

**The Code of Criminal Procedure, 1898 (Extracts)**  
**Act No V of 1898**

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## **The Code of Criminal Procedure, 1898 (Extracts)** **Act No V of 1898**

### **CHAPTER I**

**Sec. 1. Short title. Commencement.-** (1) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898.

(2) It extends to the whole of Bangladesh; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special Law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

**Sec. 4. Definitions.-** (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:-

- (b) “bailable offence” means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and “non-bailable offence” means any other offence;
- (f) “cognizable offence” means an offence for, and “cognizable case” means a case in, which a police-officer may in accordance with the second schedule or under any law for the time being in force, arrest without warrant;
- (l) “investigation” includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by Magistrate in this behalf ;
- (n) “non-cognizable offence” means an offence for, and “non-cognizable case” means a case in, which a police-officer may not arrest without warrant;

**Sec. 5. Trial of offences under Penal Code.-** (1) All offences under the Penal Code shall be investigated, inquired into, tried, and otherwise dealt with, according to the provisions hereinafter contained.

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

### **CHAPTER V**

#### ***A- Arrest generally***

**Sec. 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 a submission to the custody by word or action.

(2) If such person forcibly resists the endeavor 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 transportation for life.

**Sec. 47. Search of place entered by Person sought to be arrested.-** 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, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

**Sec. 48. Procedure where ingress not obtainable.-** If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a Police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a woman (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 woman 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.

**Sec. 49. Power to break open doors and windows for purposes of liberation.-** Any Police-officer or other person authorized 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.

**Sec. 50. No unnecessary restraint.-** The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

**Sec. 51. Search of arrested persons.-** Wherever 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 private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

The officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

**Sec. 52. Mode of searching women.-** Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

***B- Arrest without Warrant***

**Sec. 54. When Police may arrest without warrant.-** (1) Any Police-officer may, without an order from a Magistrate and without a warrant, arrest,-

- first,* any person 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 ;
- secondly,* any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;
- thirdly,* any person who has been proclaimed as an offender either under this Code or by order of the Government;
- fourthly,* any person 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;
- fifthly,* any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;
- sixthly,* any person reasonably suspected of being a deserter from the armed forces of Bangladesh;
- seventhly,* any person 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 Bangladesh, which, if committed in Bangladesh, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh;
- eighthly,* any released convict committing a breach of any rule made under section 565, sub-section (3);
- ninthly,* any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specified the person to be arrested and the offence or other

cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

**Sec. 60. 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 police-station.

**Sec. 61. 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.

**Sec. 62. Police to report apprehensions.-** Officers in charge of police-stations shall report in a Metropolitan Area, to the Chief Metropolitan Magistrate, and in other areas, to the District Magistrate, or if the District Magistrate 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.

**Sec. 63. 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.

**Sec. 64. Offence committed in Magistrate's presence.-** When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody.

**Sec. 65. Arrest by or in presence of Magistrate.-** Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

**Sec. 66. Power, on escape, to pursue and retake.-** If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in Bangladesh.

**Sec. 67. Provisions of section 47, 48 and 49 to apply to arrests under section 66.-** The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

## CHAPTER VII

### *B- Search-warrants*

**Sec. 96. When search-warrant may be issued.-** (1) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Metropolitan Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

### *D- General Provisions relating to Searches.*

**Sec. 102. Persons in charge of closed place to allow search.-** (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

**Sec. 103. Search to be made in presence of witnesses.-** (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 102, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Penal Code.

## CHPATER XIV

### *Information to the Police and their powers to Investigate*

**Sec. 154. Information in cognizable cases.-** Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Government may prescribe in this behalf.

**Sec. 155. Information in non-cognizable cases.-** (1) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the information to the Magistrate.

(2) No police-officer shall investigate a non-cognizable case without the order of a magistrate of the first or second class having power to try such case or send the same for trial.

(3) Any police-office receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

**Sec. 156. Investigation into 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 XV relating to the place of inquiry or trial.

(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.



**Sec. 157. Procedure where cognizable offence suspected.-** (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 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 Government may, by general or special order, prescribe in this behalf to proceed to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided as follows:-

- (a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;
- (b) if it appears to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

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

**Sec. 158. Reports under section 157 how submitted.-** (1) Every report sent to a Magistrate under section 157 shall, if the Government so directs, be submitted through such superior officer of police as the Government, by general or special order, appoints in that behalf.

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

**Sec. 159. Power to hold investigation of preliminary inquiry.-** Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

**Sec. 160. Police-officer's power to require attendance of witnesses.-** Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be

acquainted with the circumstances of the case; and such person shall attend as so required.

**Sec. 161. Examination of witnessed by police.-** (1) Any police-officer making an investigation under this Chapter or any police-officer not below such rank as the 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 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 record of the statement of each such person whose statement he records.

**Sec. 162. Statements to police not to be signed; use of such statements in evidence.-** (1) No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner prescribed by section 145 of the Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination:

Provided further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefore) and shall exclude such part from the copy of the statement furnished to the accused.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Evidence Act, 1872 or to affect the provisions of section 27 of that Act.

**Sec. 163. No inducement to be offered.-** (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made any such inducement, threat or promise as is mentioned in the Evidence Act, 1872, section 24.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

**Sec. 164. Power to record statement and confessions.-** (1) Any Metropolitan Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Government may, if he is not a police-officer, record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make confession and that if he does so it may be used as evidence against him and no magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he 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. I 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.”

**Explanation.-** It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

**Sec. 165. Search by Police-officer.-** (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station :

Provided that no such officer shall search, or cause search to be made, for anything which is in the custody of a bank or banker as defined in the Bankers’

Books Evidence Act, 1891 (XVII of 1891), and relates, or might disclose any information which relates, to the bank account of any person except,-

- (a) for the purpose of investigating an offence under sections 403, 406, 408 and 409 and sections 421 to 424 (both inclusive) and sections 465 to 477A (both inclusive) of the Penal Code with the prior permission in writing of a Sessions Judge; and
- (b) in other cases, with the prior permission in writing of the High Court Division.

(2) A Police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may after recording in writing his reasons for so doing require any officer subordinate to him to make the search, and he shall deliver to the subordinate officer an order in writing specifying the place to be searched and, so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search warrants and the general provisions as to searches contained in section 102 and section 103 shall, so far as may be, apply to a search under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

**Sec. 166. When officer in charge of police-station may require another to issue search warrant.-** (1) An Officer in charge of a police-station or a police-officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or

cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

**Sec. 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 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or send it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Government shall authorise detention in the custody of the police.

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

(4) If such order is given by a Magistrate other than the Chief Metropolitan Magistrate, District Magistrate or Sub-Divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom his immediately subordinate.

(5) If the investigation is not concluded within one hundred and twenty days from the date of receipt of the information relating to the commission of the offence or the order of the Magistrate for such investigation,-

- (a) the Magistrate empowered to take cognizance of such offence or making the order for investigation may, if the offence to which the investigation relates is not punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such Magistrate; and
- (b) the Court of Session may, if the offence to which the investigation relates is punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such Court:

Provided that if an accused is not released on bail under this sub-section, the Magistrate or, as the case may be, the Court of Session shall record the reasons for it:

Provided further that in cases in which sanction of appropriate authority is required to be obtained under the provisions of the relevant law for prosecution of the accused, the time taken for obtaining such sanction shall be excluded from the period specified in this sub-section.

**Explanation.-** The time taken for obtaining sanction shall commence from the day the case, with all necessary documents, is submitted for consideration of the appropriate authority and be deemed to end on the day of the receipt of the sanction order of the authority.

(8) The provisions of sub-section (5) shall not apply to the investigation of an offence under section 400 or section 401 of the Penal Code, 1860 (Act XLV of 1860).

**Sec. 168. Report of investigation by subordinate police-officer.-** When any subordinate Police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the Officer-in-Charge of the Police-station.

**Sec. 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 or to the Police-officer making the investigation that there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or send him for trial.

**Sec. 170. Case to be sent to Magistrate when evidence is sufficient.-** (1) If, upon an investigation under this Chapter, it appears to the Officer-in-charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or send him for trial, if the offence is bailable and the accused is able to give security, shall take

security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Metropolitan Magistrate, District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice or such reference is given to such complainant or persons.

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it and shall then to the Magistrate the original with his report.

**Sec. 171. Complainants and witnesses not to be required to accompany police-officer.-** (1) No complainant or witness on his way to the Court of the Magistrate shall be required to accompany as police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the police-officer to ensure that the complainant or the witness appears before the Court at the time of hearing of the case.

**Sec. 172. Diary of proceedings 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. 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 the Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

**Sec. 173. Report of police-officer.-** (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-section shall-

- (a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and
- (b) communicate in such manner as may be prescribed by the Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the 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.

(3) 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.

(3A) 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 sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witness.

(3B) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (1) 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 (1) to (3A) 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 (1).

(4) A copy of any report forwarded under this section shall on application be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

### **CHAPTER XLIII** *Of the Disposal of Property*

**Sec. 516A. Order for Custody and disposal of Property Pending trial in certain cases.-** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

**Sec. 517. Order for disposal of property regarding which offence committed.-**

(1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) When High Court Division or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the Chief Metropolitan Magistrate or District Magistrate.

(3) When an order is made under this section, such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

**Explanation.-** In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged,

and anything acquired by such conversion or exchange, whether immediately or otherwise.

**Sec. 518. Order may take form of reference to District or Sub-divisional Magistrate.-** In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the Chief Metropolitan Magistrate, District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

**Sec. 519. Payment to Innocent purchasers of money found on accused.-** When any person is convicted of any offence which includes, or amounts to theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

**Sec. 520. Stay of order under section 517, 518 or 519.-** Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

**Sec. 524. Procedure where no clamant appears within six months.-** (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Metropolitan Magistrate, District Magistrate or Sub-divisional Magistrate or of a Magistrate of the first class empowered by the Government in this behalf.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

**Sec. 525. Power to sell perishable property.-** If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten taka the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Code of Criminal Procedure, 1898  
Schedule II (Extracts)

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Penal Code	By what Court triable.
****	****	****	****	****	****	****	****

**OFFENCES AGAINST OTHER LAWS**

	If punishable with death, transportation or imprisonment for more than five years.	May arrest without warrant.	Warrant Not bailable.		Not compoundable	---	Court of Session
	If punishable with imprisonment for not less than two years and not more than five years.	Ditto	Ditto	Ditto Except in cases under the Arms Act, 1878, section 19, which shall be bailable.	Ditto	---	Metropolitan Magistrate or Magistrate of the first class or second class.
	If punishable with imprisonment for less than two years or with fine only.	shall not arrest without warrant.	Summons.	Bailable	Ditto	---	Any Magistrate

\*\*\* Sections of the Penal Code and the relevant entries- not printed.