
CRIMINAL COURTS AND COURT MARTIAL ADJUSTMENT OF JURISDICTION RULES, 1978

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CRIMINAL COURTS AND COURT MARTIAL ADJUSTMENT OF JURISDICTION RULES, 1978

In exercise of the powers conferred by sub-section ,(1) of Section 475 of the Code of Criminal Procedure, 1973 (2 of 1974), and in supersession of the Criminal Courts and Court-martial (Adjustment of Jurisdiction) Rules, 1952, the Central Government hereby makes the following rules for the trial of the persons subject to military, naval or air force law, or any other law relating to the Armed Forces of the Union by a Court to which the said Code applies, or by a Court-martial, namely :-

1. 1 :-

1 . These rules may be called the Trial of Persons, subject to Armed Forces Laws of the Union (Exercise of Jurisdiction) Rules, 1978

1. Substituted for " 1 . 1 . These rules may be called the Criminal Courts and Court- martial (Adjustment of Jurisdiction) Rules, 1978. ", vide " CRIMINAL COURTS AND COURT MARTIAL ADJUSTMENT OF JURISDICTION RULES 1978" Dt.26th September, 1987 Publishedn Ministry of Home Affairs, Noti. No. S.O. 2581, dated September 11, 1987, published in tbe Gazette of India, Part II, Section 3(ii) dated 26th September, 1987, p. 3194 [F. No. 2/2/85-Judl. Cell] [L]

2. 2 :-

In these rules, unless the context otherwise requires-

(a) "commanding officer",

(i) in relation to a person subject to military law, means the Officer Commanding the unit to which such person belongs or is attached;

(ii) in relation to a person subject to naval law, means the Commanding Officer of the ship or naval establishment to which such person for the time being belongs; and

(iii) in relation to a person subject to air force law, means the Officer for the time being in command of the unit to which such person belongs or is attached;¹ ["and"]

(b) "competent air force authority" means the Chief of the Air Staff, the air or other officer commanding any Command, Group, Wing or Station in which the accused person is serving, or where such person is serving in a field area, the Officer Commanding the forces or the air forces in the field;

(c) "competent military authority" means the Chief of Army Staff or Officer Commanding the army, army corps, division, area, sub-area or independent brigade in which the accused person is serving, and, except in -cases falling under Section 69 of the Army Act, 1950 (46 of 1950) in which death has resulted, the officer commanding the brigade or sub-area or station in which the accused person is serving;

(d) "competent naval authority" means the Chief of the Naval Staff or the Flag Officer Commanding-in-Chief, Western Naval Command, Bombay or the Flag Officer Commanding-in-Chief, Eastern Naval Command Vishakhapatnam or the Flag Officer Commanding, Southern Naval Area, Cochin or the Flag Officer Commanding, Western Fleet or the Flag Officer Commanding, Eastern Fleet or Senior Naval Officer where the accused person is serving.

1. Inserted vide " CRIMINAL COURTS AND COURTMARTIAL ADJUSTMENT OF JURISDICTION RULES 1978" Dt.26th September, 1987 Published in Ministry of Home Affairs, Noti. No. S.O. 2581, dated September 11, 1987, published in the Gazette of India, Part II, Section 3(ii) dated 26th September, 1987, p. 3194 [F. No. 2/2/85-Judl. Cell] [L]

3. 3 :-

Where a person subject to military, naval or air force law, or any other law relating to the Armed Forces of the Union for the time being in force is brought before a Magistrate and charged with an offence for which he is also liable to be tried by a Court-martial, such Magistrate shall not proceed to try such person or to commit

the case to the Court of Session, unless-

(a) he is moved thereto by a competent military, naval or air force authority; or

(b) he is of opinion, for reasons to be recorded,

4. 4 :-

Before proceeding under clause (b) of Rule 3, the Magistrate shall give a written notice to the Commanding officer or the competent military, naval or air force authority, as the case may be, of the accused and until the expiry of a period of fifteen days from the date of service of the notice he shall not-

(a) convict or acquit the accused under Section 252 , sub-sections (1),(2) of Section 255 , sub-section (1) of Section 256 or Section 257 of the Code of Criminal Procedure, 1973 (2 of 1974), or hear him in his defence under Section 254 of the said Code; or

(b) frame in writing a charge against the accused under Section 240 or sub-section (1) of Section 246 of the said Code; or

(c) make an order committing the accused for trial to the Court of Session under Section 209 of the said Code; or

(d) make over the case for inquiry or trial under Section 192 of the said Code.

5. 5 :-

Where a Magistrate has been moved by the competent military, naval or air force authority, as the case may be, under clause (a) of Rule 3, and the commanding officer of the accused or the competent military, naval or air force authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such officer or authority, the accused should be tried by a Court-martial, such Magistrate if he has not taken any action or made any order referred to in clauses (a), (b), (c) or (f) of Rule 4, before receiving the notice shall stay the proceedings and, if the accused is in his power or under his control, shall deliver him together with the statement referred to in sub-section (1) of Section 475 of the said Code to the officer specified in the said sub-section.

6. 6 :-

Where within the period of fifteen days mentioned in Rule 4, or at any time thereafter but before the Magistrate takes any action or

makes any order referred to in that rule, the commanding officer of the accused or the competent military, naval or air force authority, as the case may be, gives notice to the Magistrate that in the opinion of such officer or authority, the accused should be tried by a Court-martial, the Magistrate shall stay the proceedings, and if the accused is in his power or under his control, shall deliver him together with the statement referred to in sub-section (1) of Section 475 of the said Code to the officer specified in the said sub-section.

7. 7 :-

(1) When an accused has been delivered by the Magistrate under Rule 5 or Rule 6, the commanding officer of the accused or the competent military, naval or air force authority, as the case may be, shall, as soon as may be, inform the Magistrate whether the accused has been tried by a Court-martial or other effectual proceedings have been taken or ordered to be taken against him.

(2) When the Magistrate has been informed under sub-rule (1) that the accused has not been tried or other effectual proceedings have not been taken or ordered to be taken against him, the Magistrate shall report the circumstances to the State Government which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law.

8. 8 :-

Notwithstanding anything in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to military, naval or air force law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured except through ¹ ["military, naval, air force or coast guard authorities"], the Magistrate may by a written notice require the commanding officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Court-martial if since instituted, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted.

1. Substituted for "military, naval or air force authorities", vide "

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9. 9 :-

Where a person subject to military, naval or air force law, or any other law relating to the Armed Forces of the Union for the time being in force has committed an offence which in the opinion of competent military naval or air force authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has, on a reference mentioned in Rule 8, decided that proceedings against such person should be instituted before a Magistrate, the commanding officer of such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate.