

Code of Criminal Procedure, 1973

Chapter 24 - General Provisions as to Inquiries and Trials

(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 221, 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 220.

(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 258 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 (10 of 1897) or of section 188 of this Code.

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 (o 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.

Section 301 - 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 a pleader 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 pleader 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.

STATE AMENDMENT

1West Bengal:

In section 301, for sub-section (1), the following shall be substituted:-

"(1) (a) The 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.

(b) The 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 or trial."

1. Vide West Bengal Act 26 of 1990 section 4.

Section 302 - Permission to conduct prosecution

(1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but 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 a pleader.

Section 303 - 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 Code, may of right be defended by a pleader of his choice.

Section 304 - Legal aid to accused at State expense in certain cases

(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government make rule providing for

(a) the mode of selecting pleaders for defence under sub-section (1);

(b) the facilities to be allowed to such pleaders by the Courts;

(c) the fee payable to such pleaders 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 the Courts of Session.

Section 305 - Procedure when corporation or registered society is an accused

(1) In this section, "corporation" means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose 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 Code 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 (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.

Section 306 - Tender of pardon to accomplish

(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 or a Metropolitan 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 the Criminal Law Amendment Act, 1952 (46 of 1952).

(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 the Criminal Law Amendment Act 1952 (46 of 1952), 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.

Section 307 - Power to direct tender of pardon

At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

Section 308 - Trial of person not complying with conditions of pardon

(1) Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 195 or section 340 shall apply to that offence.

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

Section 309 - Power to postpone or adjourn proceedings

(1) In every inquiry or trial the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day 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.

²[Provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code(45 of 1860), the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses]

(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 Magistrate 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:

¹[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.]

³[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) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;
- (c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.]

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 in include, in appropriate cases, the payment of costs by the prosecution or the accused.

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1. Inserted by Act 45 of 1978, section 24 (w.e.f. 18-12-1978).
 2. Inserted vide Code of Criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.
 3. Inserted vide Code of Criminal Procedure (Amendment) Act, 2008 [to be Notified]

Section 310 - Local inspection

- (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.

Section 311 - Power to summon material witness, or examine person present

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Section 311A - Power of Magistrate to order person to give specimen signature

1[311A. Power of Magistrate to order person to give specimen signatures or handwriting

If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, 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 handwriting:

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.]

1. Inserted vide The Code of Criminal Procedure (Amendment) Act, 2005

Section 312 - Expenses of complainants and witnesses

Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

Section 313 - Power to examine the accused

(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 subsection (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such question, 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 had committed.

1[(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.]

1. Inserted vide Code of Criminal Procedure (Amendment) Act 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.

Section 314 - 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.

Section 315 - 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 98, or section 107, or section 108, or section 109, or section 110, or under Chapter IX or under Part B, Part C or Part D of Chapter X, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 108, section 109 or section 110, 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.

Section 316 - No influence to be used to induce disclosure

Except as provided in sections 306 and 307 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.

Section 317 - Provision for inquiries and trial being held in the absence of accused in certain cases

(1) At any stage of an inquiry or trial under this Code, 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 a pleader, 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 a pleader, 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.

Section 318 - Procedure where accused does not understand proceedings

If the accused, though not 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.

Section 319 - 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 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.

Section 320 - Compounding of offences

(1) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table.

3[TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Voluntarily causing hurt.	323	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	334	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Wrongfully confining a person for three days or more	343	The person confined.
Wrongfully confining a person for ten days or more.	344	Ditto.
Wrongfully confining a person in secret.	346	Ditto.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Theft.	379	The owner of the property stolen.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	407	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.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	414	Ditto.
Cheating.	417	The person cheated.
Cheating by personation.	419	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Mischief by killing or maiming animal.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc.	429	The owner of the cattle or 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.	430	The person to whom the loss or damage is caused.
Criminal trespass.	447	The person in possession of the property trespassed upon.
House-trespass.	448	Ditto.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.

Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	Ditto.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Criminal breach of contract of service.	491	The person with whom the offender has contracted.
Adultery.	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	The husband of the woman and the woman
Defamation, except such cases as are specified against section 500 of the Indian Penal Code (45 of 1860) in column 1 of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory	502	Ditto.
matter, knowing it to contain such matter.		
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation.	506	The person intimidated.
Inducing person to believe himself an object of divine displeasure.	508	The person induced.]

(2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:-

4[TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Causing miscarriage.	312	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	325	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.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	381	The owner of the property stolen.
Criminal breach of trust	406	The owner of property in respect of which breach of trust has been committed.
Criminal breach of trust by a clerk or servant.	408	The owner of the property in respect 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.	418	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his, public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.]

5[(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 section 34 or 149 of the Indian Penal Code(45 of 1860) may be compounded in like manner.]

(4) (a) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to 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 (5 of 1908) of such person may, with the consent of the Court compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.

(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.

STATE AMENDMENT

[2](#)Madhya Pradesh:

In the table below sub-section (2) of Section 320 of the Principal Act,-

(i) in column first, second and third, before section 324 and entries relating thereto, the following sections and entries relating thereto shall be inserted, namely:-

"(1)	(2)	(3)
Rioting	147	The person against whom the force or violence is used at
		Provided that the accused is not charged with other offence
Rioting armed with deadly weapon	148	The person against whom the force or violence is used at
		Provided that the accused is not charged with other offence
Obscene acts or use of obscene words	294	The person against whom obscene acts were done or observed

(ii) in column first, second and third, after section 500 and entries relating there to, the following section and entries relating there to shall be inserted, namely:--

"(1)"	(2)	(3)
Criminal intimidation if threat to be cause death or grievous hurt, etc.	Part II of section 506	The person against whom the offence of Criminal Intimidation was committed."

1. Substituted by Act 45 of 1978, section 25, for "defamation" (w.e.f. 18-12-1978).

2. Vide Madhya Pradesh Act 17 of 1999, section 3 (w.e.f. 21-5-1999).

3. Substituted by the code of criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009 previous text was : -

"TABLE

Offence
1
Uttering words, etc., with deliberate intent to would the religious feelings of any person
Causing hurt.
Wrongfully restraining or confining any person.
Assault or use of criminal force.
Mischief, when the only loss or damage caused is loss or damage to a private person.
Criminal trespass.
House trespass.
Criminal breach of contract of service.
Adultery.
Enticing or taking away or detaining with criminal intent a married woman.
<u>1</u> [Defamation, except such case as are specified against section 500 of the Indian Penal Code in column 1 of the Tab
Printing or engraving matter, knowing it to be defamatory.
Sale of printed or engraved substance con training defamatory matter, knowing it to contain such matter.
Insult intended to provoke a breach of the peace.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.
Act caused by making a person believe that he will be an object of divine displeasure.

4. Substituted by the code of criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009 previous text was:-

"TABLE

Offence

1

Voluntarily causing hurt by dangerous weapons or means.

Voluntarily causing grievous hurt.

Voluntarily causing grievous hurt on grave and sudden provocation.

Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.

Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.

Wrongfully confining a person for three days or more.

Wrongfully confining for ten or more days.

Wrongfully confining a person in secret.

Assault or criminal force to woman with intent to outrage her modesty.

Assault or criminal force in attempting wrongfully to confine a person.

Theft, where the value of property stolen does not exceed two hundred and fifty rupees.

Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed

Dishonest misappropriation of property.

Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.

Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred

Criminal breach of trust by a clerk or servant, where the value of the property does not exceed two hundred and fifty

Dishonestly receiving stolen property, knowing it to be stolen, when the value of the stolen property does not exceed

Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen pr

Cheating.

Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.
Cheating by personation:
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.
Fraudulent removal or concealment of property, etc. to prevent distribution among creditors.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.
Fraudulent execution of deed of transfer containing false statement of consideration.
Fraudulent removal or concealment of property.
Mischief by killing or maiming animal of the value of ten rupees or upwards.
Mischief by killing or maiming cattle, etc., of any value or of any other animal of the value of fifty rupees or upwards.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss of or injury to work of irrigation.

House-trespass to commit an offence (other than theft) punishable with imprisonment.
Using a false trade or property mark.
Counterfeiting a trade or property mark used by another.
Knowingly selling or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit trade or property mark.
Marrying again during the lifetime of a husband or wife.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or with intent to insult, using any obscene words or gestures or exhibiting any obscene object.

5. Substituted by code of criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009 previous text was:-

"(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner."

Section 321 - Withdrawal from prosecution

The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court at any time before the 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 Code no charge is required he shall be acquitted in respect of such offence or offences:

Provided that where such offence-

- (i) was against any law relating to a matter to which the executive power of the Union extends, or
- (ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or
- (iii) involved the 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.

STATE AMENDMENT

1Uttar Pradesh:

In section 321 , after the words "in charge of a case may" the words "on the written permission of the State Government to that effect (which shall be filed in Court)" shall be inserted.

Section 322 - Procedure in cases which Magistrate cannot 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.

Section 323 - 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 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 contained¹[and thereupon the provision of Chapter XVIII shall apply to the commitment so made].

1. Inserted by Act 45 of 1978, section 26 (w.e.f. 18-12-1978).

Section 324 - 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 XII or Chapter XVII of the Indian Penal Code (45 of 1860) 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 239 or section 245, as the case may be.

Section 325 - 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 under section 106, 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 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 as is according to law.

Section 326 - Conviction or commitment on evidence partly recorded by one Magistrate and partly by another

(1) Whenever any [1](#) [Judge or Magistrate] after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another [1](#) [Judge or Magistrate] who has and who exercises such jurisdiction, the [1](#) [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 [1](#) [Judge or Magistrate] is of opinion that further examination of any of the witness 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 Code [2](#) [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 322 or in which proceedings have been submitted to a superior Magistrate under section 325.

STATE AMENDMENTS

3 Rajasthan:

In section 326,-

(a) in sub-section (1), for the word "Magistrate" wherever it occurs, the words "Judge or Magistrate" shall be substituted;

(b) in sub-section (2), before the words "from one Magistrate to another Magistrate" the words "from one Judge to another Judge or" shall be inserted.

4 Uttar Pradesh:

In section 326,-

(a) in sub-section (1), for the words "Magistrate," wherever occurring the words "Judge or Magistrate" shall be substituted;

(b) in sub-section (2), before the words "from one Magistrate to another Magistrate", the words "from one Judge to another Judge or" shall be inserted.

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1. Substituted by Act 45 of 1978, section 27, for "Magistrate" (w.e.f. 18-12-1978).
 2. Substituted by Act 45 of 1978, section 27 for "from one Magistrate to another Magistrate" (w.e.f. 18-12-1978).
 3. Vide Rajasthan Act 10 of 1977, Section 3 (w.e.f. 3-9-1977).
 4. Vide Uttar Pradesh Act 16 of 1976, Section 8 (w.e.f. 1-5-1976).

Section 327 - Court to be open

1[(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 building used by the Court.

2[(2)] Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376 B, section 376C or section 376D of the Indian Penal Code (45 of 1860) 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.

[3](#)[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.

[3](#)[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.]

1. Section 327 renumbered as sub-section (1) thereof by Act 43 of 1983, Section 4.

2. Inserted by Act 43 of 1983, Section 4.

3. Inserted vide Code of Criminal Procedure (Amendment) Act 2008 to be effective from 31.12.2009 vide Notification No. S.O. 3313(E) dated 30.12.2009.