

Criminal Rules Of Practice And Circular Orders, 1990

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Criminal Rules Of Practice And Circular Orders, 1990

Rules and Orders for the Guidance of the Criminal Courts in the State: Roc. No. 13/SO/88:- Whereas it is expedient to amend, consolidate and bring up to date the Criminal Rules of Practice and Orders, 1966, in accordance with the new code of Criminal Procedure, 1973 and incorporate therein the Orders, Notifications and Administrative Instructions issued from time to time by the Government and the High Court. Now, therefore, in exercise of the powers conferred by Article 227 of

CHAPTER 1 PRELIMINARY

1. Short Title :-

These rules may be called the Criminal Rules of Practice and Circular Orders, 1990

2. Definitions :-

In these Rules, unless the context otherwise requires; the Constitution of India and Sec. 477 of the Code of Criminal Procedure, 1973 and of all other powers hereunto enabling and with the previous approval of the Governor of Andhra Pradesh, the High Court of Andhra Pradesh hereby makes the following Rules and Orders for the guidance of the Criminal Courts in the State

(a) "Code" means the Code of Criminal Procedure, 1973

(b) "Government" means the Government of Andhra Pradesh

(c) "High Court" means the High Court of Andhra Pradesh

(d) "Sessions Judge" includes the Metropolitan Sessions Judge, "Chief Judicial Magistrate" includes the Chief Metropolitan Magistrate, "Magistrate" includes the Metropolitan Magistrate and "Special Magistrate" includes Special Metropolitan Magistrate.

3. Hours Of Sitting :-

Courts shall ordinarily sit from 10.30 A.M to 5.00 P.M Sessions Judge and Magistrates shall ordinarily commence their sitting not later than 10.30 A.M each day, and unless the work for the day is disposed of earlier, shall not rise before 5-00.P.M except for lunch on between 2.00 P.M. to 2.30 P.M.

4. Judicial Work To Be Done In Court Houses :-

No case shall be tried or heard and no judicial work formally announced or done on holidays declared by the High Court, except in exceptional circumstances and with the consent of both the parties.

5. Judicial Work To Be Done In Court Houses :-

(1)Judicial work, in so far as it relates to inquiries and trials, shall be done in the Court Houses.

(2)Magistrates appointed to Mobile Courts may hold their sittings at any place within their territorial jurisdiction.

(3)Cases relating to Juvenile Offenders and Women may be tried in camera.

(4)Urgent bail applications presented out of Court hours ma be disposed of at the residence of the Magistrate, but no order shall be

passed in the case of Non-Bail able Offences without notice to the prosecution.

6. Working Days And Hours Of Special Judicial Magistrates

:-

Special Judicial Magistrates shall hold Court for three days in a week on every alternate working day commencing from Monday. They shall hold Court between 7.30 A.M. and 10.30 A.M. Special Judicial Railway Magistrates may hold Court at any time between 7.30 A.M., and 10.00 P.M after giving advance intimation of holding Courts to the Chief Judicial Magistrate concerned.

CHAPTER 2 SUMMONS AND WARRANTS

7. Witness Summons May Be Signed By Ministerial Officer :-

Summons issued to witnesses shall ordinarily be signed by the Chief Ministerial Officer of the Court. The words "By order of the Court" shall invariably be prefixed to the signature of the Chief Ministerial Officer in such cases.

8. Accused Summons To Be Signed By Magistrate :-

Magistrates shall themselves sign summonses to accused persons. In a proceedings instituted upon a complaint made in writing, the accused shall be furnished with a copy of such complaint as early as practicable and in any case not later than the first occasion when he appears in Court.

Note: - The Copy of the complaint may be sent with summons or warrant issued to the accused under sub-section (1) of Sec. 204 of the Code.

9. Place Of Hearing To Be Stated :-

Every summons and every order of adjournment shall state the place in which the case to which it relates will be heard.

10. Plural To Be Used In Respect Of Person Summoned :-

In all summonses issued by the Criminal courts in the regional languages, the plural form of the pronoun shall be used in addressing the person summoned.

11. Warrant To Bear Sign Manual Of The Judge Or The Magistrate :-

Facsimile stamps shall not be used for signing warrants or summonses. All warrants should receive the sign manual of the Judge or Magistrate from whose Court they are issued.

12. Medical Witnesses And Chemical Examiner How To Be Summoned :-

(1) Summonses of the following classes of Medical Officers in the District should be issued in the manner specified below:-

(a) Government Medical Officer in Government Medical Institution

(b) Government Medical Officers in Zilla Parishad and Municipal Taluk Headquarters Medical Institutions.

(c) Government Medical Officer lent for service in Zilla Parishad and Municipal Medical Institutions.

(d) Zilla Parishad and Municipal Medical Officers.

(e) Rural Medical Practitioners in-charge of Zilla Parishad Rural Dispensaries (who are neither Zilla Parishad servants nor government Servants); and

(f) Honorary Medical Officers. In the case of all these classes of Officers, summonses should be served direct on the Medical Officers when their absence from the station is not involved, and the fact intimated to the District Medical Officer concerned for information.

(2) In case involving absence from the station, summons should be served through the district Medical Officer in respect of all classes of Medical Officers referred to the above except. Honorary Medical Officers. The District Medical Officer while forwarding the summons to Medical Officers employed in Zilla Parishad and Municipal Medical Institutions whether they are Government servants lent to local bodies or are servants of local bodies should simultaneously send intimation to the Chairman of the Zilla Parishad or the Execution Authority of the Municipal Council through the chairman concerned. The same procedure shall be adopted in the case of Rural Medical Practitioners also. The arrangement for the running of the Medical Institutions will be made by the District Medical officer, wherever he has to do so and in other cases by the Chairman of the Zilla Parishad or the Execution Authority of the Municipal Council through the Chairman concerned.

(3) In the case of Honorary Medical Officers, the summons should be served through the Superintendent or Medical Officer incharge of the Medical Institutions so that he may make necessary arrangements for the relief of the Honorary Medical Officer.

(4) In all cases where the time available is short or the Medical Institution is distant, a telegram may be sent.

(5) In cases where Superintendents of Hospitals and Civil Surgeons are required to attend Criminal Courts to give evidence on

professional Matters, the summonses shall be served on them direct, when their absence from station is not involved. But the fact should be intimated simultaneously to the Director of Medical Services, Andhra Pradesh. In the case of summonses intended for District Medical Officers to attend Criminal Courts to give evidence on professional matters, the summonses need not be sent through the Director of Medical Services, Andhra Pradesh, except in cases in which their absence from their jurisdiction is involved.

(6) The Presiding Officer of a Court should see that their special orders are taken before a summons is issued to a Medical witness and that a convenient date is fixed for his examination if there is more than one Medical Officer in a Hospital, only one Officer should, as far as possible, be summoned at a time. If possible, it may be previously ascertained from the Medical Officer as to the time that would best be suitable for him with reference to his professional duties. A medical witness should be summoned only when the presence of the accused is certain and when there is no likelihood of the case being adjourned for any other reason. The Presiding Officer from his duties is a brief as possible.

(7) Summons for attendance of the Chemical Examiner as a witness in a criminal case shall invariably be sent through the chief Judicial Magistrate who will then be able to satisfy himself whether Chemical Examiners personal attendance to give evidence is essential

13. Mode Of Service :-

When the serving officer delivers or tenders a copy of the summons to the person sought to be served personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered as an acknowledgement of service endorsed on the original summons.

13A. Section 13A :-

(1) In all proceedings under section 125 of the Code of Criminal Procedure, 1973 {Central Act No. 2/1984} and under Section 138-A of the Negotiable Instruments Act, 1881 (Central Act No. 26 of 1881) and in any other case where the summons may be ordered to be served through the post office by registered post with acknowledgment due, sent to the address of the respondent or the accused therein as the case may be, in the manner provided under Rule 13 of the Criminal rules of Practice and Circular Orders, 1990 and in such cases the postal employee tendering the notice shall be deemed to be the "Serving Officer" within the meaning of rule 13 of

the said Rules.

(2) Before directing the service of notice by post, the complainants shall be required to bring to the Court sufficient number of copies of the summons, the complaint and envelopes duly typed with the name and address of the person on whom the summons sought to be served and bearing adequate postage for sending the article by registered post with acknowledgement due".

14. Translations Of Summons :-

When a summon is written in a language different from that of the Court within whose jurisdiction it is to be served, the Court transmitting it for service shall also send a translation thereof in English, and in cases where the summons has to be returned by any Court outside the State and the return is not in English or the language of that Court, the endorsement and the affidavit, if any, mentioned in Section 68 of the Code with which it is sent back to that Court shall be accompanied by a translation of the return into English.

15. Service Of Notice Issued By The High Court :-

All notices issued by the High Court under Sections 385 and 422 and clause (2) of Section 401 of the Code shall be in duplicate the shall be served as expeditiously as possible and duplicate copy with the endorsement of service, if effected, be transmitted to the High Court without delay.

16. Summons To Be Served On Members Of Parliament Or State Legislature :-

All summonses intended to be served on Members of Parliament or State Legislature shall be sent through Court or Police or by Registered Post. Under no circumstances should they be sent to Presiding Officer of the House for service on the Members.

51. Rule 13 -A is added by Notification R.O.C. No. 2572/SO/91

17. Intimation Of Arrest Of M.Ps And M.L.As :-

All arrests , Surrenders and releases of Members of Parliament or State Legislature shall be intimated to the President Officer of the House, Intimation shall also be given to the Home Ministry, Government of India, in the case of M.P.s and Chief Secretary to t h e Government, G.A.D in the Case of members of State Legislature.

18. Summons To Government Analyst :-

Summons to Government analyst in food Adulteration case shall be sent through the Chief Judicial Magistrate.

19. Case In Which Accused Has Absconded :-

When process has been issued for the attendance of the accused but the case has remained pending for a long time owing to his now appearance , and the Magistrate is satisfied that the presence of the accused cannot be secured within a reasonable time to when an accused person found to be of unsound mind is released under Subsection(I) of Section 330 or detained in safe-custody under Subsection (2) of Section 330 of the Code, the Magistrate shall report the case for the orders of the Sessions Judge, who may, if he thinks fit, order that the case shall be removed from the register of cases received and omitted from the quarterly returns. The case shall, however then be entered in a separate Register of long pending cases which shall be maintained by all Magistrates in Administration Form No.26. Provided that if the charge is withdrawn, or if the accused is reported dead, whether before after the entry of the case in the Register of Long Pending Cases, the case should be closed. Provided further that if the Sessions Judge is of the opinion that the case against the absent accused is wholly false, he may direct that the case be omitted from the Registers and the returns altogether and he may at any subsequent time order the case to be entered in the Register of Long Pending Cases.

20. Cases In Which Some Of The Accused Have Absconded

:-

When there are several accused persons in a case, and only some of the them have appeared or been produced, before the Court,, if the Magistrate is satisfied that the presence of other accused cannot be secured within a reasonable time, having due regard to the right of such of the accused as have appeared to have the case against them enquired into without delay, he shall proceed with the case as against such of the accused as have appeared and disposed it of according to law. As regards the accused who have not appeared, he shall give the case a new number and enter it in the Register of cases received, and if it remains pending for a long time, and efforts to secure the presence of the accused have failed and the case against the accused who have appeared has been disposed of , the Magistrate shall report the whole matter as regards all the accused to the Sessions Judge, who may direct that the case against the absent accused be removed to the Register of Long Pending Cases, or if he is of the opinion that the case against

the absent accused is wholly false, he may direct that the case be omitted from the Registers and the returns altogether, provided that he may at any subsequent time order the case to be entered in the Register of Long pending Cases. Similarly the case may be split up against the accused who have been obstructing or persistently disturbing the proceedings of the Court.

21. Procedure To Be Observed Before Transfer Of A Case To The Register Of Long Pending Cases :-

Before directing transfer of a case, other than a case dealt with under sub-section (1) or Sub-Section (2) of Section 330 of the Code to the Register of Long Pending Cases, the Sessions Judge shall satisfy him self that all reasonable steps have been taken to follow the procedure prescribed in Sections 82 &83, and also, when practicable, that the provisions of Section 299 of the Code have been complied with.

22. Procedure On The Appearance Or The Production Of Accused :-

If subsequently the absent accused or any of them are produced, or appear before the Magistrate, or the accused who was insane cases to be insane, or those who have been obstructing or persistently disturbing the proceedings undertake to co-operative with the Court the case against them shall be registered under the new number.

23. Cases Where An Accused Has Absconded After Appearance :-

Rule 19, 20, 21 and 22 shall apply as far as may be to cases where an accused person has appeared but has subsequently absconded. If he accused has absconded after committal of the case, the Sessions Judge shall follow the above procedure, and also record the evidence of the witnesses under subsection (1) of Section 299 of the Code.

CHAPTER 3 Investigation

24. Receipts Of F.I.R :-

Magistrates and Judges receiving F.I. R s shall initial each page and put the date stamp and time of receipt. The name or number of the messenger shall also be noted. If the F.I.R is received by the post, the envelope shall also be initialed and preserved. The same Rule applies to Inquest Reports and other documents received from the Police or other Prosecuting agencies.

25. Magistrate To Insist On Production Of The Accused And Copies Of Documents :-

No order under Section 167 of the code for remand of the accused should be made unless the accused is produced before the Magistrate and he has been heard. Magistrates shall also insist on the production of copies of the entries in the Case Diary, peruse and initial those documents before passing orders and also indicate in the order, that the documents are perused.

26. Remand To Police Custody :-

A Magistrate shall not grant remand to police custody, unless he is satisfied that there is good ground for doing so and shall not accept a general statement made by the investigating or other Police Officer to the effect that the accused may be able to give further information. In all cases, where the Magistrate authorizes the detention of the accused in the custody of the Police, he shall record his reasons for so doing.

27. Order Of Remand By A Magistrate To Be Forwarded To Sessions Judge :-

Whenever a Magistrate remands an accused person to the custody of police under Section 167 of the Code, a copy of the order of remand with the reasons recorded therefore, shall be forwarded within 24 hours to the Sessions Judge.

27. Computing Period of Remand:- Whenever a Magistrate remands an accused person to the custody of police under Section 167 of the Code, a copy of the order of remand with the reasons recorded therefore, shall be forwarded within 24 hours to the Sessions Judge.

28. Computing Period Of Remand :-

In computing the period of fifteen days mentioned in Sub-section (2) of Section 167, or the proviso to Sec. 309 of the code, both the day on which the remand order was made and the day on which the accused is ordered to be produced before the Court shall be included. The period of detention as prescribed in the proviso to sub-section (2) of Section 167 of the Code or any period of detention prescribed by any other Law shall be computed from the date of actual production of the accused before the Magistrate or the Judge, as the case may be.

29. Remand Under Section 390 Of The Code :-

When an accused person is brought before a Subordinate Court under Section 390 of the Code, the Court shall explain fully to him

his right to the assistance of an Advocate at State Cost and the procedure of hearing of appeals by the High Court. If the accused is remanded to custody, the Court shall forthwith report the action taken to the High Court and if the Warrant issued by the High Court is a Bailable Warrant, also state its reasons for remand and shall forward a copy of the said Report to the Collector who will communicate with the Public Prosecutor, Andhra Pradesh.

30. Bail During Investigation :-

When an accused is released on bail during investigation, he shall be bound over to appear in Court after the charge sheet is filed and summons served on him. It is not necessary to bind him to appear on any earlier date or dates.

31. Requisitions For Confession Etc :-

(1) All requisitions for recording of confession of the accused or statements of witnesses or for holding identification parades shall be made to such Magistrate as is nominated by the Sessions Judge for particular police station.

(2) On receipt of such requisition, the Magistrate shall immediately fix a date for the purpose and issue summons to the witnesses.

(3) Statement of witnesses and confession of accused shall be recorded in open court and during Court hours except for reasons to be recorded in writing. No police Officer should be allowed to be present in the Court Hall or in visible distance from the witnesses or the accused, while the statement of confession is being recorded.

32. Confessions :-

(1) No confession shall be recorded unless;

(a) the Magistrate has explained to the accused that he is under no obligation at all to answer any question and that he is free to speak or refrain from speaking as he pleases; and

(b) The Magistrate has warned the accused person that it is not intended to make him an approver and that anything said by him will be taken down and there after be used against him.

(2) Before recording a statement, the Magistrate shall question the accused in order to ascertain the exact circumstances in which his confession is made and the extent to which the Police have had relations with the accused before the confession is made. The Magistrate may usefully put the following questions to the accused:-

- (a) When did the police first question you?
 - (b) How often were you questioned by the Police?
 - (c) Were you detained anywhere by the Police before you were taken formally into custody, and if so, in what circumstances?
 - (d) Were you urged by the police to make a confession?
 - (e) Have the statement you are going to make been induced by any ill-treatment? And if so, by Whom?
 - (f) Do you understand that the statement which you are about to make may be used against you at your trial? These questions and any others which may suggest themselves and the answers to them shall be recorded by the Magistrate before the records the accused's statement and shall be appended to the Memorandum prescribed by Sec. 164(3) of the Code of Criminal Procedure. The Magistrate shall add to the Memorandum a statement in his own hand of the grounds on which he believes that the confession is voluntary and shall note the precautions which he took to remove the accused from the influence of the police and the time given to the accused for reflection.
- (3) If the Magistrate has any doubt whether the accused is going to speak voluntarily, he may, if he thinks fit, remand him to a sub-Jail, before recording the statement; and ordinarily the accused shall be withdrawn from the custody of the Police for 24 hours before his statement is recorded. When it is not possible or expedient to allow so long a time as 24 hours, the Magistrate shall allow the accused at least a few hours for reflection.
- (4) The statement of the accused shall not be recorded, nor shall the warning prescribed in paragraph 1 of this Rule be given nor shall the questions prescribed in paragraph(2) of the Rule be asked in the presence of a co-accused or of the police officers who have arrested him or produced him before the Magistrate or who have investigated the case.

33. Dying Declaration :-

- (1) While recording a Dying Declaration, the Magistrate shall keep in view the fact that the object of such declaration is to get from the declarant the cause of death or the circumstances of the transaction which resulted in death.
- (2) Before taking down the declaration, the Magistrate shall disclose his identity and also ask the declarant whether he is mentally capable of making a declaration. He should also put simple questions to elicit answer from the declarant with a view to

knowing his state of mind and should record the questions and answers signs and gestures together with his own conclusion in the matter. He should also obtain whenever possible a certificate from the Medical Officer as to the mental condition of the declarant.

(3) The declaration should be taken down in the words of the declarant as far as possible. The Magistrate should try to obtain from the declarant particulars necessary for identification of the accused. Every question put to the declarant and every answer or sign or gesture made by him in reply shall be recorded.

(4) After the statement is recorded, it shall be read over to the declarant and his signature obtained thereon, if possible, and then the Magistrate shall sign the statement.

34. Identification Parades :-

In conducting identification parades of suspects, the Magistrate shall observe the following Rules.

(1) (a) Wherever possible privacy shall be secured for the parade away from Public View, and all unauthorized persons should be strictly excluded from the place;

(b) If Jail Officials are presented at Parade, they shall be Kept in the view of the Magistrate all the time and they shall not be allowed access either to the witnesses who have to be summoned for identification or to the persons assembled at the parade.

(2) (a) As far as possible, non suspects selected for the parades shall be of the same age, height, general appearance and position in life as that of the accused. Where a suspect wears any conspicuous garment, the Magistrate conducting the parade shall, if possible, either arrange for similar wear to other or induce the suspected person to remove suspected person to remove such granted.

11 (b) The accused shall be allowed to select his own position and should be expressly asked if he has any objection to the persons present with him or the arrangements made. It is desirable to change the order in which the suspects have been placed at the parade during the interval between the departure of one witness and the arrival of another.

(3) (a) The witnesses who have been summoned for the parade shall be kept out of the view of the parade shall be kept out of the view of the parade and shall be prevented from seeing the prisoner before he is paraded with others.

(b) Before a witness is called upon to identify the suspect, he should be asked whether he admits prior acquaintance with any suspect

whom he proposes to identify. He shall be also asked to state the marks of identification by which he can identify the suspects.

(c) Each witness shall be fetched by separately. The witness shall be introduced one by one and on leaving shall not be allowed to communicate with witness still waiting see the persons paraded.

(4) Every circumstance connected with the identification including the act if any attributes to the persons who is identified shall be carefully recorded by the officer conducting it, whether the accused or any other person is identified or not, particularly any objection by any suspect to any in the proceeding shall be recorded.

35. Identification Of Property :-

(1) Identification parades of properties shall be held in the Court the Magistrate where the properties are lodges;

(2) Each item of property shall be put up separately for the parade. It shall be mixed up with four or similar objects.

(3) Before calling upon the witnesses to identify the property, he shall be asked to state the identification marks of his property. Witnesses shall be called in one after the other and on leaving shall not allowed to communicate with the witness not yet called.

CHAPTER 4 GENERAL RULES APPLICABLE TO TRIALS

36. Defence At State Expense :-

Sessions Judges and Magistrates shall inform every accused person who appears before them and who is not represented by an Advocate on account of his property and indigence, that he is entitled to free legal service at the cost of the State, unless he is not willing to take advantage of it. It is not necessary that the accused should apply for legal aid. If the Court is satisfied that the accused has no sufficient means to engage an Advocate, it shall assign an advocate for his defence at the expense of the State.

(a) The Sessions Judge shall prepare a panel of Advocates to defend the accused, who has no sufficient means to engage an Advocate in a trial before the Court of Session from among the Advocates practicing in the court of sessions

(b) The panel of Advocates shall be know as "STATE BRIEF PANEL" and consists of the following two categories, viz., Category No. 1:- Advocates of not less than 5 years standing in the Bar to defend an accused, who is charged with an offence punishable with death or life imprisonment or any complicated or sensational case.

Category No. 2:- Advocates with not less than 2 years standing in

the Bar to defend the accused person, who has been charged with an offence punishable with a sentence other than death or imprisonment for life.

(c) In the Court of Additional Sessions Judges or Assistant Judges working at outlying stations or Magistrates, a State Brief Panel shall be prepared by such Judge or Magistrate, subject to the approval of the Sessions Judge.

(d) The "State brief Panel" shall be prepared once in a year in the order of seniority of Advocates.

3. Court to decide as to the number of Advocates to be engaged : - Where in a trial there are several accused not represented by an Advocate or Advocates, only one Advocate shall be assigned for the defence of all such accused.

Provided that, if the Court having regard to the nature of the defence of the different accused persons considers that it would not be desirable in the interests of justice to entrust the defence of all the accused persons to a single Advocates, as many Advocates as the Court considers necessary may be assigned.

4. Facilities to be allowed to Advocates:- Advocates assigned by the Court to defend an accused shall be furnished with all the necessary papers and records and allowed sufficient time to prepare the case for the defence of the accused.

5. (1) Fees payable to the Advocates :- The Sessions Judge may sanction payment of fee to each Advocate assigned at the following rates:-

(i) Not exceeding Rs.50/- for each day of the trial, where an accused in charged with an offence punishable with death or imprisonment for life. Provided that the fee payable to an advocate for the whole case shall not in the aggregate exceed Rs.500/-.

(ii) Not exceeding Rs.25/- for each day of the trial, where an accused in charged with an offence other than an offence punishable with death or imprisonment for life. Provided that the fee payable to an advocate for the whole case shall not in the aggregate exceed Rs250/-.

5 (2) The Additional Sessions Judge or the Assistant sessions Judge or the Magistrates working in the outlying stations shall exercise the powers mentioned in Sub-Rule (1) in respect of Advocates before them.

37. One Of The Accused May Be Permitted To Represent The Other :-

Criminal Courts may in cases where there are more accused than

one, permit anyone of them to be authorized by any other to represent that other in any Criminal Proceeding; but the authorisation shall be in writing and shall contain the signature of the person giving it and shall be filled in Court. AFFIDAVITS

38. Affidavits Before Whom May Be Sworn Or Affirmed :-

Affidavits intended for use in Judicial Proceedings may be sworn or affirmed before any Court or Magistrate (or an Advocate other than the Advocate who has been engaged in such proceedings) or a Member of Panchayat or a Sub Registrar, Nazir or Deputy Nazir or a Member of the Legislative Council or of the Legislative Assembly of the State or a member of the Zilla Parishad or a Municipal Councilor or a Retired Gazetted officer receiving pension from the Government or any other Gazetted Officer in the Service of the State Government or the Central Government or a Notary as defined in the Notaries act, 1952, or any Commissioner or other person appointed by the High Court for the purpose of taking affidavits or affirmations or any Judge or any Commissioner for taking affidavits or affirmations or any judge or any Commissioner for taking Affidavit in any Court of record in India.

39. Filling Of The Affidavits :-

Before any Affidavit is used it shall be filed in Court, but the Presiding Officer may, with the consent of both parties, in case of urgency, allow any affidavit to be presented to the Court and read on the hearing of application.

40. Form Of Affidavits :-

Every Affidavit used in the Court shall set forth the name and place of the Court and cause title of the proceeding or other matter in which the affidavit is sought to be used. The affidavit shall be drawn up in the first person, and divided into paragraphs, numbered, consecutively and each paragraph, as nearly as may be, shall be confined to the district Portion of the subject.

41. Description Of Deponent :-

Every Affidavit shall state the full name, age description and place of residence of the Deponent, and shall be signed by him. The Description shall include the fathers name of the deponent also.

42. Writing To Be On Both Sides And Each Page To Be Signed :-

When an affidavit covers more than one sheet of paper, then writing shall be on both sides of the sheet and shall be signed by

the deponent at the foot of each page of the Affidavit.

43. Alterations, Interlineations And Erasures :-

Alterations, interlineations and erasures, if any, shall before an affidavit is sworn or affirmed, be authenticated by the initials of the authority before whom he affidavit is taken; other wise the same shall not be filed or made use of in any matter without the leave of the Court.

44. Statement Of Officer Before Whom Affidavit Is Sworn :-

The authority before whom a affidavit is taken shall state the date on which and the place where the same is taken and sign his name and description at the end, otherwise the same shall not be filed or read in any matter without the leave of the Court.

45. Blind Or Illiterate Deponent :-

When an affidavit is sworn or affirmed by any person who appears to the authority taking the affidavit to be illiterate, blind or unacquainted with the language in which the affidavit is written the officer shall certify that the affidavit was read translated or explained in his presence to the deponent, that the deponent seemed to understand it, and made his signature in the presence of the authority, otherwise the affidavit shall not be used in evidence.

46. Endorsement Should State On Whose Behalf Filed :-

Every affidavit shall bear an endorsement stating on whose behalf it is filed.

47. Affidavit Stating Matter Of Opinion :-

Every affidavit stating any matter of opinion shall show the qualification of the deponent to express such opinion, by reference to the length of experience, acquaintance with the person or matter in respect of which the opinion is expressed, or other means of Knowledge of the deponent.

48. Affidavit On Information And Belief :-

Every affidavit containing statement made on the information or belief of the deponent shall state the source or ground of the information or belief.

49. Documents Referred To In Affidavit To Be Referred As Exhibits :-

Documents referred to in an affidavit shall be referred to as exhibits and shall be marked in the same manner as exhibits admitted by Court and shall bear Certificate signed by the Officer

before whom the affidavit is taken.

50. Cross-Examination On Affidavit :-

The Court may at any time direct that any person shall attend to be cross-examined on his affidavit.

OATHS AND AFFIRMATIONS

51. Administering Oath :-

The Session Judges and Magistrates shall themselves administer the oath to the witness or the interpreter.

52. A Witness, Interpreter Or Deponent To An Affidavit May Instead Of Making Oath, Make An Affirmation :-

(a) Oath of affirmation to be taken by a witness:-

I do swear in the name of God/ solemnly affirm that, what I shall state be the truth, the whole truth and nothing but the truth.

(b) Oath of affirmation to be taken by an Interpreter other than Court interpreter:-

I do swear in the name of God/ Solemnly affirm that I will well and truly interpret and explain all questions put to evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

(c) Oath or affirmation to be taken by the deponent to an affidavit:- I do swear in the name of God/ solemnly affirm that this is my name and signature (or mark) and that the contents of this/ my affidavit are true.

(2) The witness, interpreter or deponent to an affidavit shall ordinarily stand while making the oath or affirmation

(3) In the case of deponents to an affidavit, oath or affirmation shall be made after he affixes his signature or mark to the affidavit.

Explanation:-The Officer administering the oath or affirmation shall write the name of the deponent over/ against the mark after the deponent affixes his mark and read it to the deponent before the oath or affirmation is administered.

(4) No oath or affirmation shall be administered to a deponent to an affidavit unless the Officer administering the oath or affirmation is satisfied that the deponent understands the nature and contents of the affidavit.

(5) In the case of a child witness under 12 years of age, the Presiding Officer shall record a finding that the witness understands the duty of speaking the truth.

RECORDING OF EVIDENCE

53. Deposition When To Be Signed By Witness :-

In each witness is examined and the requirements of Section 278 Cr.P.C are complied with, the witness shall be required to sign or affix his thumb impression on the record of his deposition.

54. Evidence As To The Age Of The Accused :-

In every case in which the precise age of the accused person is relevant to the determination of the sentence or order to be passed, evidence shall be taken on the question and whenever necessary the opinion of a medical expert shall be obtained.

55. Evidence Of Gosha -Women :-

When the deposition of a gosha women has to be taken, the Court shall, if necessary, adjourn to a place where the witness can be examined with due regard to her privacy, in the presence of the accused, precautions being of course taken to make sure of her identity.

56. Police Officers Not To Interpret Evidence :-

Police Officers shall not, as a rule, be employed to interpret the evidence of a witness in cases prosecuted by the police.

57. Charges For Interpretation :-

Sessions Judges and Chief Judicial Magistrates are authorized to incur under intimation to the High Court, expenditure to a limit not exceeding Rs.150/- (Rupees One hundred and fifty only) in each case on account of interpretation of evidence in a language not known by the accused or in a language other than the language of the court and not understood by the accused or in a language other than the language of the court and not understood by the Advocate or the accused or by the Court. They are also authorised the limit prescribed to pass similar charges incurred by Magistrates subordinate to them.

Explanation:- the Provisions of the foregoing paragraph shall also apply to cases of interpretation of statements made by the deaf and dumb or the dumb and to the payment of remuneration to the expert in interpreting such statements.

58. Marking Of Exhibits :-

(1) Exhibits admitted in evidence shall be marked as follows:-

- (i) if filed by the prosecution with the capital letter P followed by a numeral, P1, P2, P3 and the like;
- (ii) if filed by defence with the capital letter D followed by a

numeral, D1, D2, D3 and the like;

(iii) in case of Court exhibits with the capital letter D followed by a numeral C1, C2, C3 and the like; (2) All the exhibits filed by the several accused shall be marked consecutively.

All material objects shall be marked in Arabic numbers in continuous series as M.O. 1, M.O.2 and M.O.3 and the like, whether exhibited by the prosecution or the defence or the Court.

59. Charges Of Previous Conviction To Be Set Out Separately :-

If it is proposed to prove several previous convictions against an accused person for the purpose of affecting his punishment, they shall not be lumped in one head of charges, but shall be set forth separately, each under a distinct head of charge.

60. Complainant How To Be Described In A Charge :-

The person against whom an offence is alleged to have been committed shall be described in the charge by his name and not by his accidental position in the case as complainant, prosecutor or witness.

ADJOURNMENTS

61. Adjournment To Be Writing And Reasons Therefor Recorded :-

Every time an inquiry or trial is adjourned, an order of the Court in writing giving the reasons therefore shall be recorded. The reason for which an adjournment can be granted may be either the absence of a witness or any other reasonable cause as stated in Section 309 of the Code. Adjournment shall not ordinarily be granted in order to give time to the Advocates to prepare their address to the Court as this will lead to unnecessary delay in the disposal of cases.

62. Order Of Remand To Be Endorsed On The Warrant :-

When a case is adjourned there shall be a written order of remand. It may conveniently be made by the Judge or Magistrate endorsing his signature on the warrant of commitment under which the prisoner is brought up the words "Remand until....."

SENTENCES

63. Short Term Imprisonment Generally Undesirable :-

Short-term imprisonments are undesirable. Before passing such sentences, the Court should consider whether the provisions of Probation of Offenders Act (20 of 1958) or Section 360 of the Code

could not appropriately be applied in favour of the accused.

64. Imprisonment In Default Of Fine :-

In awarding sentences of imprisonment in default of payment of fine, regard shall always be had to the economic status of the accused and the sentence shall be so regulated as to induce him to pay them and not to evade such payment. When an accused is sentenced to pay fine with imprisonment, in default of such payment, he shall be allowed reasonable facilities for payment of the fine. The calendar in such cases shall contain information in the column for remarks as to the payment of the fine and the order passed to facilitate such payment

JUDGEMENTS

65. No Abbreviations In Judgments :-

Abbreviations shall not be used in Judgments or Orders.

66. How Witness Shall Be Referred To :-

Witnesses shall be referred by their names or ranks as P.W.s., or D.Ws., and if the witnesses are not examined, but cited in the chargesheet, they should be referred by their names and not by numbers allotted to them in the charge-sheet.

67. Tabular Form To Be Annexed To Judgment :-

The Judgment in original decisions shall be in the form prescribed by Sec. 354 of the Code, with a foot note or side note in a tabular form giving in addition, the following particulars,

Viz.....

Columns: (1) Serial Number.

(2) Name of Police Station and Crime No. of offence.

(3) Description of accused; Name, Father Name, Race, Occupation Residence, age

(4) Date of : Occurrence, Complaint, Apprehension, Release on bail, Commitment, Commencement of trial, Close of trial, Sentence or Order;

(5) Explanation for delay. Only two copies in manuscript of this statement are required, one copy for record and one for transmission to the High Court. The one for record may conveniently be written up in a list to be bound up by way of index with the printed judgments for each year. But in all summons cases the copy for record need not be prepared.

68. List Of Witnesses Etc., To Be Appended To Judgment :-

There shall be appended to every judgment a list of the witnesses

examined by the prosecution and for the defence and by the Court and also a list of exhibits and material objects marked

69. Judgment To Specify Offence In Respect Which Sentence Is Passed :-

When an offender is convicted of two or more offences and it is competent to the Court to award more than one sentence, the Court shall in its judgment declare in respect of which offence or offences any sentence awarded is imposed.

70. Sub-Section Under Which Convicted To Be Stated :-

When an accused is convicted under a Section of the Indian Penal Code, e.g., Section 454 which contains sub-sections with different punishments prescribed for the various offences dealt with, the judgment shall state under which sub-section the accused was charged and convicted.

71. Judgment To State Whether Previous Conviction Was Proved Or Confessed :-

When enhanced punishment is awarded on account of previous convictions, it shall appear in the judgment that the previous conviction was charged and proved confessed. FURNISHING COPIES OF JUDGEMENTS

72. Copies To The Prosecution And The Accused :-

Copies of judgments shall be given to the accused and the prosecution. When a person who has been convicted of an offence, applies for another copy of judgment in addition to the one required to be furnished to him U/s. 363 of the code, with a view to memorializing Government, he shall be furnished with another copy in all cases free of cost except in summons cases.

73. Judgment Against The Government Officials To Be Furnished, To The Heads Of Department :-

In cases where Government Officials are charged with criminal offences, copies of judgments and orders, and where they are in a regional language, translations thereof in English shall be furnished by the Courts to the Heads of Departments concerned, free of charge.

74. Copy Of Judgment When To Be Sent To The Head Of Department :-

Where in a Judgment or Order, the Sessions Judge or the Magistrate impugnes the character of conduct of the Government Servant, he should. If he regards the matter as serious enough to

call for Departmental Enquiry or action, forward a copy of the Judgment or Order to the Head of the Department or the immediate gazetted officer under whom the Government servant is working.

75. Intimation To Be Given To The Controller Of Defence Accounts On Conviction Of Military Pensioners :-

Where a Military pensioner is convicted and sentenced to imprisonment, or where such conviction and sentence of imprisonment are confirmed in Appeal, the Court passing or confirming such a sentence shall forward to the Controller of Defence accounts, Pensions, Allahabad free of charge a copy of such Judgment as soon as possible after it is pronounced stating the place from where the pensioner last drew his pension. Magistrates, Assistant Sessions Judges and Additional Sessions Judges shall or revision.

76. Copies Of Judgments In Food Adulteration Cases When To Be Sent To Food Inspector :-

In all Food Adulteration cases ending in acquittal, Sessions Judges or Magistrates concerned shall supply four typed copies of the Judgments on plain paper, free of cost, to the Food Inspectors on their request.

77. Copy Of Judgment When To Be Sent To Professions/Lecturers In Forensic Medicine :-

Sessions Judges and Magistrates shall forward to the Chemical Examiner two copies of their Judgments or final orders in all cases in which reference has been made to him.

78. Copy Of Judgment When To Be Sent To Professors/Lecturers In Forensic Medicine :-

Sessions Judges and Magistrates shall forward copies of the Judgments to the Professors/Lecturers in the Medical Colleges at Hyderabad, Visakhapatnam, Guntur, Kurnool, Tirupathi, Warangal and Kakinada, as the case may be in which his evidence has been taken. DIARY

79. Maintenance Of Diary :-

Sessions Judges and Magistrates shall maintain a diary in administrative Form No. 11. The Diary shall show the time at which the criminal proceedings of each day commenced and the time at which they ended, and shall indicate clearly the progress made in the hearing of each case (specifying the number of witnesses

examined), in the order in which each case was taken up. The entries shall be initialed by the Judge or the Magistrate on the day to which they relate.

80. Submission Of Extracts And Calling For The Original :-

When a case is committed for trial before the Court of Session or referred to the Chief City Magistrate, an extract from the diary shall be placed with record. It shall be competent to a Sessions Judge or the Chief City Magistrate upon a cause shown, to call for the original diary of any subordinate Magistrate in order to satisfy himself that the extract submitted is a correct transcript of the entries relating to the case, or that such entries have not been subsequently altered.

MISCELLANEOUS

81. Accused, Witness And Advocate To Sit :-

(1) The accused may be permitted to sit except when they are examined u/ss. 239, 251 or 313 of the Code or when they are required for the purpose of identification by the witness.

(2) The witnesses may be allowed to sit while giving evidence.

(3) Advocates may be allowed to sit while examining or cross-examining the witness.

Note:- Every person shall be required to stand when addressed by the Court or when he addresses the Court.

82. Receipt Of Complaints By Magistrates :-

Complaints of offences whether oral or in writing shall be received on all working days at fixed hours by the Magistrate having jurisdiction to receive them. When the complaint is in writing, the complainant shall present along with the complaint as many copies on plain paper of complainant shall present along with the complaint as many copies on plain paper of the complaint as the number of the accused persons complained against.

83. Section 83 :-

Wherever a complaint is referred to the Police for investigation and report u/s. 156 (3) Cr.P.C and if the Investigating Officer drops the case against some of the accused referred to in the complaint, the Magistrate shall give an opportunity to the defects complained of being heard before taking the cognizance of the case against those charge sheeted by the police.

84. Complaints Barred By Limitation :-

Where a case is filed after expiration of the period of limitation prescribed by law, the charge-sheet or the complaint shall show the ground upon which exemption from the law of limitation is claimed or explain the delay or state how it is necessary to take the case on file in the interest of justice.

CASES TRIABLE BY COURT OF SESSIONS

85. Cases Triable By Court Of Session :-

Magistrates should give preference to preliminary enquiries over other work.

86. Only Cases Exclusively Triable By The Court Of Session Shall Be Committed To Sessions :-

No case which can be tried and adequately dealt with by a Magistrate shall be committed to Sessions. If after hearing the evidence, the Magistrate is of the opinion that the accused is guilty and should receive punishment different in kind from or more severe than that which he is empowered to inflict, he shall submit the proceedings and forward the case to the Chief Judicial Magistrate, but not commit the case to the sessions straightway.

CASES TRIABLE BY COURT MARTIAL

87. Cases Triable By Court Martial :-

The Following rules framed by the government of India shall be followed in cases where the accused person is liable to be tried by the Court -Martial.

(1) These rules may be called the Criminal Courts and Court Martial (Adjustment of Jurisdiction) Rules, 1952.

(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 a person belongs or is attached.

(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 Force in the Field.

(c) "Competent Military 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 filed area, the officer commanding the forces or the Air Force in the Filed:

(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, Visakhapatnam 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, Eastern Fleet or Senior Naval Officer where the accuses person is serving.

(3) Where a person subject to Military, Naval or Air Force Law, or any other law relating to the Armed Force of the Union for the time being in force is brought relating tot eh 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 reason to be recorded that he should so proceed or to commit without being moved thereto by such authority.

(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 15 days from the date of service of the notice he shall not-

(a) convict or acquit the accused u/s.252, sub-section (1) and (2) of Sec. 255, sub-section (1) of section 256 or Sec. 257 of the Code of Criminal Procedure, 1973 (2/1974), or here him in his defence u/s. 254 of the said Code; or

(b) frame in writing a charge against the accused u/s. 240 or sub-section (1) of Sec.246 of the Code; or

(c) make an order committing the accused for trial to the Court of Session u/s.209 of the said Code; or

(d) make over the case for inquiry or trial u/s.192 of the said Code.

(5) Where within the period of 15 days mentioned in Rules 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 Sec. 475 of the said Code to the Officer specified in the said sub-section.

(6) Where Magistrate has been moved by the competent Military, Naval or Air Force authority, as the case may be under clause (a) of Rules 3, and the commanding Officer of the accused or the competent Military, Naval or Air Force authority, as the case may be, subsequently given notice to such Magistrate that, in the opinion of such Magistrate if he has not taken any action or made any order referred to in clauses (a) , (b), (c) or (d) of Rule 4, before receiving the notice shall deliver him together with the statement referred to in sub-section (1) of Sec. 475 of the said Code to the officer specified in the said sub-section.

(7) (1) When an accused has been delivered by the Magistrate under Rules 5 and 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) 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 Military, naval or Air Force 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.

(9) Where a person subject to Military, Naval or Air Force Law, or any other law relating to 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 the proceedings against such person should be instituted before 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.

CHAPTER 5 FRIVOLOUS AND VEXATIOUS ACCUSATIONS

88. Procedure Under Section 250 Of The Code :-

At the conclusion of the trial, if the Magistrate means to take action under Section 250 of the Code, he shall call upon the complainant if he be present, to show cause why he should not be ordered to pay compensation under the section. If the complainant be not present, the Magistrate shall issue notice to him to appear on the day fixed for delivery of judgment to show cause why payment of compensation should not be ordered.

CHAPTER 6 Courts of Session

89. Description Of The Seal Of Court Of Sessions :-

The Seal of every Court of Session shall be a circular one, two inches in diameter, bearing the Andhra Pradesh State Emblem, with the motto "Satyameva Jayate" in Devanagari Script inscribed in an arc and following the border of the Emblem (but without any border lines and with the designation of the Court, Viz., "The Court of Sessions of theDivision" inscribed thereon within two concentric circles round the Emblem without the words "Government of Andhra Pradesh". The inscriptions on the seal other than the motto shall be in Telugu language. When new seals are required, Courts of Session shall indent for them on the General Superintendent. Police Workshop, Seethanagaram sending their indents through the Registrar of the High Court.

90. Sessions Work To Be Given Preference :-

Sessions work should usually be given preference over civil work

and should never be unnecessarily interrupted; but every Sessions Judge should arrange, as he finds most convenient for the disposal of urgent Civil and Criminal Work.

91. Numbering Of Cases Committed To Sessions :-

Cases committed to the Courts of Session shall be filed and numbered on the date of receipt of the intimation of committal. The cases shall continue to bear the same numbers even when they are transferred for trial to the Assistant or Additional Sessions Judge.

JURISDICTION DURING VACATION

92. Sessions Judge Not To Hear Applications Made Out Side Division :-

A Session Judge shall decline to hear any application made to him during the recess if he is absent from his division and shall refer the applicants to the High Court.

RELEASE ON ACQUITTAL

93. Prisoners To Be Released Immediately On Acquittal :-

A prisoner is entitled to be discharged from custody immediately on a judgment of acquittal being pronounced upon him by the Court of Session, when there is no other charge pending against him and his detention is illegal. It is for the jail authorities in whose custody a prisoner remains until the trial is concluded to satisfy themselves of the result of the trial and no formal warrant of release addressed by the Court to the Superintendent of the Jail is necessary. REASONS FOR SENTENCE

94. Reasons For Sever Or Lenient Punishment To Be Recorded :-

In every Sessions trial in which a sentence of exceptional severity or unusual lenience is passed or in which varying degree of punishments are awarded to different persons convicted of the same offence in one trial, the reasons which guided the Judge in the determination of the amount of punishment shall be recorded in the judgment. SENTENCE OF DEATH

95. Copy Of Letter Of Reference In Referred Trial :-

A prisoner sentenced to death is entitled to obtain a copy of the Judges letter of reference.

96. Order Of High Court In Referred Trials To Be Communicated To Superintendent Of Jails Within 24 Hours

:-

Sessions Judge are directed to make arrangements for

communicating every order of the High Court imposing, confirming, reversing or commuting a sentence of death to the Superintendent of the Jail where the prisoner is confined within 24 hours of the receipt of the order in the Court of Session
IMPRISONMENT FOR LIFE

97. Levy Of The Fine To Be Notified To Jail Authorities By Court Of Session In Cases Of Sentence Of Imprisonment For Life And Fine :-

Courts of Session sentencing an offender, who is not less than 16 years and not more than 21 years of age, to imprisonment for life shall consider whether a recommendation should be made to the Government, or, if that has already been issued shall notify the fact of the payment or recovery to the jail authorities concerned.

98. Recommendation To The Government For Action Under Section 10-A Of Borstal Schools Act, 1925 :-

Courts of Session sentencing an offender, who is not less than 16 years and not more than 21 years of age, to imprisonment for life shall consider whether a recommendation should be made to the Government that the offender be detained in a Borstal School under the provisions of the Andhra Pradesh Borstal Schools Act, 1925.

99. Sessions Judgments :-

Every Sessions judgment shall contain at the end a list of witnesses examined by the prosecution of the Andhra Pradesh Borstal School Act, 1925. The name of the Police Station concerned and the Crime Number of the offence should also be noted at the head of the judgment.

100. Distribution Of Copies Judgments :-

(1) Courts of Session shall, within 15 days from the date of pronouncing judgment, distribution copies of all their judgments as follows, a sufficient number of copies being typed or cyclostyled for the purpose of each case;

(i) One copy for the Collector of the District.

(ii) Three copies in respect of capital charges and two copies in other cases to the Superintendent of Police/Commissioner of Police, Superintendent of Police, Crime Branch., C.I.D.

(iii) One copy to the High Court as provided for in the Rules relating to the submission of Judgment and Calendars.

(iv) Eight Copies to the High Court as provided for in the Rules

relating to the submission of records.

(v) One copy for each accused person with reference to Section 363 of the Code.

(vi) One copy (for each prisoner) to the Superintendent of the Jail to which a prisoner is committed when such prisoner is sentenced to imprisonment, for being filed with the warrant of committal or used for purpose of memorializing Government if required.

(vii) Two copies (for each prisoner) to the Superintendent of the Jail to which a prisoner is committed in cases when such prisoner is sentenced to death, to prevent delay in the transmission to Government of pensions for money .

(viii) In cases other than those mentioned in Sub-heads six and seven, one copy shall be furnished to each person convicted of an offence on his requisition in order to afford facilities for memorializing Government to exercise its powers under Chapter XXX of the Code required by Section 363.

(ix) One copy to the Director of Persecutions, one copy to the Public Prosecutor and one to the Additional or special Public Prosecutor who conducted the case.

(x) One copy to be filed with the records.

(xi) One copy to be bound up in a volume of Judgments for reference in the Sessions Courts.

(xii) The copies referred to in sub-heads (i) to (ix) inclusive shall be supplied free of charge, where copies can be spared, one may be supplied to person not entitled by any law or order to receive a copy free of cost., on payment of the prescribed charges all such payments shall be in cash.

CHAPTER 7 Appeals

101. Presentations Of Appeals :-

Petitions of appeals from the convictions and orders passed by a Magistrate may be filed in the Court of Session by delivering the same to the Chief Magisterial officer of that Court at any time during office hours. The said Officer shall at once endorse on the document the date of presentation and the serial number.

102. Defective Petitions Return For Rectification :-

Petitions and Application filed in the Court of Session should conform to the provisions of law. If any petition or application is found to be defective in any respect, it shall be returned to the party or Advocate concerned for amendment and representation within a specified time.

103. Separate Or Joint Appeals When To Be Preferred :-

Where several accused persons are convicted in a single trial, each of them can prefer an appeal against convictions either separately or jointly with one or more of the other accused. But when one accused has been convicted at different trials, he should prefer a separate appeal in each case.

104. Jail Appeals :-

No appeal forwarded from Jail under Sec.383 of the Code shall be summarily dismissed without giving the appellant a reasonable opportunity of being heard. If he is not in a position to engage an Advocate the Court shall assign an Advocate from the state Brief Panel and pay him fees not exceeding Rs. 200/-

105. Notice Of Appeal To Whom Given :-

Notice of Appeal under sec.385 of the Code shall be given to the following Officers:-

(1)The Public Prosecutor, or the Additional Public Prosecutor, as the case may be, in appeals heard by the Sessions Judge, the Additional Sessions Judge or the Assistant Sessions judge.

(2)The General Manager of the Railway concerned in appeals against convictions in connection with the Railway.

(3)The District Forest Officer in appeals against convictions for forest offences except in case of offences relating to unreserved lands in which cases notices shall be given to the Revenue Divisional officer who ordered the persecution

(4)The Superintendent of Excise concerned in appeals against conviction under the A.P., Excise Act.

(5)The Commercial Tax Officer in appeals against convictions for sales tax and other taxation offences with which commercial Taxes Department is concerned,

(6)The Commissioner, Corporation of Hyderabad in appeals against convictions in cases initiated by the Corporation.

(7)The Municipal Commissioner in appeals against convictions in Municipal and Food Adulteration Cases and the Executive Officers of the Panchayats in appeals against convictions in Food Adulteration Cases.

Every notice issued under this rule shall be accompanied by a copy of the grounds of appeal on plain paper. The officer receiving notice should acknowledge receipt of the notice immediately. But the hearing of the hearing of the appeal will not be delayed for want of such acknowledgement.

106. Suspension Of Sentence :-

Whenever an Appellate Court orders the suspension of the execution of a sentence of imprisonment under Section 389 of the Code, it shall send a copy of the order to the Superintendent or Officer-In-Charge of the Jail in which the appellant is confined.

Note :- The effect of an order by an Appellate Court suspending the execution of the sentence of imprisonment pending disposal of an appeals , is that the appellant if detained in Jail, is to be treated, in all respects as an under trial prisoner.

107. Judgment In Appeals :-

The Judgment in appeals shall contain the particulars in a tabular statement as in Judicial Form.No.75. The point or points for determination in appeals and the reasons for the decision of the Appellate court, shall be stated. In cases in which an appeal is rejected under Section 384 of the code, the Judgment shall contain a statement, if the fact be so, that the Court has perused the petition of appeal a copy of the Judgment or Order appealed against and has heard the appellant, his counsel, as the case may be.

108. Copy Of Order Of Dismissal To Be Sent To The Superintendent Of Jail :-

Whenever an Appellate Court dismisses an appeal, it shall, whether the execution of the sentence is suspended under section 389 of the Code or not, send a copy of the order dismissing the appeal to the Superintendent or Officer-in Charge of the Jail in which the appellant is, or is to be, confined.

109. Amendment Warrant To Be Sent To Superintendent Of Jail When Sentence Of Imprisonment Is Modified :-

Whenever an appellate Court modifies a sentence of imprisonment, it shall prepare a fresh warrant in accordance with the terms of the order passed and shall send the same along with a copy of the order direct to the superintendent or officer-in-charge of the jail in which the appellant is, or is to be confined, and shall recall and cancel the original warrant of commitment, which shall be attached to the record of the original Court and returned to it therewith.

110. Warrant Of Release To Be Sent To Superintendent Of Jail When Sentence Of Imprisonment Is Reversed :-

Whenever an Appellate Court reverses a sentence of imprisonment, it shall prepare a warrant to release and shall send the same by registered post with acknowledgment due along with a copy of the

Order direct to the Officer-in-charge of the Jail in which the appellant is confined. It shall at the same time recall and cancel the original warrant of commitment which shall be attached to the record of the original court and returned to it therewith.

111. Order Of Refund Of Fine :-

On receipt of a copy of the Judgment or Order of an Appellate Court reducing or reversing a sentence of fine, the Court of the first instance shall, if the fine or a portion thereof as the case maybe, has been levied, prepare the necessary payment order and deliver it to the payee or his Advocate, if any.

112. Time For Presentation Of Payment Order :-

Such payment order shall be presented for payment within three months from the date of its issue. If not presented within that period, it shall be returned to the Court, and may then, after being re-dated and initialed by the Magistrate, be re-issued to the payee.

113. As Many Copies Of Warrants And Judgment To Be Sent As There Are Prisoners :-

In the case disposing of an Appeal by a convict in Jail shall, in communicating its order to the prisoner return to him through the Jail authorities, the copy of the Judgment appealed against which accompanied the petitioner or appeal when such copy is in manuscript.

114. Manuscript Copy Of Judgment To Be Returned To Prisoner In Jail :-

The Court disposing of an Appeal by a convict in Jail shall, in communicating its order to the prisoner return to him through the Jail authorities, the copy of the Judgment appealed against which accompanied the petition or appeal when such copy is in manuscript.

115. Return Of Papers After Disposal Of Appeals Etc. :-

On the file termination of an appeal, revision- petition or other application, the Criminal Court to which such appeal, revisionpetition or application is made shall, on an application in writing made in that behalf by the party or Advocate concerned return, as soon as possible copies of Judgment, orders and other papers filed as enclosures to such appeal, revision petition or application. An endorsement on the application for return, signed by the party or Advocate shall be a sufficient voucher for the return of the copies. TESTING SUFFICIENCY OF BAIL OR SUCURITY

116. Court To Test Sufficiency Of Bail :-

When a Court of Appeal or Revision orders the release on bail of a person who has been convicted or committed for trial, the question of the sufficiency of the Bail shall, unless the court of appeal or revision thinks fit itself to determine the sufficiency of the bail or security, be determined by such court or Magistrate subordinate or it as the Court making the order may direct.

117. Court To Test Sufficiency Of Security Under Section 106 Or 117 Of The Code :-

When an order to give security is made under Sections 106 or 117 of the Code, the question of the sufficiency of the security shall be determined by the Court of Magistrate by whom the order was made provided that when an order to give security is made under Section 106 of the Code by an Appellate court or by a revisional court, the Court thinks fit itself to determine, be determined by such other Court or Magistrate subordinate to it as it may direct.

118. Warrant To Release To Be Issued By Court Testing Sufficiency Of Bail Of Security :-

The Court authorized to test the sufficiency of the bail or security, shall when satisfied as the sufficiency of the security, forward to the officer-in-charge of the Jail in which the accused is confined, a warrant for the release of the prisoner in pursuance of the order and shall further, in cases where bail is ordered by a superior court, report to that court whether or not the bail has been furnished.

MISCELLANEOUS HIGH COURT

119. Appeals Under Sections 340,344,345 And 350 Of The Code :-

Appeals filed under Section 351 Criminal Procedure Code shall be registered as Criminal Appeals.

120. Appeals Under Section 454 Of The Code :-

Every Appeal under Section 454 of the Code should be registered as a Criminal Miscellaneous Appeal and dealt with as such.

CHAPTER 8 High Court

121. Tappal Petitions For Exercise Of Judicial Authority Not To Be Entertained :-

Save as otherwise provided no application or petition for the exercise by the High Court of its judicial authority will be entertained when forwarded by post.

122. Form Of Appeals Etc :-

All petitions, applications, affidavits, memoranda of appeal or revision petition and all proceedings presented to the High court, shall be in English and shall be written or typewritten fairly and legibly on substantial white foolscap folio paper with an outer margin about two inches wide and separate sheets shall be stitched together book wise. The Writer or printing may be on both sides of the paper and numbers shall be expressed in figures.

123. Cause Title Of Miscellaneous Petition :-

Every original miscellaneous petition shall be headed with a cause title setting out the provision of law under which it is filed and the names and full addresses of the parties to it separately numbered and described as petition and respondents.

124. Cause Title Of Memo Of Appeal :-

Every memorandum of Criminal Appeal, other than an appeal presented to Jail Officer, shall be headed with a cause title setting out the provision of law under which it is preferred, the name of Court, the names of appellants and respondents in the High Court and also the full cause title of the cause title of the case or matter in the Lower Court or Courts, as the case may be. Where an appellant is in jail, that fact shall be mentioned in the cause title with an indication of the jail in which he is confined.

125. Cause Title Of Subsequent Proceedings :-

Every proceeding, subsequent to an appeal, revision petition or other application made be headed with a short cause title setting out the provision of law and the names of the parties and their ranks and status in the main case.

126. Enclosure Of Appeal Or Revision Petition :-

(1) Every petition of appeal or revision petition shall be accompanied by a certified copy of the judgment or order of the Court appealed against or sought to be revised, a memorandum of appearance duly signed, and the necessary vouchers for the verification of any matter or entry in the petition or enclosures.

(2) When a revision petition is presented against a judgment or order passed in appeal, it must be accompanied also be certified copy of the judgment or order of the court of first instance, obtained either by a fresh application for copy or by a return of enclosures under Rule 115.

(3) When the certified copy of the judgment or order of the lower

court is in manuscript, the appeal or revision petition shall be accompanied by a typewritten copy of the judgment or order.

127. Petition To Excuse Delay To Accompany Appeal Or Revision Petitions Presented Out Of Time :-

(1) Where an appeal, on the date of its first presentation is barred by limitation or where revision - petition is presented more than 90 days from the date of judgment or order which the petitioner seeks to have revised, a petition to excuse delay supported by an affidavit explaining the circumstances of such delay shall be filed along with the petition or appeal.

128. Separate Petition To Be Filed In Each Case :-

Every interlocutory application relating to an appeal, revision petition or original petition shall be made by a separate petition in each case.

129. Court Fee To Be Paid On Each Petition :-

Every interlocutory application relating to an appeal, revision petition or original petition shall be made by a separate petition in each case.

130. Return Of Defective Petition And Their Representation :-

Every petition or other application which does not comply with the above requirements or is otherwise defective shall be returned to the party or Advocate concerned for amendment and representation within a specified time.

131. Petition To Excuse Delay To Accompany Appeals Out Of Time On The Date Of Representation :-

Every petition or appeal represented after the expiry of the time specified under Rule 130 and barred by limitation on the date of its representation shall be accompanied by a petition and affidavit as prescribed in Rule 127.

132. Explanation For Delay To Accompany Other Cases :-

Every Appeal not governed by the Provisions of the preceding Rule and every other petition or application for which no period of limitation is prescribed by law, shall if represented after the time allowed, contain an endorsement in explanation of the delay; provided that in the case of revision petition the period of 90 days allowed by Rule 127 is not exceeded., a petition to excuse delay supported by an affidavit shall be filed along with the revision

petition as provided by Rule 127.

133. Posting Of Appeal Or Revision For Admission :-

Every appeal (Other than one preferred from jail or in which the prisoner has been sentenced to death or has been called upon to show cause why he should not be so sentenced) and every application or petition or a revision petition shall be posted for admission at the earliest possible opportunity after it is filed.

134. Motion Cases :-

Every petition or application intended to come up for orders of the High Court as a special motion should be filed in the office of the Registrar not later than 3 P.M on the day previous to the day on which the motion is to be heard and a separate letter, explaining the nature of the urgency, should be addressed to the Registrar for permission to move.

135. Motion To Be Taken Before The Days Regular Work :-

Every petition allowed by the Registrar under this rule will be taken up before the regular work of the court for the day and shall also have precedence over civil motions.

136. Additional Set Of Papers To Be Filed In Motions Before A Bench Of Two Or More Judges :-

Where a motion has to be heard by Bench of two or more Judges, additional sets of papers should be furnished by the party concerned.

137. 24 Hours Notice To Public Prosecutor To Be Given In Case Of Transfer :-

No application for transfer shall be accepted as a special motion unless it bears an endorsement or is accompanied by a satisfactory voucher that notice was given to the Public Prosecutor at least 24 hours before forenoon of the day on which the court to take up the application.

138. Personal Notice In The Absence Of An Advocate :-

Notices in criminal cases shall be served on parties personally unless they are represented by an Advocate in which case notice shall be given to such Advocate. Provided that, when on admitting a Criminal Appeal or Revision Petition presented by an Advocate, the Court directs notice to issue to a party to show cause against enhancement of sentence, notice shall be served on the appellant or petitioner in person.

139. Notice To Public Prosecutor In Cases Referred To High Court Under Section 366 Of The Code :-

In cases referred to the High Court for the confirmation of capital sentence, the court will issue notice to the Public Prosecutor to appear in all cases on behalf of the prosecution.

140. Provisions Of Rule 105 To Apply To Notices Issued By High Court :-

Notice of appeal shall under section 385 of the Code be given to the Public Prosecutor, Andhra Pradesh and to the Superintendent of Police of the District concerned or the Commissioner of Police Hyderabad as the case may be. The provision of Rule 105 shall apply also to notice issued by the High Court, Appellate side.

141. Service On Prisoner Through Jail Authorities :-

Notice for service on parties in Jail will be forwarded to the Officer in-charge of the Jail and the officer-in-charge of the jail shall cause the notice to be served on the prisoner without delay and obtain the acknowledgment of the prisoner and shall certify to the court about the service.

142. Cases In Which Cyclostyling Etc., Of Record Is Done :-

(a) The record in the following classes of cases will be cyclostyled, typewriter or mechanically reproduced in any other manner without the special order of Court.

1. Reference under Section 366 of the Code unless otherwise directed.
2. Appeals under Section 382 of the Code unless other wise directed.
3. Appeals under Sub-Section ()1) of the Section 378 of the Code on capital charges.
4. Cases taken up for enhancement of sentence to death. Note:- Printing in the above cases may be done, if the Court so directs.

(b)1. It will not be necessary ordinarily to cyclostyle or type or mechanically reproduce inquest reports, prior statements or depositions which are filed merely to prove omission or motive.

2. Where parts of documents are relied on those parts only be cyclostyled, type written or mechanically reproduced. In all cases in which the record of the Court is cyclostyled or typed or mechanically reproduced or printed under this rule, a copy of the same be supplied to the accused at the rate of one rupee per page. 383. It is not necessary to print statements of the accused recorded

under Section 313 Code. Provided that when the Public Prosecutor or Counsel for the accused makes a special request within 4 days from the date of notification of posting of cases on the ready board the statements or documents filed along with them or portions there of shall be typed or cyclostyled or mechanically reproduced.

143. Other Cases To Be Typed, Cyclostyled At Partys Cost :-

Records of cases not governed by the preceding rules shall ordinarily be typed or cyclostyled at the cost of the party applying for the absence of an express direction of Court to have them (printed) typed or cyclostyled at the cost of Government.

144. Evidence To Be Typed Or Cyclostyled Only If Pleadings Are Typed Or Cyclostyled :-

No party will be permitted to type or cyclostyle the evidence in a case without his having paid for the typing or cyclostyling of the pleading.

145. Time For T And P Of Records :-

No application for the typing or cyclostyling of evidence presented by the petitioner after the expiry of one week from the date of the admission of his petition or by the respondent after the expiry of 14 days from the date of the service of the notice of the petition shall be received except under orders of the Registrar.

146. Registrar To Permit Typing Or Cyclostyling Of Fresh Documents To Be Admitted In Evidence :-

When application is made for the translation and typing of any document not on the record of the case with a view to its admission in evidence, the translation and typing or cyclostyling may be ordered by the Registrar, provided that the order shall be made without prejudice to the posting of the case.

147. Bill To Be Paid Within Ten Days From Its Issue :-

A party to whom a bill is issued for typing or cyclostyling charges whether in respect of pleading or of evidence shall be called upon to pay the amount therein specified within ten days from the date of its service on him and no payment shall be received after the expiry of that period except under an order of the Registrar.

148. No Printing In Revision Cases Where In There Is An Order Of Stay :-

In the absence of an express direction to the contrary on record shall be cyclostyled or typed or mechanically reproduced in a revision case pending disposal of which stay of proceedings in any

criminal case has been ordered by the Court.

149. Cases In Which Copies Of Record Are To Be Supplied Free Of Cost :-

Copies or records shall be supplied free of cost in the following cases:-

- (1) One set to the Public Prosecutor in every case in which notice has been issued to him.
- (2) One set to the Advocate for accused in.
 - (a) Reference under Section 366 of the Code.
 - (b) Appeals against acquittal
 - (c) Appeals or Revision for enhancement of sentence to one of death.

Provided that where more than one set is applied for by the Advocate for the accused the same shall be supplied at such rate as the Registrar may from time to time fix.

150. Application To Be Made In Other Cases :-

An Advocate requiring free supply of (typed papers) in any other case should obtain the orders of Court by means of petition or otherwise. Application for free copies of typed record papers should be made at the time of the admission of an appeal or petition, and should be supported wherever possible, by an affidavit as to the means of the accused. Police Officer to whom notice is given in a case may apply for a set of record and obtain the same by post or personally.

151. Additional Sets To Be Applied Before Preparation Of Copies :-

Application for additional sets of record will not be entertained unless they are made by parties paying for the copies before preparation of the copies begins.

152. Payment To Be Made In Other Cases :-

Copies of record will not be issued to parties or Advocate not having notice except on payment at such rate as the Registrar may fix from time to time.

153. List Of Cases Ready For Hearing :-

A list of cases other than miscellaneous petitions ready for hearing will be exhibited on the notice board and no such case shall ordinarily be posted for hearing within a week of its being so exhibited.

154. Cases To Be Heard By A Bench Of Two Judges :-

The following classes of cases will ordinarily be heard by a Bench of two Judges;-

1. Every reference under Section 366 of the Code and every appeal from the Judgment of a Criminal Court in which sentence of death or imprisonment for life has been passed on the appellant or on a person tried with him.
2. Every appeal against acquittal on a capital charge.
3. Every case of enhancement of sentence to one of death.
4. Every appeal, application, reference or revision petition which may be referred to Bench by a single Judge.
5. Every other case marked at the time of admission for la Bench of two-Judges.

155. Single Judge Cases :-

All Criminal cases not referred to in the Rule 154 will ordinarily be heard by a single Judge.

156. Reference Under Section 366 Of The Code To Be Given Precedence :-

Reference under Section 366 of the Court, will have precedence over other cases posted before the Criminal Bench.

157. Notice In Bail Cases :-

1. Subordinate Courts shall give notice of every application for bail under Section 390 of the Code to the local Public Prosecutor.
2. In cases where bail is granted the Court granting bail shall report the fact to the High Court at once.

158. Judgment And Order To Be Dispatched With Promptness :-

The Judgment or order of the High Court, in or relating to, a criminal case on its file shall be certified to the lower courts with the least possible delay.

159. Orders On Reference Under Section 366 Of The Code To Be Communicated On The Same Day :-

An order on a reference under Section 366 of the Code shall be certified in the Court of Session on the same day on which judgment is pronounced.

160. Order To Be Issued Before Hand If Preparation Of Judgment Id Delayed :-

Where is any of the following cases the judgment of the High Court

cannot be certified to the lower court on the day on which it is pronounced, an order drawn up in conformity with the judgment is delivered on the next working day.

(i) Where a judgment of acquittal or release is passed or upheld and the accused or any of them is in custody.

(ii) Where a sentence passed is enhanced or confirmed and the accused or any of them is on bail or otherwise at large.

(iii) Where a sentence is reduced or altered entitling the accused to early or immediate release.

(iv) Where the case requires urgent or immediate action.

161. Judgment Relating To Sessions Tribunal :-

Judgments in cases relating to trial by a Court of Session shall be communicated to:

(1) The Sessions Judge; and

(2) The Additional or Assistant Sessions Judge, if any { of the District};

(3) The Collector of the District:

(4) The Superintendent of Jail, if any, in which the accused are confined; (where the accused is sentenced to imprisonment; two additional copies ;)

(5) The Inspector General of Police;

(6) The Public Prosecutor, Andhra Pradesh;

(7) "Standing Counsel-cum-Special Public Prosecutor for Anti-Corruption Bureau and Special Police Establishment Cases, Andhra Pradesh", (Added by Roc. No. 14/SO/92).

Note:- An additional copy will be forwarded to the Sessions Judge in every case in which an accused person is in jail for communication to him and the acknowledgement of the accused as to the receipt of the judgment shall be obtained in every case.

162. To Whom Orders To Be Communicated :-

Orders issued in advance of judgment shall be communicated to the officer and parties to whom judgments are communicated.

163. Certificate Under Article 132 Or 134 Of The Constitution :-

In cases where the High Court grants a certificate under Article 132 or 134 of the Constitution to a person under sentence of death, the date of the issue of the certificate shall forthwith be intimated to the Government and the Superintendent of the jail in which the prisoner is confined.

164. Order To Be Communicated To Subordinate Magistrate

Through The Sessions Judge :-

Every order and judgment relating to a Magisterial enquiry or trial shall be communicated to the Magistrate or Magistrates concerned through the Sessions Judge in the absence of Special urgency.

165. Revision Cases :-

Rule 161 and 162 will apply mutatis mutandis to revision cases arising from cases other than Sessions trials.

166. Communication Of Orders Dismissing Bail :-

Notwithstanding anything contained in the foregoing rules, a copy of the order of the High Court dismissing an application for bail pending the disposal of a Criminal Revision Case or an Appeal or other proceedings in the High Court shall be sent to the concerned and also to the prisoner through the Superintendent of the Jail, in which he is confined and also to prisoner through the Superintendent of the Jail, in which he is confined and to no other person provided that where bail is applied for on behalf of more than one prisoner and bail is granted to one or more prisoners, Rules 161, 164 and 165 will apply.

167. Order Of High Court On Appeal And Revision :-

Wherever the High Court certifies its judgment or order to a lower court under Section 388 or 405 of the Code, it is the duty of the later court to issue the necessary warrant of release or modification of sentence, or order for the refund of a fine, and in doing so it shall be governed by the provision of Rules 106 or 108 to 111.

168. Duplicate Copy Of Order Of High Court To Be Sent To Superintendent Of Jail :-

When an order of the High Court in appeal or revision is certified to a lower court under Section 388 or 405 of the Court, it shall be issued in duplicate and the lower court shall, on receipt of the order, forthwith send copy of it to the Superintendent or officer in-charge of the Jail in which the prisoner is confined, along with the warrant, if any, required by Rule. 167. If the High Courts order is an order of release, one copy shall be sent direct from the High Court to the Superintendent or Officer-in-charge of the jail.

Note:- In Rules 167 and 168 the expression "Lower Court" means in the case of a Judgment or order passed by the High Court on a revision petition against the finding sentence or order of an Appellate Court, the Appellate Court, the Appellate Court and not the Court of first instance.

169. State Brief :-

An Advocate shall be engaged at the cost of the State to defend an accused person who does not engage an Advocate himself in the following cases:-

- (1)Where he is under a sentence of death.
- (2)Where he has been called upon to show cause why a sentence of death should not be passed upon him; and
- (3)Where an appeal has been filed under Section 378 of the Code in case involving a sentence of death or imprisonment.

170. Engagement Of Advocate In Certain Cases :-

An Advocate may be engaged at the cost of the State in any other case in which the Court direct.

171. Fee In High Court :-

The fee payable to the Advocate appointed by the High Court shall be fixed by the High Court in its direction.

172. Return Of Records And Material Objects :-

On the termination in the High Court of a reference, appeal, revision case or other application or matter the records of the case with the material objects, if any shall be returned to the Court or Courts from which they were received along with the judgment or order of the High Court.

173. Return Of Enclosures :-

Copies of judgments, orders or other papers filed by parties in the High Court as enclosures to any appeal, revision petition or other application shall on the termination of such appeal, revision petition or application, be returned to them on a requisition made by them in that behalf under the order of the Registrar.

174. In Sentences Of Death, Two Sets Of Papers To Be Sent To The Government :-

In every case, in which sentence of death is passed or confirmed by the High Court two copies of the judgment of High Court with two sets of typed or cyclostyled evidence and of all other material papers shall be forwarded to the Government in the Home Department.

CHAPTER 9 Execution of Sentence

175. Committal Warrant To Be In English :-

Every warrant of commitment shall be written in the English language or in the language of Court ad sealed with the seal of the

Court. It should mention the period of remand.

176. Separate Warrant For Each Prisoner :-

When two or more persons are convicted and sentenced to imprisonment at the same time, a separate warrant of commitment shall be issued for each of them.

177. No Fresh Warrant Need Be Issued In Cases Under Section 432 Or 433 Or 434 Of The Code Or Under Article 72 Or 161 Of The Constitution :-

In cases in which the Central Government or the State Government suspends, remits or commutes a sentence under section 432, 433 or 434 of the Code and in cases in which the President or the Government grants a pardon, reprieve or remission under Article 72 or 161 of the Constitution, no fresh or revised warrant need be issued.

178. Session Judge To Fill In The Particulars As To Diet Etc., In Warrant Issued By The High Court :-

Whenever the High Court in a case submitted to it by a Sessions Judge under Section 366 of the Code, convicts the accused and passes sentences on him and issues a warrant of commitment to the jail through the Sessions Judge, it is duty of the Sessions Judge, to fill in the particulars as to diet, classification and other matters shown on the warrant before it is sent to the jail.

179. Convicts To Be Classified " Habitual" Or "Casual" :-

When ever possible a Court which convicts an accused person should decided whether to be classified as an habitual or causal convict, and make a note of the decision he warrant of commitment for the information of the jail authorities. The following persons are liable to be classified as Habitual Criminals viz.,

(i) any person convicted of an offence punishable under Chapters XII, XVII or XVIII of the Indian Penal Code, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief, or receiver of stolen property, or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps , or forgery

(ii) any person convicted of an offence punishable under Chapter XVI of the India Penal Code, whose previous conviction or convictions taken in conjunction with the facts of the present case, show that he habitually commits offences;

(iii) any person committed to or detained in prison under

Sec.122r/w Section 109 or Section 110 of the Code.

(iv) Any person convicted of any of the offences specified in (i) above when it appears from the facts of the case, even though no previous conviction has been proved, that he is by habit a member of gang of dacoits, or of thieves or a dealer in slaves or in stolen property;

(v) Any person convicted by a Court or Tribunal acting outside India under the General or Special Authority of the Central Government of an offence which would have rendered him liable to be classified as habitual criminal if he had been convicted in a Court established in India.

Explanation:- For the purpose of this definition, the word "conviction" shall include an order made under Section 117 r/w the Section 110 of the Code.

(1) The Classification of a convicted person as a habitual criminal should ordinarily made by the convicting Court, but if the convicting Court omits to do so, such classification may be made by Chief Judicial Magistrate, or in the absence of order by the convicting Court or the Chief Judicial Magistrate and pending the result of a reference to the Chief Judicial Magistrate by the Officer-in-charge of the Jail, where such convicted person is confined.

(2) The convicting Court or the Chief Judicial Magistrate for reasons to be recorded in writing may direct that any convicted person or any person committed to or detained in prison u/s. 122 r/w. Section 109 or Section 110 of the Code, shall not be classified as a habitual criminal and may revise such direction

(3) Convicting Courts or Chief Judicial Magistrates, as the case may be may revise their own classification and the Chief Judicial Magistrate may alter any classification of prisoner made by a convicting Court or any other authority, provided that the alteration is made on the basis of facts which were not before such Court or authority.

180. Levy Of Fine To Be Enforced Son The Warrant Or Notified To The Jail Authorities :-

When an accused person is sentenced to imprisonment as well as, or in dealt of payment of fine, the warrant issued to the Jail authorities shall contain definite information as to whether the fine has been paid or not, in whole or in part, If the Warrant does not furnish this information I, a reference shall forthwith be made by the Jail authorities to the convicting Court to ascertain whether the fine has been paid and the purport of the reply shall be noted on

the warrant.

181. Subsequent Levy Of Fine To Be Notified To The Jail Authorities :-

When the fine is paid or recovered in whole or in part after the admission of the prisoner into jail, the responsibility for intimating to the jail authorities, the fact of the payment rest entirely with the court. Such intimation shall invariably be acknowledged by the Jail authorities and the acknowledgement shall be filed by the Court for future reference. On receipt of the intimation from the Court, the jail authorities shall endorse the information on the warrant, Intimation from the Court, the Jail authorities shall endorse the information on the warrant, Intimation sent by post by the Court under this Rule shall be registered with acknowledgment due.

182. Intimation From Court To Bear Its Seal :-

Intimation sent by a Criminal Court to the Superintendent of a Jail that a fine which the prisoner has been ordered to pay had been paid or recovered in whole or in part shall bear the seal of the Court.

183. Warrant Of Commitment Returned After Execution To Form Part Of The Records Of The Cases :-

Warrants of commitment which are returned to Courts after the execution of sentence should be filed with the records of the respective cases and dealt with under the Rules for destruction of records.

184. Notification Of Residence By Released Convicts :-

(1) When an order had been passed under Section 356 of the Code, that a convict shall notify his residence and change of residence after release for a specified term, the Court or Magistrate passing such order shall enter a record thereof in the warrant of commitment issued under Section 418 of the Code in respect of such convict.

(2) Convict to state particulars of his intended residence:-A convict in respect of whom such an order has been passed shall, when called upon by the Officer-in-charge of the Jail in which he confined, state before his release the place at which he intends to reside after his release naming the village or town and the street therein.

(3) To notify to nearest Police Station :- After release and on arrival at his residence he shall within 24 hours notify at the nearest Police

Station that he has taken up his residence accordingly.

(4) Intention to change residence to be notified:- Whenever he intends to change his residence he shall , not less than two days before making such change, notify his intention at the nearest Police Station, giving the date on which he intends to change his residence and the name of the village or the town and street in which he intends to reside, and on arrival at such change, he shall, with 24 hours, notify at the nearest Police Station that he has taken up his residence accordingly.

(5) Reasonable time to change his residence:- The officer recording a notification under either sub-rule (2) or sub-rule(4) shall appoint such a period as may be reasonably necessary to enable the convict to take up his residence in such place with in the period so appointed, he shall not later than the day following the expiry of such period, notify his actual place of residence to the Officer-in-charge of the police Station within the limits of which he is residing.

(6) Intimation of absence between sunset and sunrise:- Whenever a released convict intends to be absent from his residence between sunset and sunrise, he shall notify his intention at the nearest Police Station stating the time and purpose of such absence and the exact address where he can be found during that period.

(7) Notice to be given of change:- Every notice required to be given by the foregoing rules shall be given by the released convict in person unless prevented from doing so by illness or other sufficient cause in which case the notice required shall be sent either by letter duly signed by him or by an authorized messenger on his behalf.

(8) Officer to certify receipt of notice:- Whenever the released convict gives any notice required by the foregoing rules, he will be furnished with a certificate to the effect that he has given such notice by the Officer to whom he gives it.

(9) Copy of order and rules to be served on convict:- A copy of the order specified in sub-rule (1) shall be served on the convict before his release from Jail. A Copy of these rules in English and the Regional language shall at the same time be given to him, and the substance thereof fully explained to him in a language he understands. He shall also be informed for what period he is bound to observe these rules, and that any neglect or failure to comply with them will render him liable to punishment as if he had committed an offence under sec.176 of the Indian Penal Code.

(10) Police to call upon convict and serve notice:-if a convict in respect of whom an order has been passed under Sec.356 of the

Code shall have been released from Jail with out a copy of the said order having been complied with, he may at any time while the order remains in force, be called upon the Police to report himself on a given day at a Police Station near the place where he is found, and on his reporting himself, the copy of the order shall be served on him, and the other formalities prescribed in sub-rules(2) and (4) shall be complied with.

Note:-In applying the above rules to the case of a wandering man who has no "residence" in the sense of a fixed place of abode, they may be reasonably interpreted is meaning that he resides at the place where he sleeps, even if he remains there only one night. On his release he may therefore, be asked under sub-rule (2) where he is going to stay, and he may be told that if he moves above the country, he must always notify the place of the temporary abode to the police.

RULES FOR LEVY OF FINES

185. Rules For Levy Of Files :-

Rules under Sec.421 (2) of the Code for the execution of warrant for levy of fine 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.

1. A warrant for the levy of fine issued under clause (a) of sub-sec. (1) of Section 421 of the Code, shall be directed to a Police Officer and shall be in Form No. 43 of Scheduled II to the Code.
2. The authority issuing the warrant shall specify a time for the sale of the attached property and for the return of the warrant.
3. The following articles shall not be liable to attachment to sale viz., The necessary wearing apparel, cooking vessels, beds and bedding of the offender, his wife and children and such personal ornaments as in accordance with custom or religious usage cannot be parted with by a women, for example, Thali or wedding ring.
4. The attachment of movable property belonging to the offender shall be made by seizure:- Provided that where, in addition to or on lieu of seizure, the Police Officer considers that either or both of the methods referred to in clauses (b) and (c) of sub- section (3) of Section 83 of the Code should be adopted, he shall obtain an order to that effect from the court issuing the warrant.
5. When the method referred to in clause(b) of Sub-section (3) of Section 83 of the Code is adopted and a Receiver is appointed, the powers, duties and liabilities of such Receiver appointed under Order XLI of the First Schedule to the Code of CivilProcedure,

1908,

6. The Police Officer, who makes an attachment of movables under sub-rules (4) and (5) may, after attachment, handover the articles attached to a third party on a Bond being executed in Form No. 15-A of Appendix E to the Code of Civil Procedure, 1908, for their custody and production before the Court when required.

7. Before making the attachment, the Police Officer shall deliver or tender a copy of the warrant, to the offender or, in his absence to any adult male member of his family. If a copy cannot be so delivered or tendered, the Police Officer shall affix attached is found. After making the attachment, the Police Officer shall, in like manner, deliver, tender or affix, as the case may be, an inventory of the property attached.

8. If no claim is preferred to any property attached within the time prescribed by the code by any person other than the offender, the Police Officer executing the warrant shall have power to sell within the time mentioned in the warrant and without previous reference to the Court issuing the warrant, the property or such portion thereof as may be sufficient to satisfy the amount to the levied. Provided that if the property attached consists of live stock or is subject to speedy and natural decay or if its immediate sale would be for the benefit of the sake shall not be appropriated towards the fine until the expiration of two months from the date of the attachment and until any claim preferred under Rule 9, has been disposed of.

9. If any claim is preferred to any property attached under sub-rule (4) and (5) with in the time prescribed by the Code, by any person other than the offender on the ground that the claimant has an interest in such property and that such interest is not liable to attachment, the claim shall be enquired into and disposed of as provided in sub-rules (10) to (12). Provided that, any claim preferred within the period allowed by this rule, may, in the event of the death of the claimant, be continued by his legal representative.

10. Claims may be preferred under sub-rule (9) in the Court by which the warrant is issued liff the claim relates to property attached under warrant endorsed by the District Magistrate under Section 422 of the code in the Court of such Magistrate.

11. Every such claim shall be enquired into and disposed of by the Court in which it is preferred. Provided that, if preferred in the Court of a Chief Judicial Magistrate, such Magistrate may make it over to any Magistrate.

12. The enquiry shall be summary and the Court shall record its decision on the claim with the reasons thereof. Such decision shall be final and shall forthwith be communicated to the Police Officer executing the warrant who shall dispose of the property in accordance with such decision.

13. The Police Officer or other officer authorized to sell, shall, as soon as possible after the sale, procedure the sale proceeds before the court issuing the warrant or if the property was sold under warrant endorsed by a District Magistrate under Section 422 of the Code, in the Court of such Magistrate.

14. Subject to the proviso to subsection (1) of Section 421 of the Code and subject also to Section 70 of the Indian Penal Code if, at any time subsequent to the return of the warrant, the fine, or any part thereof, remains unpaid, and the Court has reasonable grounds for believing that the offender has any moveable property, it may issue a fresh warrant for the attachment and sale of such property in accordance with the code and these rules.

COMPENSATION UNDER SECTION 357 OF THE CODE

186. Payment Of Amount Compensation :-

The Court by which a fine or any portion of a fine has been awarded as compensation under Sec. 357 of the Code shall, on the application of the person to whom such compensation has been awarded, grant an order for payment of the amount awarded direct to the Treasury to which such amount has been remitted, together with a certificate to the effect that either (1) the sentence and award are not subject to appeal or have been confirmed by the Appellate Court and that no order has been received from the Court of Revision modifying or reversing the order of compensation, or (2) where the order as to compensation has been modified in appeal or Revision, that the Payment Order as in conformity with such modification or (3) that the appeal time has expired and that no appeal has been preferred and that no order has been received from the Court or Revision modifying or reversing the order compensation.

Note:-If the fine is imposed in a case which is subject to appeal, the order for payment shall not be granted till after the expiry of one or the other of the conditions specified in Section 357(2) of the Code.

187. Certificate As To Appeal :-

In cases in which the Court awarding the compensation may be

unable to certify whether an appeal has actually been preferred, the party desirous of obtaining payment of the amount of compensation in deposit may apply to the Appellate Court to certify whether or not any appeal has been preferred and no such application being made, the Appellate Court shall grant the required certificate.

188. Compensation Otherwise Than Under Section 357 Of The Code :-

Compensation awarded under Section 250 and 358 of the Code, and compensation and all other sums recoverable like fines under any other provision of law and not creditable to Administration of Justice should be dealt with in the manner provided in the foregoing rules for compensation awarded under Section 357 provided that, if the order to pay such compensation or other sum is reversed or modified in appeal or Revision, the payment order on the Treasury shall be given to the party or parties entitled to draw the money.

REFERENCE TO GOVERNMENT UNDER SECTION 432 OR SECTION 433 OF THE CODE.

189. Application To Government To Remit Or Commute Sentence :-

Whenever a Sessions Judge or Magistrate shall be of opinion that there are grounds for recommending to the Government to exercise the powers vested in them by Section 432 or Section 433 of the Code for remitting or commuting any sentence adjudged by the Criminal Court, the recommendation for remission or commutation of the punishment shall be submitted to the Government through the High Court. Every such reference shall be accompanied by a certified copy of the record of trial or of such record thereof as exists.

190. Reference To Government In Cases Of Infanticide :-

In all cases where women are convicted for the murder of their infant children, reference should be made, through the High Court, to the Government with an expression by the Sessions Judge of his opinion as to the propriety or otherwise of

191. Report Of Sessions Judge On Reference Under Section 432 To The Submitted To Government Through High Court :-

In cases in which the opinion of a Sessions Judge is called for by the Government under section 432 of the Code , the Sessions

Judges reply should be forwarded through the High Court whether the requisition for the opinion has been received through the High court or not.

CHAPTER 10 Records

192. Custody Of Records :-

A Sessions Judge or a Magistrate should not permit the original records of Criminal trial in his Court to leave his custody except in accordance with the express provisions of law, save as provided in Rules 204 to 209 and any person not legally competent to demand production of the originals whether an official in the Government Service or a private individual, should, if he wishes to examine the record, be required to apply for and obtain certified copies in accordance with the rules made in that behalf.

193. Records To Be Kept In Packet, Sealed And Labeled :-

The Public records or documents shall, so long as they remain in the custody of court which required their production, be kept in a sealed packet properly labeled and the packet shall not be opened except in the presence of the Presiding Judge or Magistrate.

194. Summons For Production Of Documents In The Custody Of Parliament Or State Legislature :-

(1) Whenever any document in the custody of Parliament or of any State Legislature is required by a Court, it should first be seen whether the document is unpublished, in which case along, summons need issue, Published document, such as the Proceedings of the Parliament can be proved under Section 78(2) of the Indian Evidence Act, 1872 by the production of authorized parliamentary publications.

(2) As far as possible, only certified copies should be called for in the first instance and the original documents may be requisitioned only at a later stage of the proceedings, when the parties insist upon their strict proof.

(3) It should be specifically stated in the summons whether the production of the certified copy will be sufficient or whether an office must appear before the Court with the original document.

(4) Summons for the production of documents in the custody of Lok Sabha or the Rajya Sabha may be issued to the Speaker of the Lok Sabha or to the Chairman of the Rajya Sabha , as the case may be, Similarly, in respect of documents in the custody of a State Legislative Assembly the Speaker or the Chairman in the case of

the Legislative Council, as the case may be, should be addressed for their production.

PRODUCTION OF RECORDS FROM COURT AND PUBLIC OFFICERS

195. Summoning Of Documents From Another Court Or Public Officer :-

Before issuing summons for the production of a document in the custody of another Court, or Public Officer, the Court shall consider whether the interested party should not be required to obtain and file a certified copy thereof. The original shall ordinarily be summoned only if the Court is satisfied copy of that the production of the original is necessary for the purpose of justice.

196. A List Of Records Retained By A Court To Be Given To The Producer :-

Where records or documents production from any Court or public Officer are retained by the Criminal Courts requiring their production, a receipt containing a descriptive list thereof shall be given to the Officer production, a receipt containing a descriptive list thereof shall be given to the officer producing them and a duplicate of the receipt shall be placed with the records or documents. Any apparent erasure or alteration in any paper shall be noted in the said list.

197. Packets To Be Opened In The Presence Of Judge Or Magistrate :-

When any records or Official documents are received from any Court or Public Office by post, the packet shall be opened in the presence of the presiding Judge or Magistrate

198. Requisitions From Public Officers For Production Of Judicial Records :-

In complying with requisitions from Public Officers for the production of judicial records, Criminal Courts should follow the above rules. They should also see that the requisition is in the proper form prescribed by the law.

SUBMISSION OF RECORDS TO HIGH COURT

199. Prompt Submission Of Records :-

Criminal Courts shall see that records called for by the High Court are submitted promptly. Any delay shall be explained in the letter advising dispatch of the records. The following cases shall be treated as urgent:

(i) Reference under Section 366 of the Code:

- (ii) Appeals or Criminal Revision Cases in which the accused have been called upon to show cause why sentence of death should not be passed on them;
- (iii) Appeals against acquittal in which the accused are re-arrested and are in custody;
- (iv) Criminal Revision Cases in which bail is refused and the accused are in Jail on short sentences; and
- (v) Criminal Appeals and Revision Cases in which bail is refused and the accused case is ordered pending their disposal.

200. Records To Be Submitted To The High Court :-

The following records shall be submitted:-

(1) In cases submitted under Section 366 of the Code, and in all cases of conviction for murder whatever may be the sentence passed by the Court and in all cases of Appeals against acquittals in Murder Cases

(a) The entire original Sessions record.

(b) The entire original magisterial record.

(c) Translations of such parts of (a) & (b) which are not in English

Note:-With regard to translations referred to above:

I. It will suffice if only those parts of the inquest report which have been admitted in evidence are translated

II. It is not necessary to translate papers which have not been treated as evidence in the case

III. Translations of such parts of (a) and (b) which are not in English.

(2) In cases of Appeals not already provided for and in cases of Revision:-

(a) The material part of original case record including an extract from the Diary.

(b) The Material part of the Appellate Case Record, if any.

(3) Meaning of entire Original Sessions Record:-

The words "entire original Sessions record" include the evidence, oral and documentary, the charge, and the plea of the accused, the judgment and the statement of the accused, if any.

(4) Meaning of entire Original Magisterial Record:-The words "entire original Magisterial record" include an extract from the Diary, Register of Preliminary Enquiry, Police occurrence Reports, Mahazars, the Village Officers reports, and Proceedings (if any) before any Magistrate other than the Committing Magistrate who may have dealt with the case, but do not include so much of the

Magisterial Record as may have been incorporated in the Sessions Court record.

(5) Covering letter:-The Covering letter for all records shall be sent separately from them by post. Any delay in submitting the records shall be explained in the covering letter advising dispatch of records. It shall state when and how and in how many separate files the records are dispatched.

(6) In Every case sent up to the High Court:-

(a) The records in English and in the regional language:- The English part of Sessions record, if any including translations.

(b)The part of the Sessions record in the regional language, if any;

(c) The English part of the Magisterial record including translations; and

(d)The part of the magisterial record in the regional language must be bound and indexed separately.

(7) Copies of Judgment:-Spare copies of judgment in English in cases referred under Section 366 of the Code and six copies in other Sessions trials should be sent with the record. They should not be paged and entered in the index but should be kept separate from the record.

(8) Docket to specify number of copies:-The Docket or the fly-leaf of all records and the covering letter should specify the number of the case on the lower Courts file and the number of the Appeal or Revision Case or Petition on High Courts file.

Note:-The fly-leaf shall be of sufficient thickness and of foolscap size.

(9) Foolscap paper to be used:- The calendar, translations, copies, notes of evidence etc., shall whether possible, be written on foolscap paper of sufficient substance.

(10) Examination and certifying before dispatch:- Every record shall, before dispatch to the High Court, be examined and certified as complete in accordance with the foregoing rules by the Head Ministerial Officer of the Court forwarding it. Where copies of depositions, verified as to accuracy or not, are made out for the use of the Judge or for any other purpose and are available, they shall be submitted to the High Court with the records to facilitate printing or typing of the evidence, if necessary, Indication shall, however, be given in the covering letter or in some prominent place in the copies themselves to show whether the copies are accurate or whether they require to be compared with original.

201. Index, How To Be Filled Up :-

In filling up the indexes accompanying records of Criminal Cases, the names of witnesses shall be written in full together with their Official designation, if any, within brackets.

202. English Translation Of Statements Of The Accused In Regional Language To Be Kept In English Record :-

Court of Session when sending up the statements of the accused recorded in the regional language shall place in the corresponding part of the English record, accurate translations of these statements. The notes made by the Judge during the examination cannot and will be accepted in lieu of such translations.

203. Police Diaries Etc., How To Be Sent :-

Police Diaries and English translations of or notes from these diaries submitted to the High Court should be placed in a sealed cover.

INSPECTION OF RECORDS

204. Inspection By Officers Of The Police Or The Excise Department And Public Prosecutor :-

When ever it appears to any Officer of the Police or the Excise Department not below the rank of a Sub-Inspector, that an inspection of the records of any Criminal trial or appeal which facilitate any detention or prevention of crime is necessary or is desired for examination of the conduct of officers connected with the case and whenever the inspection of such records may be desired by a Public Prosecutor or Assistant Public prosecutor, in the exercise of his duty as such officer or Public Prosecutor or Asst. Prosecutor, as the case may be, may apply to the Sessions Judge or Presiding Magistrate of the Court in which the records are lodged for permission to inspect the same.

205. Procedure On Application :-

The application referred to in the preceding rule shall be made in writing and shall contain a description of the records and shall state the purpose for which the inspection is sought, and the Sessions Judge or Magistrate may grant or refuse the application as he may, see fit. If the application is refused, the Sessions Judge or Magistrate shall record the reasons for refusal and shall communicated a copy thereof to the officer concerned, or to the Public Prosecutor, as the case may be. If the application to granted, the Sessions Judge or Magistrate shall make arrangements for permitting the inspection to be conducted in accordance with rule 206.

206. Conduct Of Inspection :-

Every inspection of records under these rules shall be conducted by an officer of the Police or the Excise Department not below the rank of Sub-Inspector, or, if the Inspection is granted on the application of the Public Prosecutor or Asst. Public Prosecutor, himself. It shall take place within the precincts of the Court in which the records are lodged and in the presence of an officer of the Court who shall be deputed by the Sessions Judge or Magistrate for the purpose, and no record or part of a record shall be removed by the Inspecting Officer from the precincts of the Court.

207. Inspection By Public Prosecutor, Andhra Pradesh :-

The Public Prosecutor, Andhra Pradesh, if he wishes to inspect of original records of Criminal Courts should request the High Court through the Registrar.

208. Inspection By Officers Of Other Department :-

Subject to the conditions laid down in Rules 204 to 206 the privilege of inspecting records in a Criminal Proceeding is extended to-

(1) Officers of the salt and Customs Department in charge of a Circle, Assistant Inspectors and Inspectors of Excise, Commercial Tax Officers and Gazetted officers of the Forest Department, so far as such records relate to their respective Departments; and

(2) Offices of the Income tax Department including the Special Investigation Branch attached to it, not below the rank of Income Tax Inspector duly authorized by Income Tax Officer, In respect of records other than Police Case Diaries and reports and any confidential portion of such records.

(3) Officers of the Revenue Department of and above the rank of Mandal Revenue Officer.

209. Taking Extracts :-

An Officer inspecting records under these rules can take extracts there from, if he considers it necessary to do so.

210. Inspection By Collector Of Records Of Court Of Session

:-

Whenever a Collector requires information with regard to the Sessions trial in addition to that appearing in the finding and sentence of the Court of Session he shall be at liberty, after giving due intimation to the Sessions Judge to depute one of his clerks to inspect the records and make copies or extracts of such parts thereof as may appear material for purposes which the Collector

has in view, and the Sessions Judge shall permit such clerk to inspect the records and take copies or extracts thereof. Every inspection of records under this rule shall be made within the precincts of the Court of Session in which the records are lodged and in the presence of the officer of the Court deputed by the Sessions Judge for the purpose. No record, or part of a record shall be removed by the Inspecting Officer from the precincts of the Court.

COPIES OF RECORDS

211. Uncertified Copies Not To Be Granted :-

No copies of, or extracts from, the record of any proceedings of any Criminal Court subordinate to the High Court shall be issued unless certified to be true by the proper officer of the Court. This rule shall not apply to copies or extracts granted to prisoners in confinement under any order passed in such proceedings for the purpose of appeal or application for revision.

212. Copies To Be Given To Parties :-

Copies of any portion of the record of a Criminal Case must be furnished to the parties concerned on payment of the proper stamp and the authorized fee for copying. Where the Judges notes forms the only record of the evidence copies of these notes should be given.

Explanation: "Proper Stamp" referred to above includes search fee leviable under the Standing Orders of the Board of Revenue, Boards Standing Order No.173 (section-I) [(2) 325)] Scale of Search fee:- When the document applied for belongs to a year previous to the current calendar year, search fee in Court-fee stamps, according to the Sub-joined scale, must be affixed to the application I. When the document belongs to any year prior to the Calendar year but is not more than 10 years old. Rs. Ps.

(A) Fee payable for the first document or entry applied for or 1. 00 if only one document or entry is applied for, then for that document or entry.

(B) Fee payable for every document or entry other than the 0. 50 first included in the same application and connection with the same subject.

(C) When the applicant does not know to which of two or more 0.50 years a document or entry belongs, the fee for searching the records of every year other than the first.

II. When the document is more than 10 years old but does not relate to any year prior to 1858.

(a) Fee payable for the first document or entry applied for 2.00 or if only one document or entry is applicable for, then for the document or entry.

(b) Fee payable for every document or entry other than the 1.00 59 first included in the same application and connected with the same subject.

(c) When the applicant does not know to which of two or more 1.00 years a document or entry belongs, the fee for searching the records of every year other than the first.

III. When the document belongs to a year prior to 1858-

(a) Fee payable for the document or entry applied for or if only 5.00 the document or entry is applied for that document or entry.

(b) Fee payable for every document or entry other than the first 2.50 included in the same application and connected with the same subject.

(c) When the applicant does not know to which of two or more years a document or entry belongs, the fee for searching the records of every year other than the first.

Note:- (1) Only one search fee at the rate applicable to the documents need be paid for all papers filed together and if a person applies for all the depositions relating to Magisterial case, he need only pay one fee applicable to the whole record in which they are filed. But in the case of Oakes Register or Strations Report or Circuit Committee Accounts, Separate search fee shall be levied for each item contained in the same volume.

(1) The Search Fee Rules are applicable to Judicial as well as to Revenue records. The fee should be levied in respect of all documents of which copies are applied for in Civil and Criminal cases, Provided that the application of the rules to Judicial Record is not inconsistent with any special provisions of law or notifications having the force of law by which courts may be required to grant copies or to allow the inspection of documents free of charge.

213. Procedure When Documents For Which Copies Applied For Or In Other Court :-

If the records of the case or the documents of which a copy is applied for have been sent to another Court, the application for the copy may, at the option of the applicant, be forwarded to the said Court for compliance or be returned to him for presentation to the said court.

214. Copies By Whom Certified :-

The corrections of all copies of Magisterial records on application of

Private persons and of all copies of calendars and judgments to be submitted to the Sessions Judge or the Chief Judicial Magistrate may be certified by the Chief Ministerial Officer of Magistrates establishment.

215. Endorsement On Copies :-

Every copy shall bear an endorsement showing the following dates:-

- I. Application made.
- II. Stamp papers (or charged) called for,
- III. Stamp papers (or charged) Deposited,
- IV. Copy ready,
- V. Copy delivered or posted.

216. Notice Of Certified Copies Ready For Delivery :-

A list of certified copies ready for delivery shall be posted on the Notice Board of the Court concerned and shall remain there for one week. The list shall state the number of the copy application and the names of the persons to whom the copies are to be delivered. The list shall be fixed to the Court Notice Board immediately the Court opens on the following day. After the expiry of one week, the list shall be taken down and any copies which remain unclaimed shall be sent to the applicants by post, "Service unpaid"

217. Copies To Government Officers :-

(1) The Gazetted Officers of all Departments and all officers who not being Gazetted officers are entitled to inspect records can obtain certified copies of the same. Except as regards Officers of the Police and the Excise Departments and Public Prosecutors and Assistant Public Prosecutors such right extends only to obtaining certified copies of records relating to the Officers own Department.

(2) Order of refusal to contain reasons:- The Judge or Magistrate may in his discretion grant or refuse the application. If the application is refused, the Judge or Magistrate shall record the reasons for his refusal and shall communicate a copy there to the Officer concerned.

(3) Inter Department Supply of Copies:-Copies of orders or records which one Department of Government propose to supply to another Department on application, shall be made on plain unstamped paper and by the ordinary staff.

(4) Lengthy records: - If lengthy records are concerned, the work should be transferred to the Copying staff and the decision as to

who should prepare the copy rests with the officer to whom the copy application is made. The Department applying for copies should furnish copy stamp papers for the purpose and debit the cost there of to its contingent charges. Provided that the cost of making copies of judgments convicting or acquitting Government servants of criminal offences or of orders discharge such servants which are supplied

218. Return Of Records When No Longer Required :-

Whenever it shall appear that any public documents received from any court or Public Officer are no longer required, they shall be returned to such court or Office with a descriptive list in a sealed packet.

219. Return Of Documents Application To Be Made Therefore :-

Application from parties or other persons for the return of documents filed in Court shall be made to the Court in which they were originally filed. If application is made for document was originally filed shall itself apply for the transmission of the documents and on receipt shall return it to the applicant:

Provided that no document shall be returned unless the Judge or Magistrate is satisfied that it will not be required for reference in proceedings pending either before his own Court or the Court of Appeal or Revision.

CHAPTER 11 Case Properties

220. Responsibility Of Presiding Officers :-

Presiding Officers are personally responsible for the safe custody of the case properties. Only clerks who have furnished the required security should be placed in charge of properties, but that does not relieve the presiding Officers of their responsibility to any extent.

221. In Section Of Case Properties :-

Every article received in Court should immediately after receipt be inspected by the Presiding Officer or a responsible Officer of the Court duly authorized by him and entered in the Property Register then itself. The Presiding Officer should check the valuable and nonvaluable items of property periodically and satisfy himself that all items received in Court are properly accounted for, that they are safely kept and that orders of disposal are promptly carried out. Whenever there is a change of officer the succeeding officer should examine all the properties other than valuables relating to the

Court as soon as possible after he takes charge and certify in the Registers themselves that he has taken over the properties referred to in Rule 222 should be verified at the time of taking over -charge and necessary certificate affixed in the Register.

222. Valuable Properties :-

All articles of value should be separated from other items. They should be kept in (a) boxes sufficiently strong and fitted with goodlock and key (b) properly protected against damage by moisture, insects, etc., They should invariably be deposited in the Sub - Treasury

SUBMISSION OF MATERIAL OBJECTS

223. Selection Of Material Objects To Be Sent To The High Court :-

The Sessions Judge shall in his discretion send weapon, substance or article whereby the offence is said to have been committed and all garments stained with blood provided the objects can be conveniently transmitted and are of assistance to the High court. Court of Session shall enclose with the records in Sessions Cases submitted to the High Court a list of material objects in Judicial Form No. 129-A.

224. Note To Be Made, If Any Material Object Is Retained :-

In every case in which any material object is retained the order of the Judge directing such retention should form part of the record submitted to the High Court, classified under Item 8, "other miscellaneous papers if any" with English part of the Sessions Record, the page assigned to the paper being shown against Item 6(b)-

225. Return To Be Obtained Within One Month :-

Articles received from lower Courts such as sticks, stones, knives, bill-books, axes, guns, rags of clothing, earth etc., and all articles of trifling value are ordinarily retained in the High Court and destroyed there . Any application for the return of these articles (For return to parties or for reference in any other case) or of any articles that the High Court has omitted to return, shall be made within one month from the date on which the records of the case are received back in the lower Court.

226. Properties In Sessions Cases May Be Sent To Committing Magistrates For Disposal :-

The properties in Sessions Cases which have to be dealt with under

Sec. 452 of the code may be forwarded to the Committing Magistrate excepting in such individual cases where the Sessions Judge directs other wise.

DISPOSAL OF THE CASE PROPERTY

227. Judgment To Contain Orders For Disposed :-

Orders for the disposal of material objects should be passed in the Judgment itself.

228. When Material Objects Are To Be Disposed :-

Material objects exhibited at the trial of criminal cases should be retained by the Court until the Court is satisfied that the appeal time has expired and that no appeal has been presented or that any appeal presented has been disposed of. But when a case is disposed of by High Court, the material Object shall ordinarily be disposed of after the expiry of 90 days from the date of judgment of the High Court, unless in the meantime.

(1) the parties interested have, on a proper application, obtained a direction from the High Court for preservation of such objects, pending disposal of an application for leave to appeal to the Supreme Court under Article 134 (1) of the Constitution of India, or a Special Leave Petition or;

(2) Intimation of Appeal preferred to the Supreme Court of India under Article 234 (1) (a) and (b) of the Constitution is received. After that, they may be destroyed or otherwise disposed of according to the Rules.

229. Destruction Of Cases Property :-

(1) Orders for destruction of case property should be carried out in the presence of the Presiding Officers.

(2) It is not desirable to order destruction of valuable property. It should, if it is not ordered to be delivered to the person entitled to it, be confiscated or otherwise disposed of.

230. Confiscated Articles :-

(1) When the material object confiscated is a weapon, other than a fire arm or ammunition, and is in the opinion of the Sessions Judge of a most unusual character or of special interest in the light of the facts of the case it shall be transferred to the Medical College, Tirupathi in the case of the Sessions Courts of Ananthapur, Chittoor, to the Medical College, Kurnool in the case of Session Courts of Cuddapah, Kurnool and Nellore ; to the Medical College,

Guntur in the case of Sessions Courts of Guntur, Krishna and West Godavari, to the Medical College, Visakhapatnam in the case of Sessions Courts of Visakhapatnam, Srikakulam and East Godavari and to Osmania Medical College, Hyderabad in case of Sessions Courts in Telangana area. It shall first be ascertained by a reference to the Medical College concerned whether the article is required by it or not. Similar reference should also be made to the Police Museum at Hyderabad. If the article is required by both the Medical College and the Police Museum, the former will have priority over the latter. Only when the article is not required by either the Medical College or the Police Museum then it should be destroyed.

(2) In the case of art objects and antiquity the Court shall communicate with the Director of archaeology and Museums and if he desires, send them to him.

(3) Gold ornaments shall be sent to Mint Master through a responsible Officer by pre-arrangement.

231. Delivery Of Case Property To The Person Entitled :-

When any property is ordered to be delivered to a party, notice should be issued to him in Judicial Form No .61. He should also be informed that if he does not appear on the date specified in the notice, the property will either be destroyed or sold and the sale proceeds credited to Government. If the Party appears after the sale of the property, the sale proceeds may be paid to him deducting expenses of the sale.

232. Sale Of Case Property :-

Sale of property should be conducted by an officer of the Court and should be public auction. It should be conducted and confirmed as far as may be in the manner prescribed for the sale of movable property by the Code of Civil Procedure and Civil Rules of Practice.

233. Procedure Regarding Disposal Of Excisable Goods :-

In the case of excisable goods held in the custody of Criminal Courts, notice of the date of auction or other method of disposal shall be issued to the Excise Authority concerned requiring such authority to arrange for the collection of the duty leviable if any, on the goods and for the issue of transport permit where necessary. The Excise Authority may also be required to satisfy itself that the purchaser in auction or otherwise is licensed to deal in such goods.

234. Disposal Of Counterfeit Coins And Forged Currency Notes :-

(1) When counter-felt coins have to be disposed of by a Criminal Court u/secs. 452, 457 or 458 of the Code, they shall be forwarded together with any dies, moulds etc., which may have been produced in the case to the nearest Treasury or Sub-Treasury, with request that they may be remitted to the Mint for examination. A concise and accurate report should also be sent containing a description of the case and the sentence imposed.

(2) In the case of forgery of currency notes, the disposal of implements such as moulds, dies etc., produced in and confiscated by a Court is a matter for the decision of the Court with tries the case and when they are ordered by the Court to be delivered to the police for destruction, the police shall themselves arrange for their destruction and not send them to the currency offices of Mint for destruction, provided that if the police consider any particular implements are of special interest and should be preserved, they shall make them over to the Criminal Investigation Department for this purpose.

(3) All forged currency notes brought before the Court shall be handed over to the Police for being forwarded to the Issue Department of the Reserve Bank of India, with a brief report of the case.

(4) All arms and ammunitions of preserved bore which are confiscated should be sent to the nearest Arsenal for disposal.

CHAPTER 12 Collection of Process fee and Payment of Batta to Complainants and Witnesses

235. All Processes Issued By Criminal Courts Shall Be Charged To The Court Fee At The Rates Set Out In The Schedule Hereunder :-

Schedule Rs. Ps.

1. Every summons notice or subpoena 0.50

(A) To an accused, respondent or witness

(B) To every additional accused, respondent or witness resident in the same village or neighborhood if the summons, notice or the sub-poena is applied for at the same time.

2. Every warrant of arrest 0.25

3. Every order, injunction or warrant not otherwise provided for 0.50

(1) In Courts outside the cities of Hyderabad and Secunderabad if a process is to be served or executed within a radius of six miles from the Court-house, half the above rates only shall be charged. The

Judge of every Court shall determine what villages are within the above radius, and a list of such villages shall be notified in a conspicuous place in the Court- House.

(2) When a warrant remains unexecuted for 15 days after its delivery to the Officer entrusted with its execution, an additional fee at the same rate shall be levied from the party, at whose instance the warrant was issued for every 15 days or party thereof until return is made, provided that the delay in executing the said warrant is not attributable to the Officer of the Court.

(3) This rule does not apply to proceedings in cognizable cases instituted on police reports whether these be Calendar Cases, Appeals or Revision Cases.

Exemption:- No fee shall be levied on processes issued upon complaints by public servants or Officers or servants of a Railway Administration acting in their official capacity, which under Section 67 Clause XI of the Andhra Pradesh Court Fee and Suit Valuation Act, 1956 (Act VII 1956) are exempt from complaint fee. As the Central Government has ruled that a Cantonment Authority is not a "Public Officer" as defined in the Code of Civil Procedure, 1908, the process fee and diet money to witness shall in all cases of prosecutions by the police on their behalf be collected from the Cantonment Authority. A Cantonment Authority, is however, exempt from the payment of Court fee on complaints under Section 19 of the Court Fees Act, 1870 as it is a "Public Servant" as defined in Section 21 of the Indian Penal Code.

236. Expenses When Payable By Government :-

Subject to the provisions hereinafter contained, the expenses of complainants and witnesses will be paid on behalf of the Government, in the following classes of cases Viz.,

(a) Cases shown in the second schedule of the Code as nonbailable.

(b) Cases in which the prosecution is instituted or carried on under the orders or with the sanction of the Government or of any Public Servant acting as such.

(c) Where the witness in question has been compelled to attend by a process issued under Sec. 311 of the Code.

(d) Cases in which the Court certifies that the attendance of such witness was directly in furtherance of Public Justice. If any witness in any of the aforesaid classes of cases is, by reason of tender age, sex or bodily infirmity, unable to travel along to the Court and is accompanied by an escort, such an escort may, at the discretion of the Presiding Officer of the Court, be paid his expenses under these

rules; provided that no such payment shall be made to the escort, if he/she is himself a witness in the case. The Court may make reasonable advances to witnesses compelled to attend to give evidence; when such prepayment is considered necessary.

237. Disallowance Of Payment Of Expenses On Behalf Of Government :-

It shall be competent to the Court before which a complainant or witness appears to disallow payment of any expenses on behalf of Government, if for any reason to be recorded, such Court thinks fit to do so, or to pay only the actual expenses incurred by him if the complainant or witness is a resident of the place in which the Court is situate or to pay, if the Court thinks fit, expenses at rates lower than those prescribed in Rule 247.

238. Disallowance Of Expenses For Defence Witnesses :-

The court will disallow the whole or part of the expenses of any witness for the defence, whose evidence may not seem fit to have been material unless it is satisfied that such witness has been brought to the place in which the Court is situate against his will and that no compensation for his expenses has been paid or deposited by the accused.

239. No Traveling Allowance When Complaint Is Dismissed Under Sec. 250 Of The Code :-

Whenever a Magistrate dismisses a case as frivolous or vexatious under Section 250 of the Code, no traveling allowance or batta shall be granted to the complainant.

OFFICIAL WITNESSES

240. Section 240 :-

(1) For the purpose of these rules, witnesses are divided into two classes, viz., Officials and non-officials. Official witnesses, i.e., Government Servants to whom the Andhra Pradesh Traveling Allowance Rules are applicable, summoned to give evidence as officials, are entitled to receive for their journeys to and from the Court and for the time spent by them in attendance at the court to give evidence in cases coming under Rule 236 traveling allowances at the rates prescribed by the Andhra Pradesh Traveling Allowance Rules for the time being in force. The Court shall not however, make any payment to official witnesses in such cases, but shall grant them certificates setting forth that they appeared to give evidence of what had come to their knowledge, or of matters with

which they had to deal in their official capacity, the date on which they appeared and the period for which they were detained, so as to enable them to draw traveling allowance and batta under the Andhra Pradesh Traveling Allowance Rules.

(2) When a Government servant appears in his official capacity as a witness in other cases (e.g., in cases in which Section 254(3) or 247 of the Code is applied), the party at whose instance he is summoned shall prepay into Court the traveling and halting allowances admissible to him under the Andhra Pradesh Travelling Allowances Rules. The amount so prepaid shall be credited to Government, but the Court shall give the witness a certificate containing the particulars specified in sub-rule (1) supra, so as to enable him to draw the traveling and halting expenses admissible under the Andhra Pradesh Travelling Allowances Rules. When a Government Servant appears to give evidence in any case as a private person, traveling allowance and batta may be paid to him in the ordinary manner, but the Court shall send an advice of all such payments made to him to the Head of the Office in which he is employed. In this advice, the amount paid as batta and the period during which the attendance of the witness in Court was necessary shall be stated.

(3) When a Government Servant whose emoluments are governed by the Army Regulations, appears in any case under subrule (1) to give evidence in his official capacity, he shall be paid the traveling allowance and bata admissible under these rules and shall be furnished with a certificate showing in detail the amount paid. If the amount paid is less than the amount admissible to him under the Military Rules to which he is subject, the difference will be paid to him by the Military Authorities on production of the Certificate.

(4) A retired Government Servant who appears before a Criminal Court to give evidence in respect of his official acts or matters within his official knowledge before retirement shall be paid traveling and subsistence allowance according to the rates to which he would have been eligible under the Andhra Pradesh Traveling Allowance Rules, had he not retired from service.

(5) When any person who holds an office under the Government in a honorary capacity appears before any Court at his headquarters to give evidence in that capacity, he may be paid conveyance allowance at such rate as the Government may by order specify.

241. Witnesses To Local Fund Of Municipality :-

(1) Government servants whose services are lent to local authorities as defined in Section 3(31) of the General Clauses Act, 1897, attending Criminal Courts to give evidence in their official capacity, shall be paid traveling and daily allowance to which they are eligible under the Andhra Pradesh Travelling Allowance Rules.

(2) Medical subordinates in the service of local authorities including Compounders, Midwives and Nurses attending criminal Courts to give evidence in their official capacity shall be paid traveling and daily allowances at the rates admissible to officers of corresponding grades under the Andhra Pradesh traveling Allowances Rules.

(3) Persons in the service of Local Authorities other than those governed by sub-rules (1) and (2) shall be paid traveling and daily allowances at rates to which they are eligible under the rule.

242. Rural Medical Practitioners :-

Rural Medical Practitioners when attending Court to give evidence in their capacity of Rural Medical Practitioners shall be paid the same rates of traveling allowances and batta as would be admissible to Government servants belonging to Grade - IX of the Andhra Pradesh Travelling Allowance Rules.

243. Honorary Medical Officers :-

Honorary Medical Officers when attending Court to give evidence in their official capacity shall be paid the same rates of traveling allowance and batta as would be admissible to Government Servants belonging to the respective grades of the Andhra Pradesh Travelling Allowances Rules, as set out below:- Honorary Surgeons and Honorary PhysiciansGrade IV Honorary Assistant Medical Officers Grade V

244. Official Of The Central Government Of Governments Of Other States :-

Officials employed by the Central Government or by the Government of any of the states mentioned in the first schedule to the Constitution of India appearing in cases in which the State is a party as witnesses on summonses before the Criminal Courts of other production of certificates of attendance issued by the Courts before which they appear as witnesses be paid traveling allowance by the Government under whom they are employed at their own rates. In cases where the state is not a party, such officials will be paid traveling allowance by the summoning Court according to the rules under which such Government servant draws his traveling allowance for the journey on tour and the charges will be borne by

the Central Government or the State Government according as the summoning Court is situated in a centrally administered area or within the local limits of a State. In order to enable the Court to assess the amount admissible to a Government servant in cases where the State is not a party, the Government servant should produce before the summoning Court a certificate duly signed by his controlling Officer showing the traveling and daily allowance admissible to him for a journey on tour. If the Government servant is himself a Controlling officer, the certificate should be signed by him as such.

245. Employees Of Central Government :-

When an employee of the Central Government including Railways appears to give evidence in his private capacity, the sum due to him as subsistence allowance or compensation should be credited to the Central Government, and no payment on account of subsistence allowance or compensation shall be made to him.

NONJ-OFFICIAL WITNESSES

246. Class Of Witnesses :-

For the purpose of these rules, non-official witnesses or complainants shall be classed as belonging to either of the two classes specified in Rule 247. The Judge or Magistrate shall fix the class of persons who are required to appear before him either as witnesses or complainants with due regard to the station in life which they occupy. In the case of witnesses from outside the jurisdiction of such Judge or Magistrate, the dispatching Magistrate shall fix the class.

247. Rates Of Payment :-

The following are the maximum rates of allowances which may be awarded to the several classes of witnesses or complainants and no expenses in excess of or other than those herein after provided shall be allowed. Travelling allowances if any that may be allowed

Class	By Rail	By Public motor service	By road other wise than by public motor service	By sea or Canal	Subsistence
1st Class fare	Actual fare	Actual fare	Actual fare	Actual fare	Actual fare
Per K.M.	0.12ps.	0.12ps.	0.12ps.	0.12ps.	0.12ps.
2nd Class fare	Actual fare	Actual fare	Actual fare	Actual fare	Actual fare
Per K.M.	0.03ps.	0.03ps.	0.03ps.	0.03ps.	0.03ps.

In the Cities of Hyderabad and Secunderabd, witnesses may be allowed carriage hire allowance at Rs. 1/- for a day of actual attendance. Criminal Courts in the Districts are authorized to pay the necessary and actual expenses of carriage to a witness traveling by road in

the case of persons whose sickness, age, position or habits of life render it impossible for them to walk provided the expenses incurred under this rule shall in no case exceed Rs.0.54 per K.M. Wherever it is practicable for witnesses to travel by rail or steamer they shall be allowed not more than rates prescribed for those modes of conveyance. Subsistence allowance may be paid for the days occupied in traveling to the cities of Hyderabad and Secunderabad as well as the return journey. The subsistence allowance at the cities of Hyderabad and Secunderabad shall cease soon after the conclusion of the enquiry or trial as the means of quitting the cities become available.

248. Disbursements :-

All disbursements under these rules shall be made by the Courts before which the witnesses appear

249. Determination Of Mileage And Batta :-

(1) The distance for which mileage and number of days for which batta should be allowed for the journey to attend from the station at which the Court is held, and for attendance at Court shall be determined by the Judge or magistrate ordering the payment in each case.

(2) Witnesses sent from the District will be furnished with a certificate by the dispatching Magistrate showing the class to which they belong, the date of their departure, and the correct distance, if any, to be traveled by road; and unless such certificate is produced the Court may disallow all or any of the expenses claimed.

250. Advances To Witnesses :-

(1) Magistrates in the Districts may make reasonable advances to witnesses summoned by Courts in the cities of Hyderabad and Secunderabad and others who require such advance to enable them to reach Hyderabad or Secunderabad or other place, but shall in every such case note the same on the certificate, referred to in Rule 249. The Courts before which they are directed to appear shall be advised of such advances and they will refund the amount to the officer making the advance.

(2) In cases falling under Rule 236 the Commissioner of City Police may make reasonable advances to witnesses resident in the cities of Hyderabad and Secunderabad who are summoned by a Court .

The Court issuing the summons on being advised by the Commissioner of City Police of the advances made will refund the amount to him.

251. Section 251 :-

Servants of Panchayat Samithis and Zilla Parishads and Municipal Councils attending Criminal Courts as witnesses in cases under the Andhra Pradesh Panchayat Samithis and Zilla Parishada Act, 1959 and the Andhra Pradesh Municipalities Act, 1965 are eligible to receive traveling allowance from the revenues of the State at the rates Prescribed in the rules applicable to them. The procedure for payment shall be the same as the prescribed in sub-rule (1) of Rule 240.

CHARGES FOR CONVEYANCE OF PRISONERS AND BATTAs TO ACQUITTED PRISONERS

252. Cost Of Conveyance To Be Recorded From Court Concerned :-

The Cost of conveyance of prisoners to and from the Court is to be recovered by the Jail authorities from the Court before which the attendance of the prisoner is required. Road and diet charges in respect of persons accused of forest offences and produced in custody before a Magistrate by the subordinates of the Forest Department shall be paid without delay to the Subordinates of the Forest Department by the Court concerned.

253. Batta To Acquitted Prisoners :-

Courts are authorized to grant batta and traveling expenses at the rates prescribed for second class witnesses to persons;

(1) Who are acquitted or discharged and released from custody or who having been arrested under Section 390 of the Code, are subsequently released ; and

(2) Who are released under Section 360 of the Code, or under the probation of Offenders Act, to enable them to return to their places of residence; provided that such persons reside at a distance of more than 10 Kilometers from the place where they are released from custody and are not possessed sufficient means so to return

CHAPTER 13 Supervision of Subordinate Criminal Courts/General Rules for Supervision

254. Responsibility Of Sessions Judges :-

Sessions Judges are primarily responsible for the supervision of all Criminal Courts subordinate to them. Subject to the Control of the

Sessions Judge, the Chief Judicial Magistrates will exercise supervisions of the Magistrates Courts.

255. Points To Be Noticed In Exercising Supervision :-

Sessions Judges and Chief Judicial Magistrates are directed to note the following points in particular while exercising their power of supervision.

- (a) Rash issue of process to the accused, Judicious and indiscriminate use of the provisions of Sections of Sections 203 & 245 of the Code.
- (b) Dealing with disputed claims of Civil right under colour of Criminal Charges.
- (c) The imposition of heavy fine in addition to imprisonment in default of payment, the term of imprisonment being beyond the ordinary powers of the Magistrates to inflict.
- (d) Indiscriminate extensions of grant of time for the payment of fine without regard to the principles laid down in Section 424 of the Code.
- (e) Excessive sentence of imprisonment out of all reasonable proportion to the offences of which accused has been convicted.
- (f) Failure to make judicious use of the provisions of Section 360 of the Code, probation of Offenders Act, Children Act, the Bortstal School Act.
- (g) Light punishment for offences requiring severe sentences with special reference to cases which should have been submitted by the subordinate Magistrates to the Superior Court for higher punishment.
- (h) Exaction of excessive bail or excessive security for keeping the peace or for good behavior.
- (i) Avoidable delay and adjournment at any stage of the trial of the cases and strict adherence to the provisions of Sec.309 Cr.P.C.
- (j) Needless adverse remarks in judgment against public servants.

INSPECTION OF COURTS

256. Section 256 :-

(1) The High Court will inspect Courts of session, at least once in 3 years. At the time of inspection of the Court of Session, the inspecting Judge may, in his discretion, inspect any of the local subordinate Courts also.

(2) (I) Sessions Judge shall inspect once a year Courts of Assistant Sessions Judges and of the Magistrates. He may delegate the power of Inspecting Magistrates Courts to the Chief Judicial

Magistrate.

(II) Sessions Judge shall submit their reports of inspection for orders of the High Court with the least possible delay. Chief Judicial Magistrates should submit their reports to the High Court through the Sessions Judge.

(3) Orders passed on, and instructions issued in, the inspection report should be strictly carried out and followed by the subordinate Courts concerned. They shall submit compliance report within such time as may be allowed in the inspecting report.

SUBMISSION OF JUDGMENT AND CALENDARS.

257. Courts Of Session To Send Typed Judgments In Original Trials To High Court :-

(1) Courts of Session shall transmit to the High Court typed or cyclostyled copies of all their judgments in original trials within 15 days from the date of pronouncing Judgment in each case.

(2) Assistant Sessions Judges shall submit copies of the judgments in original trials through the Sessions Judge.

258. Delay In Trials To Be Explained :-

Whenever more than three months have elapsed, between the date of apprehension of the accused and the close of the trial in the court of Session, an explanation as to the cause of such delay (in whatever Court it may have occurred) shall invariably be furnished.

259. Submission Of Judgment In Appeals :-

Sessions judges and Additional Sessions Judges shall within five days from the close of each month transmit to the High Court copies of all judgments delivered by them as Courts of Criminal Appeal during the course of the month. The Appellate judgment should contain particulars of previous convictions, if any.

260. When Judgments Of Courts Of First Instance To Be Sent To The High Court :-

When judgments of Appellate Courts which are submitted to the High Court for perusal are expressed in terms which disclose nothing as to the nature of the offences or evidence relied on to establish them, or the circumstances, which aggravate or extenuate the guilt of the offenders, they should be accompanied by copies of the judgments of the Courts of first instance.

261. Special Report May Be Sent In Any Particulars Case :-

When a Sessions Judge sees occasion to comment specially on the

action of the Magistrates in connection with a case coming before his Court, he should send in a special report on the subject in the form of letter without waiting for the dispatch of the monthly calendars or appeal statement.

262. Submission Of Judgment By Magistrates :-

Except in cases dealt with under Sections 204 (3) ; 252 and 256 to 258 of the Code Magistrates shall within a week from the passing of the judgment or order or from the termination of enquiry send to the Sessions Judge;

(a) All judgments in the form prescribed by Section 354 of the Code.

(b) All orders of dismissal of complaints u/s. 203 of the Code and orders of discharge in respect of which further enquiry can be made or directed u/s. 398 of the Code.

(c) Extracts from Registers of Summary Trials;

(d) All proceedings held by them under Chapters VIII, X (except orders made under Section 143) and XXI of the Code; and

(e) Extracts from the Registers of Preliminary Inquiries. Judgments submitted under this Rule, shall be accompanied by the information given in the Tabular Form prescribed above in Rule 67.

263. Sessions Statement :-

At the end of each month, a statement in Administrative Form No. 35- A should be submitted to the High Court. This statement should include cases, if any, tried by Additional and Assistant Sessions Judges and should show whether a case was tried by the Sessions Judge, Additional Sessions Judge or Assistant Sessions Judge.

264. Quarterly Statement To Be Furnished By The Sessions Judges To The Superintendent Of Police :-

Sessions Judges should furnish the Superintendents of Police of their District with a quarterly statement in Administration Form No. 54 of the Criminal Appeals and Revision Causes disposed of by them.

265. Annual Reports :-

The following should be noticed and explained in the report to be submitted to the High Court annually on the Administration of criminal Justice.

(1) Noticeable variations:

(a) in the number of Magistrates and Special Magistrates who exercised criminal powers;

(b) In the figures returned in the annual statements No. II Parts I and III;

(c) In the institutions, disposals and average duration of cases in the Court of Sessions Judge, Magistrates, including Special Magistrates.

(2) Large arrears and high average duration in any of these Courts.

(3) Noticeable increase or decrease in the percentage of convictions in each class of Courts and in the total number of Sentences of each description passed during the year, such as life imprisonment, imprisonment simple or rigorous and fine.

Explanation: - In calculating the percentage of convictions the number of persons whose cases were disposed of by composition or withdrawal, by dismissal under Section 204 of the Code, by acquittal under Section 256 or by discharge under Section 249 should be excluded. The figures for such cases, causes compounded, withdrawn or dismissed for default of appearances should be given separately.

(4) High or low percentages of recoveries of fines and of amounts of compensation awarded to accused and to complainants.

(5) Large number of witnesses detained beyond three days in any of these Courts, and large or small amounts paid to witnesses for diet and traveling expenses in each class of Courts.

(6) Noticeable variations in the number of appeals received, disposed of and pending in the Courts of Session and in the average duration of appeals

(7) Also large arrears of appeals and high average duration thereof.

(8) High or low percentage of confirmation of appeals and any other noticeable point or feature in the crime or the administration of Criminal Justice in the year.

(9) The length of the report should be curtailed as far as possible by the omission of figures appearing in the annual returns submitted to the High Court.

(10) Sessions Judges should describe fully any features of interest in the administration of criminal Justice in their divisions or District, and to comment on the working of any provisions of law or rules procedure to which they think attention should be drawn.

CHAPTER 14 Miscellaneous

266. Mode Of Communications Between Judicial And Executive Officers :-

All correspondence between Judicial Officers and Officers of other Departments shall be by letters or in the form of endorsement.

Sessions Judges may address Magistrates by proceedings but Magistrates shall address Sessions Judges only by letters.

267. Mode Of Communication Of Orders To Executive Magistrates :-

All proceedings of Court of Session addressed to any Executive Magistrate shall, except in cases of urgency or when the law sanctions a different course, be sent to the Executive concerned through the District Magistrate.

268. Mode Of Communicating Orders To Executive Magistrates In Urgent Cases :-

In case excepted in Rule 267, the Court of Session shall send the proceedings to the Executive Magistrate concerned and the District Magistrate simultaneously.

269. Calling For Records From The Executive Magistrate :-

In calling for records from an Executive Magistrate Under Sections 385 (2) or 397 of the Code, Sessions Judges may address the Executive Magistrates in whose custody the records are, without the intervention of the District Magistrate. The records so called for may, likewise, be transmitted directly to the concerned Courts after the disposal of the case.

WEARING OF UNIFORM IN COURT

270. Wearing Of Uniform By The Personnel Of The Military In Court :-

(1) An Officer or Soldier required to attend a Court in his official capacity should appear in uniform, with sword or side arms. Attendance in official capacity includes attendance:-

(a) as witnesses when evidence has to be given of matters which come under the cognizance of the officer or Soldier in his Military capacity.

(b) As a Officer for the purpose of watching a case on behalf of a soldier or Soldier under his command.

(2) An officer or Soldier required to attend Court otherwise than in his official capacity may appear either in plain clothes or in uniform.

(3) An officer or Soldier shall not wear his sword or sidearms if he appears in the character of an accused person or under Military arrest, or if the Presiding Officer of the Court thinks it necessary to require the surrender of his arms, in the character of an accused person or under Military arrest, or if the Presiding Officer of the Court thinks it necessary to require the surrender of his arms, in

which case a statement of the reasons for making the order shall be recorded by the Presiding Officer, and if the Military Authorities so request, forward it for information of the Concerned Chief of the Defence Forces.

(4) Fire arms shall under no circumstances be taken into Court.

(5) An officer or Soldier will remove his head dress while the Judge or Magistrate is present, except when the officer or Soldier is on duty under the arms with a party or escort inside the Court.

271. Wearing Of Uniform By The Police In Court :-

Police Officer other than officers and men of the Criminal Investigation Department, central bureau of Investigation, Anti Corruption Bureau, Intelligence Bureau and Vigilance Branch appearing in Courts in their official capacity shall be in their uniform.

272. Dress Of Convicts :-

Convicts sent in custody to the Court either as a witness or an accused person shall wear ordinary private clothing ; their neck-tickets and ankle-rings shall also be removed.

273. Use Of Forms :-

The forms in Part-II of these rules shall be used for the purposes for which they are intended with such variation as the particular circumstances of each case may require.