

Some Relevant Sections Of The CrPc

Introduction: Upon the filing of the FIR in a cognizable case, the police are required to follow the CrPC or the CODE OF CRIMINAL PROCEDURE. Here is the definition:

4.Trial of offences under the Indian Penal Code and other laws. -

- (1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.
- (2) (2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

I am highlighting some relevant sections, which pertain to a cognizable offence such as IPC 498A. I am not a lawyer nor am I a policeman. I just thought that knowing the CrPC may be helpful to the average citizen. The language is confusing and pretty bare. As I collect more information, I will attempt to update this document with explanations. The most important section is section 41 as it defines the powers of the police to arrest. Here is the link to the complete CrPC from the Delhi High Court. (<http://delhidistrictcourts.nic.in/CrPC.htm>). Read on to get an idea about some of the provisions of the CrPc.

41. When police may arrest without warrant.

- (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person-
 - (a) Who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or
 - (b) Who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or
 - (c) Who has been proclaimed as an offender either under this Code or by order of the State Government; or
 - (d) In whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

- (e) Who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or
- (f) Who is reasonable suspected of being a deserter from any of the Armed Forces of the Union; or
- (g) Who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or
- (h) Who, being a released convict, commits a breach of any rule made under subsection (5) of section 365; or
- (i) For whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears there from that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any, person, belonging to one or more of the categories of person specified in section 109 or section 110.

46. Arrest how made.

- (1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be its submission to the custody by word or action.
- (2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.
- (3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

47. Search of place entered by person sought to be arrested.

(1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him such free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purposes, and demand of admittance duly made, he cannot otherwise obtain admittance. Provided that, if any such place is an apartment in the actual occupancy of a female (not being the person to be arrested) who, according to custom, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such female that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(3) Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

49. No unnecessary restraint.

The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

50. Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person

accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

51. Search of arrested persons.

(1) Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to, furnish bail.

The officer making the arrests or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe Custody all articles, other than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.

(2). Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

55. Procedure when police officer deposes subordinate to arrest without warrant.

(1) When any officer in charge of a police station or any police officer making an investigation under Chapter XII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

(2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under section 41.

56. Person arrested to be taken before Magistrate or officer in charge of police station.

A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.

57. Person arrested not to be detained more than twenty-four hours.

No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's court.

58. Police to report apprehensions.

Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

59. Discharge of person apprehended.

No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

62. Summons how served.

(1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

65. Procedure when service cannot be effected as before provided.

If service cannot by the exercise of due diligence be effected as provided in section 62, section 63 or section 64, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides, and thereupon the court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

70. Form of warrant of arrest and duration.

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

(2) Every such warrant shall remain in force until the court, which issued it, cancels it or until it is executed.

102. Power of police officer to seize certain property.

(1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances, which create suspicion of the Commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

¹(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be, conveniently transported to the court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the court as and when required and to give effect to the further orders of the court as to the disposal of the same.]

1. Ins. by Act 45 of 1978, sec. 10 (18-12-1978)

115. Power to dispense with personal attendance.

The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

116. Inquiry as to truth of information.

(1) When an order under section 111 has been read or explained under section 112 to a person in court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons of, warrant, issued under section 113 the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons case.

(3) After the commencement, and before the completion, of the inquiry under sub-section (I), the Magistrate, if he considers that immediate measures are necessary for the prevention of breach of the peace or disturbance of the public tranquility or the Commission of any offence or for the public safety, may, for reason to be recorded in written direct the person in respect of whom the order under section 111 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry and may detain him

in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that -

(a) No person against whom proceedings are not being taken over under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour; (b) The conditions of such bond, whether as to the amount thereof or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the Community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt within the same or separate inquiries, as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

104. Power to impound document, etc., produced.

Any court may, if it thinks fit impound any document or thing produced before it under this Code.

149. Police to prevent cognizable offences.

Every police officer may inter on for the purpose of preventing, and shall, to the best of his ability, prevent the commission of any cognizable offence.

141. Procedure on order being made absolute and consequences of disobedience.

(1) When an order has been made absolute under section 136 or section 18, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code (45 of 1860).

(2) If Such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local, jurisdiction and if such other property is without such jurisdiction, the order shall authorize its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found,

(3) No suit shall lie in respect of anything done in good faith under this section.

157. Procedure for investigations.

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may by general order, prescribe in this behalf, to proceed, to the spot, to investigate circumstances of the case, and, if necessary to take measures for the discovery of the offender:

Provided that-

(a) When information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the office in-charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) If it appears to the officer in charge of a police station that there

is sufficient ground for entering off an investigation, he shall not investigate the case.

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

151. Arrest to prevent the commission of cognizable offences.

(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorized under any other provisions of this Code or of any other law for the time being in force.

STATE AMENDMENT

Maharashtra:

In section 151 -

(a) In sub-section (2), after the words "required or authorised" the words "under sub-section (3) or" shall be inserted;

(b) After sub-section (2), the following sub-section shall be inserted, namely, -

"(3) (a) Where a person is arrested under this section and the officer making the arrest or the officer of the police station before whom the arrested person is produced, has reasonable grounds to believe that the detention of the arrested person for a period longer than twenty-four hours from the time of arrest (excluding the time required to take the arrested person from the place of arrest to the court of a Judicial Magistrate) is necessary by reason that-

(i) The person is likely to continue the design to commit, or is likely to commit, the cognizable offence referred to in sub-section referred to in sub-section (1) after his release; and

- (ii) The circumstances of the case are such that his being at large is likely to be prejudicial to the maintenance of public order.

The officer making the arrest, or the officer in charge of the police station, shall produce such arrested person before the nearest Judicial Magistrate, together with a report in writing stating the reasons for the continued detention of such person for a period longer than twenty-four hours.

(b) Notwithstanding anything contained in this Code or any other law or the time being in force, where the Magistrate before whom such arrested person is produced is satisfied that there are reasonable grounds for the temporary detention of such person in custody beyond the period of twenty-four hours, he may from time to time, by order remand such person to such custody as he may think fit

Provided that, no person shall be detained under this section for a period exceeding fifteen days at a time, and for a total period exceeding thirty days from the date of arrest of such person.

(c) When any person is remanded to custody- under clause (b), the Magistrate shall, as soon as may be communicate to such person the grounds on which the order has been made and such person may, make a representation against the order to the Court of Session. The Sessions Judge may on receipt of such representation after holding such inquiry as he deems fit, either reject the representation, or if he considers that further detention of the arrested person is not necessary, or that it is otherwise proper and Just so to do, may vacate the order and the arrested person shall then be released forthwith."

[Vide Maharashtra Act 7 of 1981 (w.e.f. 27-5-1980)].

156. Police officer's power to investigate cognizable cases.

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one, which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

158. Report how submitted.

(1) Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge or the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Power to hold investigation or preliminary inquiry.

Such Magistrate, on receiving such report, may direct an investigation, or, if he thinks fit, at once proceed of depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into or otherwise to dispose of, the case in the manner provided in this Code.

161. Examination of witnesses by police.

(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case Put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

164. Recording of confessions and statements.

(1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any, time afterwards before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is true, made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorize the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect.

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A.B.

Magistrate".

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

STATE AMENDMENT

Andaman and Nicobar Islands and Lakshadweep:

After sub-section (1) of section 164, the following sub-section shall be inserted, namely.

"(1A) Where, in any island, there is no Judicial Magistrate for the time being, and

the State Government is of opinion that it is necessary and expedient so to do that Government after consulting the High Court specially empower any Executive Magistrate (not being a police officer), to exercise the powers conferred by sub-section (1) on a Judicial Magistrate, and thereupon references in section 164 to a Judicial Magistrate shall be construed as references to the Executive Magistrate so empowered."

[Vide Regulation 1 of 1974, sec. 5 (w.e.f. 30-3-1974)].

167. Procedure when investigation cannot be completed in twenty-four hours.

(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom all accused person is forwarded under this section may, whether he has or not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that-

¹[(a) The Magistrate may authorize the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding-

(i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) Sixty days, where the investigation relates to
any other offence,

And, on the expiry of the said period of ninety days, or sixty days,
as the case may be, the accused person shall be released on bail if he
is prepared to and does furnish bail, and every person released on
bail under this sub-section shall be deemed to be released under
the provisions of Chapter XXXIII for the purposes of that
Chapter;]

(b) No Magistrate shall authorize detention in any custody under
this section unless the accused is produced before him;

(c) No Magistrate of the second class, not specially empowered in
this behalf by the high Court, shall authorize detention in the
custody of the police.

²[Explanation I. For the avoidance of doubts, it is hereby declared that,
notwithstanding the expiry of the period specified in paragraph (a), the accused shall
be detained in Custody so long as he does not furnish bail.]

³[Explanation II].If any question arises whether an accused person was produced
before the Magistrate as required under paragraph (b), the production of the accused
person may be proved by his signature on the order authorizing detention.

²[(2A) Notwithstanding, anything contained in sub-section (1) or sub-section (2),
the officer in charge of the police station or the police officer making the
investigation, if he is not below the rank of a sub-inspector, may, where a Judicial
Magistrate is not available, transmit to the nearest Executive Magistrate, on whom
the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred,
a copy of the entry in the diary hereinafter prescribed relating to the case, and shall,
at the same time, forward the accused to such Executive Magistrate, and thereupon
such Executive Magistrate, may, for reasons to be recorded in writing, authorize the
detention of the accused person in such custody as he may think fit for a term not
exceeding seven days in the aggregate; and on the expiry of the period of detention
so authorized, the accused person shall be released on bail except where an order for
further detention of the accused person has been made by a Magistrate competent to
make such order; and, where an order for such further detention is made, the period
during which the accused person was detained in custody under the orders made by

an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2): Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.]

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

1. Subs, by Act 45 of 1978, sec. 13, for paragraph (a)(w.e.f. 18-12-1978).

2. Ins. by Act 45 of 1978, sec. 13 (w.e.f. 18-12-1978).

3. Original Explanation numbered as Explanation II by Act 45 of 1978, sec. 13 (w.e.f.18-12-1978).

STATE AMENDMENTS

Andaman and Nicobar Islands and Lakshadweep:

In section 167, -

(i) In sub-section (1) after the words "nearest Judicial Magistrate" the words "or, if there is no Judicial Magistrate in an island, to an Executive Magistrate functioning

in that island" shall be inserted;

(ii) After sub-section (1), the following sub-section shall be inserted, namely.

"(1A) Where a copy of the entries in diary is transmitted to an Executive Magistrate, reference in section 167 to a Magistrate shall be construed as references to such Executive Magistrate;"

(iii) To sub-section (3), the following proviso shall be added, namely.

"Provided that no Executive Magistrate other than the District Magistrate or Sub-divisional Magistrate, shall unless he is specially empowered in this behalf by the State Government authorize detention in the custody of the police."

(iv) To sub-section (4), the following proviso shall be added, namely.

"Provided that, where such order is made by an Executive Magistrate, the Magistrate making the order shall forward a copy of the order, with his reasons for making it, to the Executive Magistrate to whom he is immediately subordinate."

[Vide Regulation 1 of 1974, sec. 5 (w.e.f. 30-3-1974)].

Gujarat:

In the proviso to sub-sec. (2) of section 167, -

(i) For paragraph (a), the following paragraph shall be substituted, namely.

"(a) The Magistrate may authorize detention of the accused person otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorize the detention of the accused person in custody under this section for a total period exceeding-

(i) One hundred and twenty days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years.

(ii) If sixty days, where the investigation relates to any offence:

And on the expiry, of the said period of one hundred and twenty days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this section shall be deemed to be so released under tire provisions of Chapter XXXIII for the purposes at that Chapter;

(ii) In paragraph (b), for the words " no Magistrate shall" the words "no Magistrate shall, except for reason to be recorded in writing" shall be substituted:

(iii) The Explanation shall be numbered as Explanation II and before Explanation II

as so remembered, the following Explanation shall be inserted, namely.

Explanation 1 - For the avoidance of doubts, it is hereby, declared that, notwithstanding the expiry of the period specified in paragraph (a) the accused person shall be detained in custody so long as he does not furnish bail.

Amendment to apply to pending investigation.-The provisions of section 167 of the Code of Criminal Procedure, 1973, as amended by this Act, shall apply to every investigation pending immediately, before the commencement of this Act. If the period of detention of the accused person, otherwise than in the custody of the police authorised under that section, had not, at such commencement, exceeds sixty days.

[Vide President Act 21 of 1976 (w.e.f. 7-5-1976)]. [Ed. These amendments have been made prior to the enactment of the Code of Criminal Procedure (Amendment) Act, 1978 (Central Act 45 of 1978), sec. 13 (w.e.f. 18-12-1978)].

Haryana:

After section 167, insert the following section namely.

"167A.-Procedure on arrest by Magistrate.- For the avoidance of doubt, it is hereby declared that the provisions of section 167 shall, so far as may be, apply also in relation to any person arrested by, or under any order or direction of, Magistrate whether executive or Judicial"

[Vide President Act 20 of 1981, sec. 2 (w.e.f.22-12-1981)].

Orissa:

In section 167, in paragraph (a) of the proviso to sub-section (2),-

(i) for the words "under this paragraph" the words " under this section" shall be substituted; and

(ii) for the words "ninety days" wherever they occur, the words "one hundred and twenty days" shall be substituted.

[Vide Orissa Act, 11 of 1997 sec. 2 (w.e.f. 20-10-1997)].

Punjab:

In section (2) of 'section 167, for the words "fifteen days" at both the places where they occur, the words "thirty days" shall be substituted.

[Vide president Act 1 of 1984, sec. 2 (w.e.f 23-6-1984)].

Tripura:

In paragraph (a) of the proviso to sub-section (2) of section 167, -

(a) For the words "ninety days" wherever they occur, the words under hundred eighty days shall be substituted;

(b) For the words "sixty days" wherever they occur, the words "one hundred twenty days" shall be substituted.

[Vide Tripura Act 6 of 1992. sec. 2 (w.e.f 29-7-1992)].

Uttar Pradesh:

After section 167, insert the following section namely:

"167A. Procedure on arrest by Magistrate.-For the avoidance of doubts, it is hereby declared that the provisions of section 167 shall so far as may be, apply in relation to any person arrested by, or under any order or direction of, a Magistrate whether executive or Judicial.

[Vide U.P. Act 18 of 1978].

West Bengal:

In section 167, -

(a) For sub-section (5). The following sub-section shall be submitted.

"(5) If, in respect of -

- (i) Any case triable by a Magistrate as a summons case, the investigation is not concluded within a period of six months, or
- (ii) Any case exclusively triable by a Court of Sessions or a case under Chapter XVIII of the Indian Penal Code (45 of 1860), the investigation is not conducted within a period of three years, or
- (iii) Any case other than those mentioned in clauses (i) and (ii), the investigation is not conducted within a period of two year, from the date on which the accused was arrested made his appearance, the Magistrate shall make an order stopping further investigation into the offence and shall discharge the accused unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period mentioned in this sub-section is necessary".

(b) In sub-section (6), after the words any order stopping further investigation into an offence has been made "the words "and the accused has been discharged" shall be

inserted.

[Vide W.B. Act 24 of 1988 sec. 4].

169. Release of accused when evidence deficient.

If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient, evidence or reasonable round of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, of such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizable of the offence on a police report, and to try the accused or commit him for trial.

173. Report of police officer on completion of investigation.

(1) Every investigation under this Chapter shall be completed without unnecessary delay

(2)

(i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

- (a) The names of the parties;
- (b) The nature of the information;
- (c) The names of the persons who appear to be acquainted with the circumstances of the case;
- (d) Whether any offence appears to have been committed and, if so, by whom;
- (e) Whether the accused has been arrested;
- (f) Whether he has been released on his bond and, if so, whether with or without sureties;
- (g) Whether he has been forwarded in custody under section 170.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report-

(a) All documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) The statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witness.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the sub-matter of the proceeding or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Notwithstanding in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed and the provisions of sub-section (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)

172. Diary of proceeding in investigation.

(1) Every police officer making an investigation under this Chapter shall day by day enter his proceeding in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the court; but, if they, are used by the police officer who made them to refresh his memory, or if the court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), shall apply.

175. Power to summon persons.

(1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which have a tendency to expose him to a criminal charge or to a forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

198A. Prosecution of offences under section 498A of the Indian Penal Code.

¹[198A. Prosecution of offences under section 498A of the Indian Penal Code.

No court shall take cognizance of an offence punishable under section 498A of the Indian Penal Code (45 of 1860) except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the court, by any other person related to her by blood, marriage or adoption.]

1. Ins. by Act 46 of 1983, sec. 5 (w.e.f. 25-12-1983).

199. Prosecution for defamation.

(1) No court shall take cognizance of all offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by, the offence:

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the court, make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Government of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction.

(a) Of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(b) Of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(c) Of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the

offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

200. Examination of complainant.

A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses-

- (a) If a public servant acting or purporting to act in the discharge of his official duties or a court has made the complaint; or
- (b) If the Magistrate makes over the case for inquiry, or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

203. Dismissal of complaint.

If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

207. Supply to the accused of copy of police report and other documents.

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following.

- (i) The police report;
 - (ii) The first information report recorded under section 154;
 - (iii) The statements recorded under sub-section (3) of section 161
- of all persons whom the prosecution proposes to examine as its witnesses, excluding there from any part in regard to which a request for such exclusion has been made by the police officer

under sub- section (6) of section 173.

(iv) The confessions and statements, if any, recorded under section 164;

(v) Any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in Clause (v) is Voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in court.

208. Supply of copies of statements and documents to accused in other cases triable by court of Session.

Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 204 that the offence is triable exclusively by the Court of Session, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following.

(i) The statements recorded under section 200 or section 202, or all persons examined by the Magistrate;

(ii) The statements and confessions, if any, recorded under section 161 or section 164;

(iii) Any documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in court.

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