, then the time taken for such notice or for obtaining the consent or approval should not be counted in the time limit.

Explanation: When calculating the time needed to get the Government's or another authority's consent or approval, the day the application was made and the day the order was received should both be excluded.

(4) When calculating the time limit, the time during which the offender:

(a) was outside India or any territory under the Central Government's administration; or

(b) was avoiding arrest by hiding or running away,

should not be counted.

Explanation using Example

Example 1:

Ravi files a criminal complaint against Suresh for fraud in a local court. The court later finds that it does not have the jurisdiction to hear the case. Ravi then files the same complaint in the appropriate court. The time Ravi spent pursuing the case in the first court will be excluded from the limitation period for filing the complaint in the second court, provided Ravi acted in good faith and with due diligence.

Example 2:

Priya wants to file a case against her employer for harassment. However, she needs the sanction of the government to proceed with the prosecution. She applies for the sanction on January 1st and receives it on March 1st. The period from January 1st to March 1st will be excluded from the limitation period for filing her case.

Example 3:

Aman is accused of theft and a court issues an arrest warrant against him. Aman flees to Nepal to avoid arrest and stays there for six months. The six months Aman spent outside India will be excluded from the limitation period for prosecuting him for theft.

Example 4:

Sunita files a case against her neighbor for trespassing. During the trial, the court issues an injunction that temporarily halts the proceedings. The injunction lasts for three months.

The three months during which the injunction was in place will be excluded from the limitation period for the case.

Example 5:

Rajesh is accused of embezzlement and the police issue a notice of prosecution. The notice period is 30 days. These 30 days will be excluded from the limitation period for prosecuting Rajesh for embezzlement.

Section 517: Exclusion of date on which Court is closed.

Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens.

Explanation. - A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

SIMPLIFIED ACTS

If the deadline to file a case falls on a day when the court is closed, you can file the case on the next day the court is open.

Explanation. - A court is considered closed for the purposes of this rule if it is not open during its regular working hours on that day.

Explanation using Example

Example 1:

Ravi files a complaint against his neighbor for trespassing on his property. The law states that such complaints must be filed within six months from the date of the incident. The six-month period ends on a Sunday, which is a holiday for the court. According to Section 517 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi can file his complaint on the next working day, which is Monday, when the court reopens.

Example 2:

Meena wants to file a defamation case against a colleague. The limitation period for filing the case is one year from the date of the defamatory statement. The last day of this one-year period falls on Diwali, a public holiday when the court is closed. As per Section 517, Meena can file her case on the next day the court is open, which is the day after Diwali.

Section 518: Continuing offence.

In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

SIMPLIFIED ACTS

If someone keeps breaking the law over a period of time, the countdown for how long they can be charged starts over again every moment they continue to break the law.

Explanation using Example

Example 1:

Rajesh owns a factory that continuously discharges untreated industrial waste into a nearby river, violating environmental protection laws. This pollution is a continuing offence because it happens every day. According to Section 518 of The Bharatiya Nagarik Suraksha Sanhita 2023, the limitation period for taking legal action against Rajesh resets every day the pollution continues. Therefore, authorities can initiate legal proceedings at any point while the pollution is ongoing, even if the initial violation occurred years ago.

Example 2:

Meena is a landlord who has been illegally collecting excessive rent from her tenants, violating the Rent Control Act. This overcharging has been happening every month for the past two years. Under Section 518, each month's overcharging is considered a continuing offence. This means that the limitation period for filing a complaint against Meena resets every month she continues to overcharge. Tenants can file a complaint at any time while the overcharging persists, regardless of when it first started.

Section 519: Extension of period of limitation in certain cases.

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

SIMPLIFIED ACTS

Despite what is mentioned in the previous sections of this Chapter, any Court can consider an offence even after the time limit has passed if: a. The Court believes that there is a good reason for the delay, or b. The Court thinks it is important to do so for the sake of justice.

Explanation using Example

Example 1:

Ravi, a resident of Mumbai, was a victim of a financial scam in 2018. He discovered the scam in 2021 and immediately filed a complaint with the police. However, the police informed him that the period of limitation for taking cognizance of such an offence had expired. Ravi then approached the court, explaining that he only became aware of the scam

in 2021 and had acted promptly upon discovering it. The court, satisfied with Ravi's explanation and considering the interests of justice, decided to take cognizance of the offence despite the expiry of the limitation period.

Example 2:

Meena, a school teacher in Delhi, was subjected to harassment by a colleague in 2019. Due to fear of retaliation and social stigma, she did not report the incident immediately. In 2022, after attending a workshop on women's rights and gaining confidence, Meena decided to file a complaint. The limitation period for taking cognizance of the harassment offence had already expired. Meena's lawyer presented her case to the court, explaining the reasons for the delay and emphasizing the importance of addressing the harassment. The court, recognizing the circumstances and the need for justice, took cognizance of the offence even after the limitation period had lapsed.

CHAPTER XXXIX: MISCELLANEOUS

Section 520: Trials before High Courts.

When an offence is tried by the High Court otherwise than under section 447, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe if it were trying the case.

SIMPLIFIED ACTS

If a crime is being judged by the High Court and it is not under section 447,

The High Court must follow the same steps and rules that a Court of Sessions would follow if it were handling the case.

Explanation using Example

Example 1:

Scenario: Rajesh is accused of a serious financial fraud involving multiple states. The case is highly complex and involves significant amounts of money, making it a matter of public interest.

Application of Section 520: The High Court decides to take up the trial directly due to the complexity and importance of the case. According to Section 520 of The Bharatiya Nagarik Suraksha Sanhita 2023, the High Court will follow the same procedures that a Court of Sessions would follow in a similar trial. This means that the High Court will conduct the trial with the same rules regarding evidence, witness examination, and legal arguments as a Court of Sessions would.

Example 2:

Scenario: Priya is charged with a serious cybercrime that has affected national security. Given the gravity of the situation, the High Court opts to handle the trial directly.

Application of Section 520: In this case, the High Court will adhere to the procedural norms that a Court of Sessions would follow. This includes the manner in which evidence is presented, how witnesses are cross-examined, and the overall conduct of the trial. By following these established procedures, the High Court ensures that the trial is fair and just, maintaining the integrity of the judicial process.

Section 521: Delivery to commanding officers of persons liable to be tried by Court-martial.

Rules Consistent with Sanhita and Armed Forces Acts

(1) The Central Government may make rules consistent with this Sanhita and the Air Force Act, 1950, the Army Act, 1950, the Navy Act, 1957, and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to army, naval or air-force law, or such other law, shall be tried by a Court to which this Sanhita applies, or by a Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Sanhita applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest army, naval or air-force station, as the case may be, for the purpose of being tried by a Court-martial.

Explanation

In this section -

- (a) "unit" includes a regiment, corps, ship, detachment, group, battalion or company;
 - (b) "Court-martial" includes any Tribunal with the powers similar to those of a Court-martial constituted under the relevant law applicable to the Armed Forces of the Union.
- (2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.
- (3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

SIMPLIFIED ACTS

Rules Consistent with Sanhita and Armed Forces Acts

(1) The Central Government can make rules that align with this Sanhita (a set of laws) and the Air Force Act, 1950, the Army Act, 1950, the Navy Act, 1957, and any other current laws related to the Armed Forces. These rules will determine when people subject to army, navy, or air force laws should be tried by a regular court or a military court (Court-martial). If someone is brought before a Magistrate (a type of judge) and charged with an offense that could be tried by either a regular court or a military court, the Magistrate should follow these rules. In appropriate cases, the Magistrate should hand over the accused person, along with details of the offense, to the commanding officer of their unit or the nearest military station for a military trial.

Explanation

In this section -

- (a) "unit" includes a regiment, corps, ship, detachment, group, battalion, or company;
 - (b) "Court-martial" includes any tribunal with powers similar to those of a Court-martial established under the relevant laws for the Armed Forces.
- (2) Every Magistrate must, upon receiving a written request from the commanding officer of any unit or group of soldiers, sailors, or airmen stationed or working at a place, do their best to arrest and secure any person accused of an offense.
- (3) A High Court can, if it decides to, order that a prisoner held in any jail within the State be brought before a military court for trial or to be questioned about any matter pending before the military court.

Explanation using Example

Example 1:

Scenario: An Indian Air Force officer, Wing Commander Rajesh, is accused of misappropriating funds while stationed at an airbase in Pune.

Application of the Act:

Initial Arrest: Wing Commander Rajesh is arrested by the local police and brought before a Magistrate in Pune.

Decision on Jurisdiction: The Magistrate, referring to the rules consistent with the Bharatiya Nagarik Suraksha Sanhita 2023 and the Air Force Act, 1950, determines that the case should be tried by a Court-martial rather than a civilian court.

Transfer to Commanding Officer: The Magistrate delivers Wing Commander Rajesh, along with a statement of the offence, to the commanding officer of the nearest air-force station for the purpose of being tried by a Court-martial.

Example 2:

Scenario: A soldier, Lance Naik Suresh, stationed at an army base in Jodhpur, is accused of assaulting a civilian during a leave period.

Application of the Act:

Initial Arrest: Lance Naik Suresh is arrested by the local police and brought before a Magistrate in Jodhpur.

Decision on Jurisdiction: The Magistrate, considering the rules under the Bharatiya Nagarik Suraksha Sanhita 2023 and the Army Act, 1950, decides that the offence should be tried by a Court-martial.

Transfer to Commanding Officer: The Magistrate delivers Lance Naik Suresh, along with a statement of the offence, to the commanding officer of his unit for the purpose of being tried by a Court-martial.

Example 3:

Scenario: A naval officer, Lieutenant Commander Anita, is accused of dereliction of duty while on a mission in the Indian Ocean.

Application of the Act:

Initial Arrest: Lieutenant Commander Anita is detained by naval authorities and brought before a Magistrate in Mumbai.

Decision on Jurisdiction: The Magistrate, in accordance with the rules under the Bharatiya Nagarik Suraksha Sanhita 2023 and the Navy Act, 1957, determines that the case should be tried by a Court-martial.

Transfer to Commanding Officer: The Magistrate delivers Lieutenant Commander Anita, along with a statement of the offence, to the commanding officer of the nearest naval station for the purpose of being tried by a Court-martial.

Example 4:

Scenario: A group of soldiers stationed in Leh are accused of theft from a local shop.

Application of the Act:

Initial Arrest: The soldiers are arrested by the local police and brought before a Magistrate in Leh.

Written Application by Commanding Officer: The commanding officer of the unit submits a written application to the Magistrate requesting the soldiers be tried by a Court-martial.

Magistrate's Action: The Magistrate, following the rules under the Bharatiya Nagarik Suraksha Sanhita 2023, uses his utmost endeavours to apprehend and secure the accused soldiers.

Transfer to Commanding Officer: The Magistrate delivers the soldiers, along with a statement of the offence, to the commanding officer of their unit for the purpose of being tried by a Court-martial.

Example 5:

Scenario: A prisoner, who is a former naval officer, is detained in a jail in Chennai and is required to be examined by a Court-martial in Mumbai.

Application of the Act:

High Court's Direction: The High Court of Madras, upon receiving a request, directs that the prisoner be brought before a Court-martial in Mumbai for trial or examination.

Transfer of Prisoner: The prisoner is transferred from the jail in Chennai to the Court-martial in Mumbai as per the High Court's direction, in accordance with the rules under the Bharatiya Nagarik Suraksha Sanhita 2023.

Section 522: Forms.

Subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

SIMPLIFIED ACTS

According to the authority given by article 227 of the Constitution, the forms listed in the Second Schedule can be used for the purposes mentioned there, with any necessary changes based on the situation of each case.

If these forms are used, they will be considered adequate and acceptable.

Explanation using Example

Example 1:

Ravi is a resident of Mumbai who has been summoned to court as a witness in a criminal case. The court sends him a notice using a form from the Second Schedule of The Bharatiya Nagarik Suraksha Sanhita 2023. The form includes all necessary details such as the date, time, and place of the hearing, as well as Ravi's obligations as a witness. Even though the form has slight variations to accommodate specific details of Ravi's case, it is considered legally sufficient under Section 522.

Example 2:

Priya, a business owner in Delhi, needs to file a complaint against a former employee for theft. She visits the local police station where the officer provides her with a complaint form from the Second Schedule of The Bharatiya Nagarik Suraksha Sanhita 2023. The form is slightly modified to include specific details about the incident and the accused. Despite these modifications, the form is legally valid and sufficient for Priya to lodge her complaint, as per Section 522.

Section 523: Power of High Court to make rules.

Rules for Petition-Writers in Criminal Courts

(1) Every High Court may, with the previous approval of the State Government, make rules -

(a) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them;

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;

(d) any other matter which is required to be, or may be, provided by rules made by the State Government.

(2) All rules made under this section shall be published in the Official Gazette.

SIMPLIFIED ACTS

Rules for Petition-Writers in Criminal Courts

(1) Every High Court can, with the approval of the State Government, make rules about:

(a) Who can be allowed to work as petition-writers in the Criminal Courts under its control;

(b) How to issue licenses to these petition-writers, how they should conduct their business, and how much they can charge for their services;

(c) What penalties will be given if any of these rules are broken, and who will investigate and impose these penalties;

(d) Any other related matters that need to be covered by rules made by the State Government.

(2) All rules made under this section must be published in the Official Gazette.

Explanation using Example

Example 1:

Scenario: Rajesh, a retired school teacher, wants to become a petition-writer in the criminal courts of Maharashtra.

Application of the Act:

Approval and Rules: The High Court of Maharashtra, with the approval of the Maharashtra State Government, creates rules specifying the qualifications required to become a petition-writer.

Licensing: Rajesh applies for a license as per the rules. The High Court issues him a license after verifying his qualifications and background.

Conduct and Fees: The rules also specify how Rajesh should conduct his business and the maximum fees he can charge for writing petitions.

Penalties: If Rajesh violates any of these rules, such as overcharging clients or engaging in unethical practices, the High Court can impose penalties on him. The rules also specify the authority responsible for investigating such violations and imposing penalties.

Publication: All these rules are published in the Official Gazette of Maharashtra, making them accessible to the public.

Example 2:

Scenario: Priya, a law graduate, is interested in becoming a petition-writer in the criminal courts of Tamil Nadu.

Application of the Act:

Approval and Rules: The High Court of Tamil Nadu, with the approval of the Tamil Nadu State Government, formulates rules regarding who can become a petition-writer.

Licensing: Priya applies for a license. The High Court issues her a license after she meets the educational and professional criteria outlined in the rules.

Conduct and Fees: The rules also detail how Priya should conduct her business, including maintaining client confidentiality and adhering to a prescribed fee structure.

Penalties: If Priya breaches any of these rules, such as failing to maintain client confidentiality, the High Court can impose penalties. The rules also define the process for investigating such breaches and the penalties that can be imposed.

Publication: These rules are published in the Official Gazette of Tamil Nadu, ensuring transparency and public awareness.

Example 3:

Scenario: A group of petition-writers in Karnataka is found to be charging exorbitant fees from clients.

Application of the Act:

Approval and Rules: The High Court of Karnataka, with the approval of the Karnataka State Government, has established rules regulating the fees that petition-writers can charge.

Licensing and Conduct: The petition-writers had been issued licenses under these rules, which also govern their conduct and fee structure.

Penalties: Upon receiving complaints, the designated authority investigates and finds that the petition-writers have violated the fee regulations. The High Court imposes penalties on them as per the rules.

Publication: The rules and penalties are published in the Official Gazette of Karnataka, ensuring that the public is informed about the regulations and the consequences of violating them.

Section 524: Power to alter functions allocated to Executive Magistrate in certain cases.

If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 127, 128, 129, 164 and 166 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.

SIMPLIFIED ACTS

If the State's Legislative Assembly agrees through a resolution, the State Government can, after talking with the High Court, announce that:

The mentions of "Executive Magistrate" in sections 127, 128, 129, 164, and 166 should be understood as "Judicial Magistrate of the first class."

Explanation using Example

Example 1:

In the state of Maharashtra, the Legislative Assembly passes a resolution allowing the state government to alter the functions of Executive Magistrates. After consulting with the High Court, the Maharashtra government issues a notification stating that in the context of handling unlawful assemblies (Section 129), the term "Executive Magistrate" will now refer to a "Judicial Magistrate of the first class." This means that in cases where police need to

disperse an unlawful assembly, they will now seek orders from a Judicial Magistrate of the first class instead of an Executive Magistrate.

Example 2:

In Karnataka, the Legislative Assembly permits the state government to change the roles of Executive Magistrates. Following consultation with the High Court, the Karnataka government notifies that for the purpose of recording confessions (Section 164), the term "Executive Magistrate" will be replaced with "Judicial Magistrate of the first class." As a result, when a person in police custody wishes to confess to a crime, the confession must now be recorded by a Judicial Magistrate of the first class rather than an Executive Magistrate.

Section 525: Cases in which Judge or Magistrate is personally interested.

No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation

A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any case by reason only that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

SIMPLIFIED ACTS

No Judge or Magistrate can handle a case in which they are personally involved or have a personal interest, unless they get permission from a higher court that can hear appeals from their court. Also, a Judge or Magistrate cannot hear an appeal on a decision they made themselves.

Explanation

A Judge or Magistrate is not considered personally involved or interested in a case just because they are involved in an official capacity, or because they have visited the place where the crime happened or any other important location related to the case, and have made inquiries about it.

Explanation using Example

Example 1:

Judge Sharma is presiding over a theft case in which his cousin, Rajesh, is the accused. According to Section 525 of The Bharatiya Nagarik Suraksha Sanhita 2023, Judge Sharma cannot try this case because he is personally related to the accused. To ensure impartiality, Judge Sharma must seek permission from the higher court to transfer the case to another judge who has no personal interest in the matter.

Example 2:

Magistrate Gupta is handling a property dispute case where he owns a small piece of land adjacent to the disputed property. Since Magistrate Gupta has a personal interest in the outcome of the case, he cannot preside over it. He must inform the higher court and request that the case be assigned to another magistrate to avoid any conflict of interest.

Example 3:

Judge Verma is assigned to a high-profile corruption case involving a government project he had previously inspected in his official capacity. According to the explanation in Section 525, Judge Verma is not considered personally interested in the case merely because he inspected the project site as part of his public duties. Therefore, he can continue to preside over the case unless there are other personal interests involved.

Example 4:

Magistrate Rao is hearing an appeal on a traffic violation case where he had previously issued the original order. Under Section 525, Magistrate Rao cannot hear the appeal because it involves reviewing his own previous judgment. The appeal must be assigned to another magistrate to ensure an unbiased review.

Example 5:

Judge Mehta is overseeing a criminal case where his childhood friend, Anil, is the complainant. Given their personal relationship, Judge Mehta must recuse himself from the case and request the higher court to assign it to another judge to maintain judicial impartiality as mandated by Section 525.

Section 526: Practising advocate not to sit as Magistrate in certain Courts.

No advocate who practices in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court.

SIMPLIFIED ACTS

If a lawyer works in a Magistrate's Court, they cannot also act as a Magistrate in that same Court.

Additionally, they cannot act as a Magistrate in any other Court that falls under the same local area as that Magistrate's Court.

Explanation using Example

Example 1:

Rajesh is a practicing advocate in the District Court of Mumbai. He regularly represents clients in front of Magistrate Sharma in this court. One day, Rajesh is appointed as an honorary Magistrate for a special session in the same District Court. According to Section 526 of The Bharatiya Nagarik Suraksha Sanhita 2023, Rajesh cannot sit as a Magistrate in the District Court of Mumbai or any other court within its local jurisdiction because he practices as an advocate there. This ensures there is no conflict of interest or bias in judicial proceedings.

Example 2:

Priya is an advocate who practices in the Magistrate Court of Bangalore. She is well-known for her legal acumen and is often seen arguing cases in front of Magistrate Rao. Due to her expertise, she is offered a temporary position to serve as a Magistrate in the same court. However, under Section 526 of The Bharatiya Nagarik Suraksha Sanhita 2023, Priya must decline this offer because she cannot serve as a Magistrate in the same court where she practices as an advocate. This rule is in place to maintain the integrity and impartiality of the judicial system.

Section 527: Public servant concerned in sale not to purchase or bid for property.

A public servant having any duty to perform in connection with the sale of any property under this Sanhita shall not purchase or bid for the property.

SIMPLIFIED ACTS

If you are a public servant and your job involves handling the sale of any property under this law, you are not allowed to buy or bid for that property.

Explanation using Example

Example 1:

Ravi is a government officer responsible for overseeing the auction of confiscated properties in his district. During one such auction, a valuable piece of land is up for sale. Ravi, knowing the potential of the land, decides he wants to buy it for himself. However, under Section 527 of The Bharatiya Nagarik Suraksha Sanhita 2023, Ravi is prohibited from purchasing or bidding for the property because he is a public servant with duties related to the sale. If Ravi were to bid or purchase the property, he would be violating this section of the act.

Example 2:

Meena is a municipal officer in charge of auctioning off vehicles that have been impounded for various violations. During an auction, she sees a car that she likes and considers placing a bid. However, Section 527 of The Bharatiya Nagarik Suraksha Sanhita 2023 clearly states that public servants involved in the sale process cannot purchase or bid for the property. Therefore, Meena must refrain from participating in the auction to comply with the law.

Section 528: Saving of inherent powers of High Court.

Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

SIMPLIFIED ACTS

This law does not restrict the High Court's natural authority to: a. Make orders needed to enforce any decision under this law, b. Prevent misuse of any court's procedures, c. Ensure justice is served.

Explanation using Example

Example 1:

Rajesh is accused of a serious crime and is currently on trial in a lower court. During the trial, Rajesh's lawyer discovers that crucial evidence proving Rajesh's innocence was not presented due to a procedural error. The lawyer files a petition in the High Court, invoking Section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, requesting the High Court to intervene and order the lower court to consider the new evidence. The High Court, using its inherent powers, orders the lower court to admit the new evidence to ensure justice is served.

Example 2:

Meena is involved in a civil dispute over property ownership. The opposing party uses delaying tactics to prolong the case, causing Meena significant financial and emotional distress. Meena's lawyer approaches the High Court, citing Section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, to prevent the abuse of the court process. The High Court, exercising its inherent powers, issues an order to expedite the proceedings and warns the opposing party against further delaying tactics, ensuring that the case is resolved in a timely manner.

Section 529: Duty of High Court to exercise continuous superintendence over Courts.

Every High Court shall so exercise its superintendence over the Courts of Session and Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by the Judges and Magistrates.

SIMPLIFIED ACTS

Every High Court must oversee the Courts of Session and the Courts of Judicial Magistrates under its authority to make sure that the Judges and Magistrates handle and finish cases quickly and correctly.

Explanation using Example

Example 1:

The High Court of Delhi receives multiple complaints about delays in the disposal of cases in the Sessions Court of New Delhi. Upon investigation, the High Court finds that the delays are due to administrative inefficiencies and a backlog of cases. Exercising its superintendence under Section 529 of The Bharatiya Nagarik Suraksha Sanhita 2023, the High Court issues directives to the Sessions Court to implement a case management system, allocate additional resources, and prioritize older cases to ensure faster and proper disposal of pending cases.

Example 2:

A Judicial Magistrate in the District Court of Mumbai is found to be frequently absent, causing significant delays in the hearing and resolution of cases. The High Court of Bombay, exercising its duty of superintendence as per Section 529, conducts an inquiry and finds the Magistrate's conduct unsatisfactory. The High Court then orders the transfer of the Magistrate and appoints a more diligent officer to ensure that cases are handled expeditiously and properly, thereby maintaining the efficiency and integrity of the judicial process.

Section 530: Trial and proceedings to be held in electronic mode.

All trials, inquiries and proceedings under this Sanhita, including -

- (i) issuance, service and execution of summons and warrant;
- (ii) examination of complainant and witnesses;
- (iii) recording of evidence in inquiries and trials; and
- (iv) all appellate proceedings or any other proceeding,

may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.

SIMPLIFIED ACTS

All trials, investigations, and legal processes under this law, including -

- (i) sending, delivering, and carrying out summons and warrants;
- (ii) questioning the person who made the complaint and the witnesses;
- (iii) recording evidence during investigations and trials; and
- (iv) all appeal processes or any other legal process,

can be done electronically, using electronic communication or audio-video technology.

Explanation using Example

Example 1:

Scenario: Ramesh, a resident of Mumbai, files a complaint against his neighbor for encroaching on his property. The court decides to handle the case under Section 530 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Application:

Issuance of Summons: The court issues a summons to Ramesh's neighbor via email, instead of sending a physical document.

Examination of Complainant and Witnesses: Ramesh and his witnesses provide their testimonies through a video conferencing platform, eliminating the need for them to be physically present in the courtroom.

Recording of Evidence: The court records all the evidence presented during the video conference and stores it electronically.

Appellate Proceedings: If Ramesh's neighbor appeals the decision, the appellate court also conducts the proceedings through video conferencing, ensuring a swift and efficient process.

Example 2:

Scenario: Priya, a software engineer in Bangalore, is accused of breach of contract by her former employer. The case is taken up by the court under Section 530 of The Bharatiya Nagarik Suraksha Sanhita 2023.

Application:

Issuance of Warrant: The court issues a warrant for Priya's appearance via an official court portal, which she receives instantly.

Examination of Complainant and Witnesses: Priya's former employer and other witnesses provide their statements through an online video conferencing tool, making it easier for everyone to participate without traveling.

Recording of Evidence: All the evidence, including digital documents and video testimonies, is recorded and stored electronically by the court.

Appellate Proceedings: If Priya decides to appeal the court's decision, the appellate court schedules a video conference for the hearing, ensuring that the appeal process is conducted efficiently and without unnecessary delays.

Section 531: Repeal and savings.

The Code of Criminal Procedure, 1973

(1) The Code of Criminal Procedure, 1973 is hereby repealed.

(2) Notwithstanding such repeal -

(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force;

(b) all notifications published, proclamations issued, powers conferred, forms provided by rules, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita;

(c) any sanction accorded or consent given under the said Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent.

(3) Where the period specified for an application or other proceeding under the said Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling any such application to be made or proceeding to be commenced

under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time.

SIMPLIFIED ACTS

The Code of Criminal Procedure, 1973

(1) The Code of Criminal Procedure, 1973 is now canceled.

(2) Even though it is canceled -

(a) If there is any appeal, application, trial, inquiry, or investigation happening right before this new law starts, it will continue and be completed using the old rules from the Code of Criminal Procedure, 1973, as if the new law had not started.

(b) All notifications, announcements, powers, forms, local jurisdictions, sentences, orders, rules, and appointments (except for Special Magistrates) that were made under the old Code and are still in effect will be treated as if they were made under the new law.

(c) Any permissions or consents given under the old Code, where no action was taken yet, will be treated as if they were given under the new law, and actions can start under the new law based on those permissions or consents.

(3) If the time limit for an application or other proceeding under the old Code had already ended before the new law starts, this new law does not allow you to make that application or start that proceeding just because the new law has a longer time limit or allows for extensions.

Explanation using Example

Example 1:

Rajesh was involved in a criminal case that was being tried under the Code of Criminal Procedure, 1973. The trial was ongoing when the Bharatiya Nagarik Suraksha Sanhita, 2023 came into force. According to Section 531(2)(a) of the new Sanhita, Rajesh's trial will continue under the provisions of the old Code of Criminal Procedure, 1973, as if the new Sanhita had not been enacted. This ensures that there is no disruption or confusion in the ongoing legal proceedings.

Example 2:

Meena had filed an appeal under the Code of Criminal Procedure, 1973, and it was pending when the Bharatiya Nagarik Suraksha Sanhita, 2023 came into effect. According to Section 531(2)(a), her appeal will be disposed of in accordance with the provisions of the old Code of Criminal Procedure, 1973. This means that the new Sanhita will not affect the handling of her appeal, ensuring continuity and consistency in the legal process.

Example 3:

The local jurisdiction for a particular court was defined under the Code of Criminal Procedure, 1973. When the Bharatiya Nagarik Suraksha Sanhita, 2023 came into force, Section 531(2)(b) ensures that the local jurisdiction defined under the old Code will be deemed to have been defined under the new Sanhita. This means that there will be no need to redefine the local jurisdictions, and the existing definitions will continue to apply seamlessly.

Example 4:

A notification regarding the appointment of a public prosecutor was issued under the Code of Criminal Procedure, 1973, and it was in force immediately before the Bharatiya Nagarik Suraksha Sanhita, 2023 came into effect. According to Section 531(2)(b), this notification will be deemed to have been issued under the corresponding provisions of the new Sanhita. Therefore, the appointment of the public prosecutor remains valid and effective under the new law.

Example 5:

Vikram had received a sanction to prosecute a government official under the Code of Criminal Procedure, 1973, but no proceedings had been commenced before the Bharatiya Nagarik Suraksha Sanhita, 2023 came into force. According to Section 531(2)(c), the sanction will be deemed to have been given under the new Sanhita, and Vikram can commence proceedings under the new law based on the previously granted sanction.

Example 6:

An application for bail was to be filed by Suresh under the Code of Criminal Procedure, 1973, but the period specified for filing the application had expired before the Bharatiya Nagarik Suraksha Sanhita, 2023 came into force. According to Section 531(3), Suresh cannot file the application under the new Sanhita just because it allows for a longer period or extension of time. The expiration of the period under the old Code remains effective, and the new Sanhita does not provide a new opportunity to file the application.