

Study Material

(For Private circulation only)

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INDEX

Sr. No.	Particulars	Page No.
1	Remand	3
2	Surrender of the accused and bail	5
3	Bail order vide proviso to Section 187(2) of BNSS	8
4	Committal Order (if the accused is in jail)	11
5	Committal Order (if the accused is on bail)	12
6	General Instructions	13
7	Last point – judgment of acquittal	22
8	Last point – judgment of conviction	23
9	Order under Probation of Offenders Act	28
10	Other Summary cases – particulars of offences	29
11	Form of deposition sheet	38
12	Form of Ephemeral Roll	39
13	Technical/ Legal Issues	40
14	Issues & operative part of judgments in civil suit	41
15	Taking cognizance by Magistrate (Chart)	52
16	Sentences which a Magistrate may pass (Chart)	53

* * *

REMAND

(Sec. 35, 48 and 187 of BNSS and Ch. I, para 1 to 7 of Cri. Manual)

- 1) No magistrate shall authorise detention of the accused in the custody of police unless he is produced in person for the first time and subsequently every time till he remains in police custody. (Sec. 187(4)BNSS)
- 2) Further detention of the accused in judicial custody may be extended on production of the accused either in person or through audio-video electronic means. Sec. 187(4)BNSS)
- 3) Accused persons who are too ill to travel and women accused of any offence, if arrested soon after child birth, should be allowed to remain under proper charge in the care of their relations or be sent to the nearest dispensary, beyond 24 hours allowed by Sec. 58 of BNSS, after obtaining sanction to do so by the police from the nearest Magistrate.
- 4) Obtain sign./ T.I. of the accused on remand application. (S.187(5) Expln.II)
- 5) Ensure compliance of Sec. 48(1),(2) and (3) of BNSS by police. (See Sec. 48(4)BNSS)
- 6) Ensure that arrest is justifiable – See checklist under section 35 (1)(b)(ii) of BNSS – ensure compliance of the directions given in **Arnesh Kumar vs. State of Bihar, - (2014) 8 SCC 273**.
- 7) If arrest is justifiable, then record reasons accordingly, if it is not justifiable, then release the arrestee. **(See Arnesh Kumar’s Case)**.
- 8) If the arrestee is a juvenile in conflict with law, direct him to be produced before the Juvenile Justice Board.
- 9) If the accused is arrested in respect of a bailable offence, grant MCR and if he is ready to furnish bail, release him on bond or bail bond, as the case may be.
- 10) Magistrate may authorise detention of the accused in such custody as he thinks fit, for a term not exceeding 15 days in the whole or in parts, at any time during the initial 40 days or 60 days out of the detention period of 60 days or 90 days, as the case may be, as provided in sub Sec.(3). (See Sec. 187(2) of BNSS)
- 11) No detention of the accused for a total period exceeding -
 - i) 90 days, if the accused is punishable with death, life imprisonment or imprisonment for 10 years or more,
 - ii) 60 days, in respect of other offences.
- 12) On the expiry of the aforesaid period of 90 days or 60 days, the accused shall be released on bail if he is prepared to and does furnish bail, failing which detain him in custody so long he does not furnish bail. (Sec. 187(3) r/w/Expln. I)
- 13) Follow the directions given in **Bhulabai w/o Barkaji Matre vs. Shankar Barkaji Matre (1999(3)Mh.L.J. 227)** in case the accused is release on default bail u/s 187(3).
- 14) Peruse the case diary and other papers of investigation before granting or rejecting detention of the accused in police custody, with appropriate

reasons.

- 15) Consider the principles laid down in Chapter I, para 5 of the Criminal Manual while granting PCR/MCR.
- 16) If PCR is granted by the Magistrate, copy of the order should be sent to the CJM. (S.187(8))
- 17) If the investigation is not completed in a summons case triable by the Magistrate, within 6 months from the date of arrest of the accused, the Magistrate shall stop further investigation unless the I.O. satisfies that for special reasons and in the interest of justice continuation of investigation beyond 6 months is necessary.

Circumstances warranting PCR/MCR.

- a) Comp – No, H, PR, Mat – No, No PCR, MCR till -----.
- b) Comp – No, H, PR, Mat- Yes, RR, PCR till -----.
- c) Comp- yes, Cons – year, PE (or if Cons. No.--- RWR), sub- no, H, PR, Mat-No, No PCR, MCR till-----.
- d) Comp-yes, Cons – yes, PE, sub- No, H, PR, Mat-Yes, PCR till -----.
- e) Comp – yes, Cons- yes, PE, sub- yes, RC, take in MCR for 1 or 2 days, send him for ME, see MR, sub-yes, – H, PR, Mat-No, No PCR, MCR till-----.(Report to be made to S. J. under Chapter I, para 3(1) of Cri. Manual)

OR

- f) If there is sufficient material /grounds to grant PCR – PCR till----- with a direction that further investigation shall be conducted by some other I.O.

Abbreviations

* Appln. : Application	* ME : Medical Examination
* BNSS : Bharatiya Nagarik Suraksha Sanhita	* MR : Medical Report
* Ch : Chapter	* NB : Non-bailable.
* CJM : Chief Judicial Magistrate	* PCR : Police custody remand.
* Comp. : Complaint	* PE : Personal Examination
* Cons. : Consent	* PR : Peruse the record.
* Cri. : Criminal	* RWR : Record with reasons.
* Cri.M : Criminal Manual	* RC : Record complaint.
* H : Hear the accused and investigating agency.	* RR : Record reasons.
* I.O. : Investigating Officer	* SJ : Sessions Judge
* JJB : Juvenile Justice Board	* Sec. : Section
* Mat : Material	* Sub : Substance
* MCR : Magisterial custody remand.	

**ORDER BELOW APPLICATION FOR SURRENDER
AND BAIL:**

The accused voluntarily surrendered before this Court today at _____ p.m. He is arrested and taken into custody on his being surrendered voluntarily. Perused copy of the first information report in Crime No. _____/2023 registered in Police Station _____ for the offence/s punishable under section/s _____ of the Bharatiya Nyaya Sanhita, 2023. The accused will have to be taken into magisterial custody.

* **(If the offence is bailable)**

The accused has prayed for bail. He is alleged to have committed bailable offence/s. He is ready and prepared to furnish bail. He is entitled to get bail as of right. I, therefore, pass the following order:-

- 1) The accused is remanded to magisterial custody till .../.../2023. (15 days)
- 2) The accused be released on bailbond in the sum of Rs./- with a surety in the like amount in respect of the offence/s punishable under section/s..... of the Bharatiya Nyaya Sanhita, 2023 in connection with Crime No...../2023 registered in Police station.....

Or

- 2) The accused be released on bond in the sum of Rs..../- in respect of the offence/s punishable under section/s.....of the BNS in connection with Crime No...../2023 registered in Police Station.....
- 3) Inform the Police Station Officer,..... Police Station accordingly

Date:

Sd/-
Date
J.M.F.C.

* **(If the offence is non-bailable)**

The accused has prayed for bail. He is alleged to have committed non-bailable offence/s. It is likely that physical presence of the accused with the police for the purpose of investigation would be essential. Therefore, before considering the request of the accused for bail, an opportunity of being heard will have to be given to the Investigating Officer. Hence, the Order:-

- 1) The accused is remanded to magisterial custody till .../.../2023. (preferably not more than one day).
- 2) Issue notice to the Investigating Officer in Crime No...../2023 of Police Station returnable on .../.../2023 (Preferably not more than one day to show cause as to why magisterial custody of the accused should not be continued further and why he should not be released on bail.)

Date:

Sd/-
Date
J.M.F.C.

Read: 1) Niranjn Singh V/s. Prabhakar Rajaram Kharote
AIR 1980 SC 785 = 1980 Cr.L.J.426
2) State of Assam V/s. Mobarak Ali and others
(1982 Cro. L.J. 1816 (Gauhati H.C.)
3) The State V/s. Maguni Charan Sahu and others
1983 Cri. L.J. 1212 (Orissa H.C.)

(On the next day – further order)

The accused is produced before me today. The Investigating Officer has strongly opposed continuation of magisterial custody of the accused as well as the bail application on the ground that in order to discover/recover stolen property/weapon of offence/any other incriminating article/custodial interrogation of the accused is essential. The accused (or the learned counsel for the accused) resisted the ground/s set up by the Investigating Officer for police custody. Considering the nature of offence/s, the allegations made against the accused and after perusing the papers of investigation/case-diary, I find substance in the contention of the Investigation Officer. There is strong possibility of discovery/recovery of stolen property/weapon of offence/other incriminating articles, if the accused is placed in police custody. Therefore, magisterial custody of the accused will have to be converted into police custody and the application for bail will have to be kept in abeyance for the present. Hence, the order:-

ORDER

- 1) The accused be given in police custody till/..../2023.
(not more than 15 days in the whole, or in parts subject to the provisions of Sec. 187 (2) of the BNSS.)
- 2) The bail application be kept for hearing after police custody remand is over.

Date:

Sd/-

Date

J.M.F.C.

Note: 1) If there are no satisfactory grounds for grant of police custody, reject the request of Investigating Officer for police custody and extend further magisterial custody to the accused.

Note: 2) After Police custody remand is over or if police custody is not at all granted, take the say of the Investigating Officer on the application for bail and pass appropriate order thereon, as usual, considering the basic established principles for grant or rejection of bail.

Intimation letter to be sent to the police station after grant of bail to the accused on his surrender before the Court in connection with bailable offence.

IN THE COURT OF JUDICIAL MAGISTRATE F.C. AT

Misc. Cri. Application No. _____/2023
(Crime No. _____/2023)

Applicant/Accused	Name and description
Non-applicant	Versus
Maharashtra	The State of
	(through P.S.O. _____)

Upon hearing the above named accused, the following order has been passed by this Court.

ORDER

- 1) The accused is remanded to magisterial custody till .../.../2023...
- 2) The accused be released on bail in the sum of Rs./- with a surety in the like amount in respect of the offence/s punishable under section/s of the Bharatiya Nyaya Sanhita in connection with Crime No. /2023 registered in Police Station

If he ordered to be released on a bond, - the words " with surety is the like amount should be omitted.

- 3) Inform the Police Station Officer Police Station accordingly.

Date:

Sd/-
Date
J.M.F.C.

The accused has furnished bail bonds as per the above stated order and the same have been accepted by this Court.

(Seal of the Court)

O.No. _____/2023

Date: ____/____/2023.

Copy to Police Station Officer, Police Station ____ for information.

"By Order"

Sd/-

Asstt. Superintendent.

**ORDER BELOW APPLICATION FOR BAIL VIDE
PROVISO TO**

**SECTION 187(3) OF THE BHARATIYA NAGARIK SURAKSHA
SANHITA**

The accused has claimed bail vide proviso to section 187(3) of the Bharatiya Nagarik Suraksha Sanhita (“BNSS” in the short).

The accused was produced before this court on 9-7-2024. He was initially detained in police custody and then in magisterial custody for a total period of 90 days. He is alleged to have committed an offence punishable under section 103(1) of the Bharatiya Nyaya Sanhita. The Investigating Officer ought to have filed the charge-sheet against the accused within 90 days from 9-7-2024. He failed to do so. Therefore, the right to be enlarged on bail has accrued in favour of the accused on 91st day as per the above referred proviso. Accordingly, he filed application for bail on that day. The Investigating Officer submitted the charge-sheet against the accused today i.e. On 92nd day. The subsequent filing of charge-sheet will not take away the right of the accused of bail which was vested in him on 91st day. He is entitled to be released on bail with certain conditions. Hence, the order -

ORDER

- 1) The accused be released on bail, vide Section 187(3) of BNSS, in the sum of Rs. _____/- with a surety in the like amount on the following conditions,
 - (a)
 - (b)
 - (c)
- 2) Issue notice to the Investigating Officer to explain within 7 days from today with special reasons supported by an affidavit as to why he could not file the charge-sheet within the prescribed time, failing which it will be presumed that he has nothing to say in the matter and further action would follow.

Date

sd/-
Date
J.M.F.C.

Note : Clause No. 2 of the above order is in compliance with the directions given in Bhulabai Barkaji Matre Vs. Shankar Barkaji Matre, 1999 (3) Mh.L.J. 227.

Bhulabai w/o. Barkaji Matre V/s. Shankar Barkaji Matre and others
1999 (3) Mh.L.J.227

Presently it has become a very common practice to obtain bail, in default by such dubious method. Therefore, this Court proposes to incorporate certain steps to be taken by the Investigating Officer, the Prosecutor, Magistrate and the disciplinary authority of the Investigating Agency, as a measure to prevent the misuse of section 167 Criminal Procedure Code for obtaining bail in default which is inherent in section 167 of Criminal Procedure Code, as observed in Aslam Babalal Desai's case thus ; "The prosecution cannot be allowed to trifle with individual liberty if it does not take its task seriously and does not complete it within the time allowed by law." All actions of the State or its authorities and its officers must be carried out in accordance with the Constitution and within the limits set up by law. Therefore, it is obligatory on the part of the investigating agency to conclude investigation within the prescribed period 60/90 days, as contemplated in section 167(2). A duty is cast on the Investigating Officer to satisfy the Magistrate as to why he could not file the chargesheet within the prescribed time, by filing his explanation, giving special reasons supported by an affidavit and case diary on or before last date of the prescribed period and on the date charge-sheet is filed beyond the prescribed period to enable the Magistrate to satisfy himself that in the facts and circumstances brought before him such investigation could not have been completed within prescribed period for justifiable reasons. If the Magistrate is satisfied that the explanation so given is reasonable, he may record so which will result in absolving the Investigating Officer and his obligation under law and committing the default. If the Magistrate finds that there is no justifiable reason for not filing the charge-sheet within prescribed time then he should record so and then it will be the duty of the learned Public Prosecutor to submit his report to the Disciplinary authority of the Investigating Officer for appropriate action, against the investigating officer for such default in performing the duty. Thereafter, the disciplinary authority is expected to proceed in the matter and submit his action taken report to the concerned Magistrate, through their prosecuting agency. This procedure will provide safeguard to the misuse of authority by investigating agency and also serve the interest of justice by promoting the mandate as enshrined in Articles 21 and 22 of the Constitution of India. In the present case this Court is prima facie of the opinion that in Crime No. 80/1998, the Investigating Officer was negligent in filing the charge-

sheet against the non-applicants/accused, within the prescribed time and for no justification, though the investigation was almost over well within time. The learned Additional Public Prosecutor has assured the Court that a Departmental Enquiry in the matter is being initiated and this Court would not like observe anything, which would affect and influence the Departmental proceedings, initiated against the Investigation Officer, but expects that, in case the Investigation Officer is found guilty of such misconduct, the authorities will sternly deal with him. It is made clear that failure to comply with the above requirements apart from rendering the official concerned liable for departmental action, would also render him liable to be punished for contempt of Court and any person interested, if aggrieved by non-compliance of these directions will be entitled to initiate proceedings for contempt of Court. The Court, therefore, directs all concerned to scrupulously follow the steps, as proposed and for the said purpose, the copy of this judgment and order be forwarded to the Principal Home Secretary, State of Maharashtra, Home Department and Director General of Police, State of Maharashtra; and it shall be their obligation to circulate them to every police station, under their charge and get the same notified at every police station at a conspicuous place, within a reasonable time. Copies of the Judgment and order be also forwarded to Director of Public Prosecution at Mumbai and to all Sessions Judges in the State of Maharashtra, for circulating the same to all Courts and Magistrates, exercising powers of remand under section 167 of Criminal Procedure Code, during investigation. This is with the hope that, in case the steps are followed, it will work as a check on one and all concerned, with the investigation of the case, remand and filing of the charge-sheet.

(The above directions shall be scrupulously followed in case bail under the proviso to Sec. 187 (2) of the BNSS is granted)

COMMITTAL ORDER UNDER SECTION 232 OF BNSS
(If the accused is in jail)

The accused is produced before the Court by the jail Authorities. He is charged with the offence punishable under section 103(1) of the Bharatiya Nyaya Sanhita which is exclusively triable by the Court of Session. The copies of police report and other documents as specified in section 230 (or section 231) of the Bharatiya Nagarik Suraksha Sanhita have been supplied to the accused. The accused is not represented by any Lawyer. I explained him the provisions of the free legal aid available to the unrepresented accused persons. I asked him whether he desires to avail of free legal assistance.* He states that he has made his own arrangement for his defence before the Sessions Court by engaging a Lawyer. (OR *- He states that arrangement may be made for appointment of a Lawyer on his behalf by the Sessions Court under Legal Aid Scheme. The Sessions Court will have to be intimated accordingly.) The case will have to be committed to the Court of Session. Hence, the order:-

1. The case be committed to the Court of Session.
2. The accused is remanded to Magisterial Custody until commitment of the case and also during and until the conclusion of trial before the Court of Session vide section 232 (a) and (b) of the Bharatiya Nagarik Suraksha Sanhita.
- 3.* The accused may be provided with a Lawyer for his defence before the Sessions Court under the Free Legal Aid Scheme.
4. The Jail Authorities are directed to produce the accused before the Court of Session on receiving production warrant from that Court in Form No. IV, Chapter XXXIII of the Criminal Manual.
5. The record of the case, the documents and articles, which are to be produced in evidence, shall be sent to the Court of Session.
6. The police Station Officer, Police Station_____ be directed to produce muddemal property in the Court of Session on or before/...../.....positively.
7. The Public Prosecutor shall be notified of the commitment of the case to the Court of Session.

Date:-...../...../.....

Signature of the Magistrate.

Note:-(1) Use Form No.III of Warrant of Commitment provided in Chapter XXXIII in Criminal Manual for committing the case to the Court of Session. Read Krishna Ramlu Dhudhawad Vs State of Maharashtra-1999 (2) Mh.L.J.80.

(2) Notice of commitment by the Magistrate to the Public Prosecutor shall be given vide Form No.32, Schedule II of the Bharatiya Nagarik Suraksha Sanhita vide Sec. 232(d) of BNSS.

(3) Proceedings under this section shall be completed within a period of 90 days from the date of taking cognizance and for reasons to be recorded in writing, within 180 days. (See Proviso u/s. 232(d) of BNSS.

(4) Any application filed by the accused, victim or any person authorised by such person, shall be forwarded to the Sessions Court with the committal of the case. (See Second proviso u/s 232(d) of BNSS.

COMMITTAL ORDER

(If the accused is on bail)

The accused is present. He is charged with the offence punishable under section 302 of the Indian Penal Code which is exclusively triable by the Court of Session. The copies of police report and other documents as specified in section 230 (or section 231) of the Code of Bharatiya Nagarik Suraksha Sanhita have been supplied to the accused. The case will have to be committed to the Court of Session. Hence, the order:-

1. The case be committed to the Court of Session.
2. The accused is directed to appear before the Court of Session on..../ /....
3. The record of the case, the documents and articles, which are to be produced in evidence, shall be sent to the Court of Session.
4. The Police Station Officer, Police Station _____ be directed to produce muddemal property in the Court of Session on or before..../..../...positively.
5. The Public Prosecutor shall be notified of the commitment of the case to the Court of Session.

Date: / /.....

Signature of the Magistrate.

(Note:- (1) Notice of commitment by the Magistrate to the Public Prosecutor shall be given vide Form No.32, Schedule II of the Bharatiya Nagarik Suraksha Sanhita.)

(2) Proceedings under this section shall be completed within a period of 90 days from the date of taking cognizance and for reasons to be recorded in writing, within 180 days. (See Proviso u/s. 232(d) of BNSS.

(3) Any application filed by the accuse, victim or any person authorised by such person, shall be forwarded to the Sessions Court with the committal of the case. (See Second proviso u/s 232(d) of BNSS.

**GENERAL INSTRUCTIONS FOR RECORDING EVIDENCE
AND WRITING JUDGMENTS**

Para No. 16, Chapter VI of Criminal Manual -

1. The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer.

Explanation - I : The provision of Section 332 of the Bharatiya Nagarik Suraksha Sanhita, 2023, empowers the Courts to order any evidence of formal character to be given by affidavit instead of by oral evidence, subject to the conditions contained in the said Section.

Explanation - II : Provided that in case the language of deposition is to be recorded in a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.

Explanation - III : The deposition shall be recorded in the language of the witness and in English when translated as provided in Explanation - II.

Explanation - IV : A translator shall be made available in each Court.

Explanation - V : The depositions shall without exception be read over by the Presiding Officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer / Court Officer shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording.

Explanation-VI : The Presiding Officer shall not record evidence in more than one case at the same time.

Para No. 17, Chapter VI of Criminal Manual -

2. (1) Prosecution witnesses shall be numbered as **PW-1, PW-2** etc., in seriatim. Similarly, defence witnesses shall be numbered as **DW-1, DW-2** etc., in seriatim. The Court witnesses shall be numbered as **CW-1, CW-2**, etc., in seriatim.

Para No. 45, Chapter VI of Criminal Manual -

Explanation – II : In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.

Illustration :- Informant, Complainant
Ramesh (PW1), Dinesh (PW2),
Suresh (DW1), Naresh (DW2)
Dr. Pathak(CW1), Supriya (CW2)
accused (1), accused (5), accused (10).

Para No. 17, Chapter VI of Criminal Manual -

(1) Explanation - I : All Judges and Magistrates shall, in the examination of complainants, witnesses and accused persons, record, in each deposition, statement or defence, the following particulars which are indispensably necessary for the further identification of the parties examined, viz., the name of the person examined, the name of his or her father, and, if a married woman, the name of her husband, his or her surname, his or her profession and age and the village and district in which he or she resides.

Explanation – II : The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.

Explanation – III : The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

(i) Prosecution exhibits shall be marked as **Exh. P-1, P-2** etc. in seriatim. Similarly, defence exhibits shall be marked as **Exh. D-1, D-2**, etc. in seriatim. The Court exhibits shall be marked as **Exh. C-1, C-2**, etc. in seriatim.

(ii) To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Illustration : Spot panchanama (**Exh. P-7 / PW-3**) F.I.R. (**Exh. P-5 / PW-1**)

Explanation : If prosecution witness no. 1 (PW-1) introduces a document in evidence, that document shall be marked as (Exh. P-1 / PW-1). If proper proof is not offered for that document at the time when it is marked, it shall be marked as (Exh. P-1 / PW-1) (subject to proof). The Second document introduced by (Exh. PW-1) will be (Exh. P-2 / PW-1).

(iii) The **Material objects** shall be marked in seriatim as **MO-1, MO-2** etc.

Illustration : Shirt (MO-1), Axe (MO-3), Rope (MO-4)

Explanation – I : After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.

Illustration :- accused (1), accused (4), accused (10)

For identification :- Ashok (A-2), Lata (A-5)

Explanation – II : After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred to by their numbers and not by names or other references.

Explanation – III : Where witnesses cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

(2) The particulars of the village, caste or sub-caste of the person concerned should, however, not be mentioned even if the person concerned wishes to make such a mention, unless such reference is necessary for the purpose of

administering of the oath, or for determining the law by which the person concerned is governed or for determining any of the issues or points involved in the proceeding.

Para No. 23, Chapter VI of Criminal Manual -

3. It is desirable in judicial proceedings to prevent, as much as possible, doubt as to the identity of the person referred to therein. It frequently happens that the same individual is known by more names than one. Thus sometimes only the surname, sometimes only the name of the caste, or occupation or the village of the individual is mentioned or he is spoken of by a nickname, such as Bapu Saheb, Nana Saheb or Bhau Saheb. Such variations in description require explanation to render them intelligible to an appellate Court. A Court of first instance should, therefore, take care not only to ascertain, but to make clear by evidence duly recorded, the identity of any individual who is so referred to under varying appellations and if such an individual is an accused person, his name and serial number according to the charge-sheet should be cited in any passage in which he is otherwise designated.

Illustration :- accused (1), accused (4)

Witnesses :- Tahira (PW-5), Imran (PW-6)

Note : The parties to the suit, misc. application etc. should be referred to by their original nomenclature as given in the cause title of the plaint or application, as the case may be, in the entire judgment/order. Even if they are examined as witnesses, their reference should be made in the same manner and not as “the plaintiff Ramchandra (PW-1) or Ramchandra (PW-1) etc”.

Note : In Civil Matters also witnesses should be referred to in the same manner as stated above, and not in different ways, whenever their reference is made during the course of the proceedings and in the judgment as well. Witnesses should not be referred to by number alone.

Para No. 23A, Chapter VI of Criminal Manual -

4. The Presiding Officers shall ensure that only admissible portion of Section 6 or Section 23(2) of Bharatiya Sakshya Adhiniyam, 2023 is marked and given an exhibit number.

Illustration:- I have killed Sudhakar by an axe. **[I have concealed the axe under the heap of fodder in my land. I will produce it.]** (Exh. P-15/PW-4).

The highlighted portion only being admissible, is exhibited.

Para No. 29, Chapter VI of Criminal Manual -

5. (1) When a statement recorded under Section 181 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is used in the manner indicated in the proviso under Section 181 of the BNSS, the passage which has been specifically put to the witness in order to contradict him should first be marked for identification and exhibited (as prosecution or defence exhibit) after it is proved.

(2) The method of proving such a statement is to question the Police Officer, who had recorded the statement whether the passage marked is a true extract from the statement recorded by him.

Note : It is advised that the contradicted passages/words, when proved through the evidence of the Police Officer who recorded the statement, instead of giving exhibit numbers next to that of the exhibit number given to the deposition sheet of the Police Officer, use the same exhibit number that was given to the deposition sheet of the witness concerned, coupled with the letters with which the contradicted passages/ words were marked while recording evidence of the said witness.

Example : If the deposition sheet of Imran (PW-6) bears Exh. 25, his contradicted passages/words should be given exhibit numbers as Exh. P-25/A, Exh. P-25/B, Exh. P-25/C, Exh. P-25/D etc. followed by PW 10, 12, etc. In that case his statement recorded by the Police Officer would remain annexed to his deposition sheet Exh. 25, which will facilitate the Judge/ Magistrate to find that statement easily, while writing judgment.

(3) When a statement recorded under Section 181 of BNSS is used to contradict a witness, the specific words in the statement put to the witness should be set out accurately in the record of the deposition of the witness.

(4) Omissions in the statement recorded under Section 181 should, if denied by the witness, be proved by questioning the Police Officer whether the witness had made the statement which he says he had.

Explanation-1 : The aforesaid Rule applicable to recording of statements under Section 181 shall mutatis mutandis apply to statements recorded under Section 183 of BNSS. whenever such portions of prior statements of living persons are used for contradiction / corroboration.

Explanation - II : Omnibus marking of the entire statement under section 181 and 183 of BNSS shall not be done.

J U D G M E N T S

6. (I) Start with a preface showing the names of parties as per FORM XXXII (Part 'A') in Chapter XXXIII.

Form No. XXXII

Part 'A'

(Title Page of Judgment)

(Para 44(i) of Chapter VI of Criminal Manual)

	IN THE COURT OF	
	Present : Sessions Judge/Judicial Magistrate First Class (Date of the Judgment) (Case No. /))	
	(Details of FIR/Crime and Police Station)	
Complainant / Prosecution		STATE OF OR NAME OF THE COMPLAINANT
REPRESENTED BY ACCUSED		NAME OF THE ADVOCATE 1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY		NAME OF THE ADVOCATE

(ii) A tabular statement as per FORM XXXII (Part 'B') in Chapter

XXXIII.

Part 'B'
(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of Offence	
Date of FIR	
Date of Charge-sheet	
Date of Framing of Charges	
Date of commencement of evidence	
Date on which judgment is reserved	
Date of the Judgment	
Date of the Sentencing Order, if any	

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 468, BNSS.

(iii) An **Appendix** giving the list of Prosecution witnesses, Defence witnesses, Court witnesses, Prosecution exhibits, Defence exhibits, Court exhibits and Material Objects as per FORM XXXII (Part 'C') in Chapter XXXIII.

Part 'C'

(i) Should be appended to the Judgment and should not be typed under Part B in the Judgment.

(ii) A note should be given in the Judgment prior to the paragraph containing the point for determination, as under:-

“The oral as well as documentary evidence produced by the prosecution/ complainant/ accused/ Court is shown in Part ‘C’, appended to the judgment, as directed in Para 44 (iii), Chapter VI of Criminal Manual.”

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1		
PW2		

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1		
DW2		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1		
CW2		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	
2	Exhibit P-2/PW2	

B. Defence :

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects :

Sr. No.	Material Number	Object	Description
1	MO1		
2	MO2		

Para No. 45(1), Chapter VI of Criminal Manual -

7. (1) In compliance with Sections 393 of the BNSS, in all cases, the judgments shall contain :

- (i) the point or points for determination.
- (ii) the decision thereon, and
- (iii) the reasons for the decision.

Explanation - I : A Judgment should be divided into consecutively numbered paragraphs of a reasonable length and their division into sub paragraphs should be avoided. This is mainly to facilitate reference to any particular portion of the judgment during the arguments in the Appellate or Revisional Court.

Explanation - II : In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their names, the numbers shall be indicated within brackets.

Explanation - III : The judgment shall be written in paragraphs and each paragraph shall be numbered in seriatim. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

Note: (The length of the paragraph, as far as possible, should not exceed 2/3rd of a page. Each paragraph should contain a distinct topic subject matter of the discussion. A single topic should not be divided into several paragraphs unnecessarily).

(2) In the case of conviction, the judgment shall separately indicate, the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In the case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.

Explanation : The opening paragraph should state briefly the nature of the offence with which the accused is charged.

(3) The next paragraph or two should state briefly the prosecution case and defence, clearly distinguishing between what is admitted and what is not. Matters like the relative position of places and villages and distances between them and how the parties and witnesses are related to each other should be indicated, where such details are necessary, for a clear understanding of the case.

(4) The points that arise for decision should then be dealt with one by one, marshaling the evidence for and against considering the arguments, and giving a clear finding on each point. Witnesses should not be referred to by number alone. The accused persons, where there are two or more, should ordinarily be referred to by their numbers. The various points should be dealt with in separate paragraphs, but some points may require more than one paragraph.

(5) Judgments should not be prolix and repetition should, as far as possible, be avoided.

(6) Attention of the Magistrate is invited to Section 393(a) of the BNSS, and the following Government Notification, General Administration Department, No. OFL-1066(ii)-M, dated the 30th April, 1966, published in Government Gazette. Part IV-A, (Extraordinary) and also the notification No. OFL.1098/CR-50/98/20-B, dated 21st July, 1998 and No. OFL. 1099/CR.90/99/20-B dated 31st August, 2000

and they are directed that the judgments and orders in all cases and proceedings shall be written either in English or in Marathi in Mofussil Courts up to and inclusive of Sessions Courts although Marathi is determined to be the language of the Court.

(7) Attention of the Magistrates and Sessions Judges is invited to the Supreme Court decision reported in Boucher Piarre Andre v. Superintendent, Central Jail, Tihar (AIR 1975 SC164) and to the following observations of the High Court in Narayanan Nambeesan u. State of Maharashtra (76 Bom.L.R. 690):

“..... The petitioners are entitled under Section 428 (468 of BNSS), to the set-off of the period of pre-conviction detention undergone by them, against the term of imprisonment imposed upon them on their conviction. The State and the Jail authorities concerned should, therefore, immediately give them the said benefit of set-off as a matter of healthy practice, the Courts convicting the accused may specify in their orders the total period of pre-conviction detention that the accused may have undergone, for the purpose of enabling the authorities concerned to give effect to the provisions of Section 428 (468 BNSS) without delay (pages 702-703).

Additional Instructions :-

8. Judgment by any criminal court shall be pronounced in open court immediately after termination of trial or within 45 days. (See Sec. 392 and 428 of the BNSS). However, in a sessions trial, after hearing arguments and points of law (if any), the Judge shall give a judgment, as soon as possible, within 30 days and for the reason to be recorded in writing, maximum within 45 days. (See Sec. 258(1) BNSS).

9. The Court shall upload the copy of the Judgment on its portal within 7 days from the date of judgment.

10. In a criminal case, instituted on the police report, full name of the informant should be mentioned only once while giving summary of the case of the prosecution. Thereafter, he/she should be referred to as "the informant" whenever the occasion arises to refer him/her. In other cases, the complainant should be referred to as "the complainant" only whenever the occasion arises to refer him/her. In respect of the sexual offences, name of the victim should not be mentioned in the judgment.

11. Issues are framed on a particular sheet bearing exhibit number much prior to the stage of delivery of judgment. Therefore, in the introductory sentence of the issues, exhibit number of that sheet should be mentioned, e.g. **“The issues framed by my learned predecessor (or by me) at Exh.25 are reproduced below alongwith my findings thereon:-”**.

12. The points for determination are framed at the time of delivery of judgment. Therefore, there is no question of referring to any exhibit number in the introductory sentence of points for determination, e.g. **“The points for determination alongwith my findings thereon are as under:-”**. Charges should not be reproduced in the judgment under the caption Points for determination. There is a lot of difference between the construction of the charges and points for determination.

13. All the relief clauses of the operative part of the judgment / order should be given numbers serially, e.g. 1, 2, 3, 4 etc. The relief should be stated distinctly and clearly. Normally, for each relief separate clause shall be formulated so as to avoid confusion.

Para No. 52, Chapter VI of Criminal Manual -

14. **Citation of cases** : All references in judgments to rulings of superior Courts should be cited by the names of the parties as well as by the number of the volume and page of the report e.g. **Santa Singh Vs. State of Punjab (A.I.R. 1976 SC 2386)**.

15. Each page bearing odd number (i.e. 3, 5, 7, 9 etc.) should bear case / suit / proceeding number on the right side top of the page. The even numbered pages (i.e. 2,4,6,8, etc.) should be initialed by the Presiding Officer. The page bearing odd numbers need not be initialed, except the last page of the judgment, which has to be signed by the Presiding Officer.

16. **Instead of the question, “Have you heard and understood the evidence of the prosecution/complainant?”, the following initial questions** are required to be put to the accused **in his examination u/s. 351** of the BNSS in view of the judgment in the case of **Laxman @ Laxmayya Gangaram Zinna Vs. The State of Maharashtra, [2012 ALL MR (Cri.) 1998]**.

Q. 1 : You are not bound to make any statement. If you make any statement or confess the guilt, it will be taken down and considered by the Court alongwith the other evidence. Have you understood?

Q. 2 : If you refuse to make a statement or give false answer to the questions put to you, you will not render yourself liable for prosecution, but the Court will draw such inference from your refusal or false answers as would be just and proper in the circumstances of the case. Have you understood?

Last Point.
Judgment of acquittal

1. If no incriminating circumstance appeared against the accused, dispense with his statement under section 351 of the BNSS and accordingly mention it in the last point. If incriminating evidence is available against the accused, then this instruction would not be applicable.
2. Acquit the accused with reference to the specific offences and direct that he be set at liberty. [S. 393 (1) (d) BNSS]
3. Where the cases end in acquittal or discharge and the victim has to be rehabilitated, the trial Court, at the conclusion of the trial, if satisfied, may make recommendation for compensation to be fixed and awarded by DLSA or SLSA, as the case may, be vide section 396 (3) of the BNSS.
4. In the exceptional and appropriate cases, consider whether the accused can be awarded compensation under section 273 of the BNSS for accusation without reasonable cause.
5. In the exceptional and appropriate cases, consider whether it would be expedient in the interest of justice to proceed under section 379 or 383 of the BNSS, as the case may be, for the offences affecting the administration of justice.
6. If any property is produced before the court, mention with reasons the mode in which the property is to be disposed of. (See Sec. 498 of the BNSS).(Order passed under Section 498 is appealable under Section 500 of the BNSS).

Operative part of the judgment.

1. The accused is acquitted of the offence/offences punishable under section/sections..... of the BNSS. (or any other Special Act) vide section 271 (1)/278(1) of the BNSS. (Change the Sections as per the nature of the trial)
2. His bond or bail bonds is/are cancelled. He is set at liberty.

OR

(If the accused is in jail).

2. The accused be set at liberty forthwith if not required in any other case.
3. After appeal period,
 - a) The seized stick (MO-) be destroyed.
 - b) The seized wrist watch (MO-) be returned to.....
(Name).....R/o.....
 - c) The seized knife (MO-) be confiscated to the State.

Place
Date
Class

Sd/-
Date
(Name)
Judicial Magistrate First

Last Point
Judgment of conviction

1. Mention whether the accused is convicted for all or any of the offences charged or for any minor offence. If he is liable to be acquitted of some of the offences with which he is charged, mention it accordingly. If there are more accused than one, mention whether all of them or some of them only are liable to be convicted. Mention specifically whether the other accused have been held guilty under the provisions of sections 3 (5), 190, 61 (2) or under the provisions of Chapter IV of the BNS for being abettors.
2. Mention whether you wish or do not wish to proceed in accordance with the provisions of section 364 of the BNSS (i.e. the procedure when the Magistrate cannot pass sentence sufficiently severe.) (See sections 271 (2) and 278 (2) of the BNSS).
3. Mention whether you wish or do not wish to extend the benefit of the Probation of Offenders Act to the accused. (See sections 271 (2) and 278 (2) of the BNSS). (S. 258 (2) of BNSS for Sessions Trial.)
4. If the accused person could have been dealt with under the provisions of the Probation of Offenders Act but was not proposed to be dealt with accordingly, record the special reasons for not having done so. **(See section 402 (a) of the BNSS, which is a mandatory provision).** (See. Ch.VI, para 55(B)(5) Cri.Manual) (Note that as per section 19 of the Probation of Offenders Act, 1958 the provisions of section 401 of the BNSS have ceased to apply in the State of Maharashtra since the date of enforcement of the said Act. Therefore the question of extending benefit of section 401 of the BNSS to the convicted person does not arise).
5. (a) If the offence is not punishable with death or imprisonment for life and considering the nature of the offence, age and antecedents of the convicted person, if it is proposed to extend him the benefit of probation, mention specifically whether he is to be released after admonition under section 3 or on probation of good conduct, with or without sureties, or in addition to that whether he is to be directed to remain under supervision of the Probation Officer, under section 4 of the Probation of Offenders Act.

(b) When the convicted person is below 21 years of age, the court shall call for a report from the Probation Officer for the purpose of satisfying itself whether it would not be desirable to deal with him under section 3 or 4 of the Probation of Offenders Act. (See sec.6(2) of the Probation of Offenders Act, which is mandatory).

(c) The accused may be ordered to pay reasonable compensation and costs of the proceeding to the victim of the offence vide section 5 of the Probation of Offenders Act, in case he is extended the benefit of probation.
6. If the convicted person is not given the benefit of probation, hear him on the question of sentence and pass sentence upon him according to law. (See section 271(2) of the BNSS).
7. Fix the quantum of sentence with reasons to be recorded in writing, considering the nature of the offence committed, the circumstances under which it was committed, age and antecedents of the convicted person, the object of passing the sentence, etc. The sentence should not be harsh or excessive and at the same time it should not be meager, inadequate or

ridiculous.

8. When sentence less than the minimum prescribed by law is awarded, reasons for awarding a sentence less than the minimum prescribed shall be recorded. (Ch.VI, para 54 Criminal Manual).
9. If the convicted person was detained during pendency of the investigation, inquiry or trial and has been sentenced to imprisonment for a term, not being imprisonment in default of payment of fine, mention specifically the dates showing duration of the detention with break-ups, if any, as the period of set off to be given to the convicted person against the sentence of imprisonment as per section 468 of the BNSS.
10. If the accused is sentenced and if the facts and circumstances of the case so demand, consider the question of awarding compensation to the victim under section 395 (1) or 395(3), as the case may be, of the BNSS. Fix the amount of adequate compensation considering the financial condition of the convicted person, nature of the offence, the circumstances under which it was committed and the possibility of making good the loss of the victim. If the trial court, at the conclusion of trial, is satisfied, that the compensation awarded u/s 395 is not adequate for rehabilitation of the victim or his dependents, who have suffered loss or injury as a result of the crime, or where the case ends in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation, to be fixed and awarded by DLSA or SLSA [S.396 (3)].
11. In the exceptional and appropriate cases, consider whether it would be expedient in the interest of justice to proceed under section 379 or 383 of the BNSS, as the case may be, for the offences affecting the administration of justice.
12. In appropriate cases, award compensation u/s 399 of the BNSS to the person groundlessly arrested by police.
13. In appropriate N.C. cases, if the accused is convicted, order to pay reasonable costs u/s 400/i/d S.I. up to 30 days to the complainant.
14. If any property is produced before the court, mention with reasons the mode in which the property is to be disposed of. (See Sec. 498 of the BNSS). (Order passed under Section 498 is appealable under Section 500 of the BNSS)

I **Operative part of the judgment.**

1. The accused is convicted for the offences punishable under sections 305 and 331 (4) of the BNS vide section 271 (2) of the BNSS.
2. The accused is sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs. 5,000/- in default to suffer rigorous imprisonment for one month in respect of the offence punishable under section 305 of the BNS.
3. The accused is sentenced to suffer rigorous imprisonment for three years and

to pay a fine of Rs. 5,000/- in default to suffer rigorous imprisonment for one month in respect of the offence punishable under section 331 (4) of the BNS.

4. The substantive sentences shall run concurrently.
5. Set off be granted to the accused from 10-1-2006 to 06-06-2006 vide section 468 of the BNSS.
6. The seized gold-ring (M.O.-2) and silver bracelet (M.O.-3) be returned to(Name)..... R/o..... and the seized iron bar (M.O.-4) be confiscated to the State after appeal period is over.
(If the accused is on bail)
7. The accused shall surrender to his bail bonds.

Place
Date

Sd/-
(Name)
Date
Judicial Magistrate First Class
.....

ORDER-II

1. The accused is convicted for the offence punishable u/s 132 of the Bharatiya Nyaya Sanhita, 2023 and is sentenced to suffer rigorous imprisonment for a period of one year and to pay a fine of Rs. 5,000/-, in default to suffer rigorous imprisonment for one month vide Sec. 271 (2) of the Bharatiya Nagrik Suraksha Sanhita, 2023.
2. Set off be granted to the accused from to vide Sec. 468 of the BNSS, 2023.
3. The seized shirt (M.O. 1) and stick (M.O. 2) be destroyed after appeal period is over.
4. The amount of Rs. 5,000/- be paid to the informant viz.:- R/o. Tal....., Dist..... as compensation, out of the fine amount, if paid by or recovered from the accused, vide Sec. 395 (1) of the BNSS, 2023, after appeal period is over.
5. The accused shall surrender to his bond/bail bonds.

Place :
Date :

Sd/-
Name
JMFC
Date

(Accused No. 1 played main role. He caused injury to the victim. He is 45 years old. Accused No. 2 and 3 played minors roles. Accused No. 2 is aged above 75 years, having age related ailments. Accused No. 3 is aged above 20 years. He is a student having good prospects. No previous criminal history. There are chances of his becoming a good and law abiding citizen. Under the circumstances, each accused has to be dealt with independently while considering the question of punishment.)

ORDER-III

1. Accused No. 1 to 3 are convicted for the offence punishable under sub-section (1) of Sec. 118 r/w Sec. 3 (5) of the Bharatiya Nyaya Sanhita vide Sec. 271 (2)

of the Bharatiya Nagrik Suraksha Sanhita.

2. Accused No. 1 is sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 15,000/-, in default to suffer rigorous imprisonment for three months.
3. Accused No. 2 is sentenced to suffer simple imprisonment for six months and to pay a fine of Rs. 10,000/-, in default to suffer simple imprisonment for two months.
4. Accused No. 3 is directed to be released under Sec. 4 of the Probation of Offenders Act on his entering into a bond in the sum of Rs. 15,000/- with one surety in the like amount to appear and receive sentence whenever called upon by this Court within a period of one year and in the mean time to keep the peace and be of good behaviour.
5. Accused No. 3 shall pay into the Court Rs. 5,000/- within 14 days from today for being paid to the informant viz. r/o as compensation vide Sec. 5 of the Probation of Offenders Act.
6. Set off be granted to accused No. 1 from to ... and to accused No. 2 from ... to (if their respective periods of detention are different) vide Section 468 of the BNSS.

OR

Set off be granted to accused No. 1 and 2 from to (if the detention period is the same) vide Sec. 468 of the BNSS.

7. Out of the amount of fine, if paid by or recovered from accused No. 1 and 2, and, if the amount of compensation is deposited by or recovered from accused No. 3, the amount of Rs. 25,000/- be paid to the informant viz..... r/o..... after appeal period is over.
8. The seized stone (M.O. 1), shirt (M.O.2) be destroyed and the seized wrist watch (M.O. 3) be returned to the above named informant, after appeal period is over.
9. The accused shall surrender to their bail bonds.

Place :
Date :

Sd/-
Name
JMFC
Date

ORDER

1. The accused Harichandra s/o. Parasram Meshram is convicted for the offence punishable under section 118 (1) of the BNS vide Section 274 (2) of the BNSS and is directed to be released under section 4 of the Probation of offenders Act on his entering into a bond in the sum of Rs.5000/- with one surety in the like amount to appear and receive sentence whenever called upon by this Court within a period of one year and in the mean time to keep the peace and be of good behaviour.
2. It is further directed that during the above period of one year, the accused shall be under the supervision of Shri. S.B. Jaipilley, District Probation Officer, Bhandara or any other Officer appointed in his place, on the following conditions :
(a) that, he will present himself within 14 days from the date of this order

before the District Probation Officer above named and will produce the copies of the order and the bond executed by him;

(b) that, he will live honestly and peaceably and will endeavour to earn honest livelihood;

(c) that, he will not associate with bad characters or lead dissolute life;

(d) that, he will not commit any offence punishable by any law in force in India.

(e) that, he will abstain from taking intoxicants;

(f) that, he will carry out such directions as may from time to time be given by the Probation Officer for due observance of the conditions mentioned above.

3. The accused is directed to execute a bond in the sum of Rs.5000/- with one surety in the like amount undertaking to abide by the conditions mentioned as above.
4. Copy of the supervision order be furnished to the accused, sureties and the District Probation Officer.
5. The accused is further directed to appear before the District Probation Officer above named on or before 27-2-1991.
6. The bail bonds of the accused are cancelled.
7. The seized knife be confiscated to the State and rest of the property be destroyed after appeal period is over.
8. The accused do pay into the Court, the amount of Rs.500/- within 14 days from today for being paid to the informant Narhari as compensation vide Sec. 5 of the Probation of Offenders Act.
9. The amount of Rs.500/-, if paid by or recovered from the accused, be paid to Narhari s/o. Dewaji Meshram, r/o. Chalna, Police Station, Lakhani after appeal period is over.

Sakoli

Dated the 13th day of February 1991.

(S.S. Patil)
Judicial Magistrate First Class,
Sakoli.

Note :- Clause nos. 2,3,4 and 5 of the order shall be omitted if the accused is not placed under supervision and is released on his entering into a bond with or without sureties.

**Procedure in case the convicted person fails to observe
the conditions of the bond.**
(Section 9 of the Probation of Offenders Act)

1. (a) On receiving complaint against the convicted person for having committed the breach of the conditions of the bond executed under section 4 of the Act, issue summons to him.

(b) Take him into custody until the case is concluded or release him on bail.

(c) After hearing the convicted person, if it is found that he failed to observe any of the conditions of the bond executed by him;

(i) Where the failure is for the first time, then, without prejudice to the continuance in force of the bond, impose upon him a penalty not exceeding 50/- rupees. (In default of payment of penalty he may be sentenced for the original offence.) or

(ii) Sentence him for the original offence after hearing him on the point of sentence;
2. If the convicted person is sentenced after withdrawing the benefit of probation then pass further order in terms of clause nos.2) to 5) and 7) of the above mentioned order of conviction.

OTHER SUMMARY CASES.

Maharashtra Prohibition Act

- 65 (b) That you on or about _____ at _____ at _____ were found manufacturing illicit liquor and you have thereby committed an offence punishable under section 65 (b) of the Maharashtra Prohibition Act.
- 65 (e)
(illicit Liquor) That you on or about (date) at (time) at (place) were found in conscious possession of _____ litres of illicit liquor contained in a bottle / plastic can and you have thereby committed an offence punishable under section 65 (e) of the Maharashtra Prohibition Act.
- 65 (e)
(country liquor) That you on or about _____ at _____ at _____ were found in unauthorized possession of _____ litres of country liquor contained in a bottle / plastic container worth Rs. _____ and you have thereby committed an offence punishable under section 65 (e) of the Maharashtra Prohibition Act.
- 65(e) That you on or about _____ at _____ at _____ were found selling liquor without any pass, permit or licence and you have thereby committed an offence punishable under section 65 (e) of the Maharashtra Prohibition Act.
- 65 (f) That you on or about _____ at _____ at _____ were found in possession of a still, utensils, burning sticks, tin pot etc. i.e. implements, apparatus, materials used for the purpose of manufacturing illicit liquor and you have thereby committed an offence punishable under section 65 (f) of the Maharashtra Prohibition Act.
- 66 (1) (b)
(Consuming country liquor) That on _____ at _____ at _____ you were found to have consumed liquor unauthorizedly and thereby committed an offence punishable under section 66(1)(b) of the Maharashtra Prohibition Act.
- 66 (1) (b)
(Consuming illicit liquor) That on _____ at _____ at _____ you were found to have consumed illicit liquor and thereby committed an offence punishable under section 66(1)(b) of the Maharashtra Prohibition Act.
- 85 (1) That you on or about _____ at _____ at _____ were found behaving in a disorderly manner in a public place under the influence of drink and you have thereby committed an offence punishable under section 85 (1) of the Maharashtra Prohibition Act.

Maharashtra Prevention of Gambling Act.

- 12 (a) That you on or about _____ at _____ at _____ were found accepting bets on worli matka digits / gaming by playing cards / cock- fighting on money, in a public place and you have thereby committed an offence punishable under section 12 (a) of the Maharashtra Prevention of Gambling Act.

Maharashtra Police Act.

- 110/117 That you on or about _____ at _____ at _____ were found wilfully and indecently exposing your person / abusing / using indecent language / behaving in a disorderly manner in a public place and you have thereby committed an offence under section 110 punishable under section 117 of the Maharashtra Police Act.
- 112/117 That you on or about _____ at _____ at _____ were found using threatening / abusing / insulting words or behaving with intent to provoke a breach of the peace and you have thereby committed an offence under section 112 punishable under section 117 of the Maharashtra Police Act.
- 122 (a) That you on or about _____ at _____ at _____ were found found between sunset and sunrise armed with a dangerous instrument i. e. specify the instrument) with intent to commit an offence and thereby committed an offence punishable under section 122 (a) of the Maharashtra Police Act.
- 122 (b) That you on or about _____ at _____ at _____ were found between sunset and before sunrise in a disguised condition with intent to commit an offence and thereby committed an offence punishable under section 122 (b) of the Maharashtra Police Act.
- 122 (c) That you on or about _____ at _____ at _____ were found between sunset and sunrise in a dwelling house or other building (specify the exact place) without being able satisfactorily to account for your presence therein and thereby committed an offence punishable under section 122 (c) of the Maharashtra Police Act.
- 122 (d) That you on or about _____ at _____ at _____ were found between sunset and sunrise lying on loitering in any street, yard or other place, (specify the exact place) being a reputed thief and without being able to give a satisfactory account of yourself and thereby committed an offence punishable under section 122 (d) of the Maharashtra Police Act.
- 122 (e) That you on or about _____ at _____ at _____ were found between sunset and sunrise having in your possessions without lawful excuse an implement of house breaking (namely _____) and thereby committed an offence punishable under section 122 (e) of the Maharashtra Police Act.
- 124 That you on or about _____ at _____ at _____ were found in possession of (specify the property) for which there was reason to believe it to be stolen property or property fraudulently obtained and you failed to account for such possession and you have thereby committed an offence punishable under section 124 of the Maharashtra Police Act.

Maharashtra Village Panchayats Act

- 163 That you on or about _____ at _____ within the limits of village

_____ allowed the cattle (namely____) which was/ were you property or in your charge, to stray in any street / or to trespass upon any private or public property (namely____) and thereby committed an offence punishable under section 163 of the Maharashtra Village Panchayats Act.

164 That you on or about _____ at _____ at _____ forcibly opposed the seizure of cattle liable to be seized under the Maharashtra Village Panchayats Act and rescued the same after seizure from (_____) who was taking or about to take them to a pound and thereby committed an offence punishable under section 164 of the Maharashtra Village Panchayats Act.

OR

164 That you on or about _____ at _____ at _____ forcibly opposed the seizure of cattle liable to be seized under the Maharashtra Village Panchayats Act and rescued the same after seizure from (_____) who was taking or about to take them to a pound and thereby committed an offence punishable under section 164 of the Maharashtra Village Panchayats Act.

Motor Vehicles Act

3/181 That you on or about _____ at _____ at _____ (mention the particular place) were found driving a vehicle (description of vehicle No. etc.) without holding an effective driving licence authorising you to drive the said vehicle and thereby committed an offence under section 3 punishable under section 181 of the Motor Vehicle Act.

5/180 That you on or about _____ at _____ at _____ being the owner / or person in charge of the vehicle (description of the vehicle) caused or allowed A B C who was not holding an effective driving licence to drive the said vehicle and you thereby committed an offence under section 5 punishable under section 180 of the Motor Vehicles Act.

39/192 That you on or about _____ at _____ at _____ were found driving a motor vehicle i. e. (Registration no.) _____ or allowed the said vehicle to be used without necessary registration contravening the provisions of Section 39 of the Act and thereby committed an offence punishable under section 192 of the Motor Vehicles Act.

66/192 A
(without permit) That you on or about _____ at _____ at _____ were found driving a motor vehicle i.e. (Registration no.) _____ or allowed the said vehicle to be used without necessary permit issued by the competent officer authorising you the use of the vehicle in that place and the manner in which it was to be used and you have contravened the provision of section 66 of the Act and thereby committed an offence punishable under section 192 A of the Motor Vehicles Act.

OR

Rule 21(20)177
(carrying excess That you on or about _____ at _____ at _____ were found carrying _____ passengers in your motor car (Registration No.)

- number of passengers _____ in excess of the seating capacity specified in the certificate of registration thereof, in contravention of **Rule 21(20) of the Maharashtra Motor Vehicles Rules, 1989** and thereby committed an offence punishable under section 177 of the Motor vehicles Act.
- 112/183 That you on or about _____ at _____ at _____ were found driving your vehicle i.e. (Registration no.) _____ in a public place at a speed exceeding the maximum speed fixed for the vehicle under the Motor Vehicles Act and thereby committed an offence under section 112 punishable under section 183 of the Motor Vehicles Act.
- Rule 229/177 That you on or about _____ at _____ at _____ were found driving a Motor Vehicle i.e. (Registration no.) _____ in a public place which was loaded in the manner likely to cause danger to any person and thereby committed an offence under Rule no.229 of the Maharashtra Motor Vehicles Rules, punishable under section 177 of the Motor Vehicles Act.
- 113/194 That you on or about _____ at _____ at _____ were found driving a Motor Vehicle i.e. (Registration no.) _____ the unladen weight of which exceeded the unladen weight specified in the certificate of registration of the laden weight of which exceeded the gross vehicle weight specified in the certificate of registration and you thereby committed an offence under section 113 punishable under section 194 of Motor Vehicles Act.
- 122/201 That you on or about _____ at _____ at _____ you being in charge of a Motor Vehicle i. e. (Registration no.) _____ caused or allowed the vehicle to be abandoned or to remain at rest on the public place i. e. in such a position, condition or circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers and thereby committed an offence under section 122 punishable under section 201 of the Motor Vehicles Act.
- 123/177 That on _____ at _____ at _____ you were found carrying person/s otherwise than in the body of your vehicle i.e. (Registration no.) _____ and thereby committed an offence under section 123 punishable under section 177 of the Motor Vehicles Act.
- 128/177 That on _____ at _____ at _____ you were found carrying on your two wheeled Motor Cycle bearing No. _____ more than one person in addition to yourself and thereby committed an offence under section 128 punishable under section 177 of Motor Vehicles Act.
- 130/177 That on _____ at _____ at _____ you being the driver of Motor Vehicle i.e. _____ during the same in a public place failed to produce your driving licence/certificate of registration/certificate of insurance/certificate of fitness on demand by a Police Officer in uniform and thereby committed an offence under section 130 punishable under section 177 of the Motor Vehicles Act.
- 132/179 That on _____ at _____ at _____ you were driving a motor vehicle i.e. _____ and that you did not stop your vehicle when required to do so by a Police Officer in uniform and thereby committed an offence under section 132 punishable under section

179 of the Motor Vehicles Act.

179 That on _____ at _____ at _____ you being the driver of a Motor Vehicle i.e. _____ (1) willfully disobeyed a direction i.e. _____ lawfully given by (describe the person) who was empowered under this Act to give such direction / or (2) obstructed a person in the discharge of any functions which such person was required or empowered under this Act to discharge and thereby committed an offence punishable under section 179 of the Motor Vehicles Act.

184 That on _____ at _____ at _____ you were found driving your vehicle no. _____ at a speed or in a manner which was dangerous to the public having regard to the circumstances of the case and thereby committed an offence punishable under section 184 of the Motor Vehicle Act.

185 That on _____ at _____ at _____ you were found driving or attempting to drive a motor vehicle i.e. _____ (1) having in your blood alcohol/or (2) under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle, and thereby committed an offence punishable under section 185 of the Motor Vehicle Act

186	That on _____ at _____ at _____ you were found driving a motor vehicle i.e. _____ in a public place when you were to your knowledge suffering from any disease or disability calculated to cause your driving of the vehicle to be a source of danger to the public and thereby committed an offence punishable under section 186 of the M.V. Act.
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146/196	That on _____ at _____ at _____ you were found driving a vehicle i.e. _____ which was not duly insured and contravened the provisions of Section 146 of the Motor Vehicle Act and thereby committed an offence punishable under section 196 of the Motor Vehicles Act.
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INDIAN PENAL CODE.

194 (2) That you on or about _____ at _____ at _____ committed an offence of affray and thereby committed an offence punishable under section 194(2) of the Bharatiya Nyaya Sanhita.

281 That you on or about _____ at _____ at _____ drove a vehicle (details of the vehicle) on a public way (name the road) in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person and thereby committed an offence punishable under section 281 of the BNS.

115 (2) That you on or about _____ at _____ at _____ voluntarily caused hurt to (name of injured person) and thereby committed an offence punishable under section 115 (2) of the BNS.

125 That you on or about _____ at _____ at _____ acted (mention the rash or negligent act done) so rashly or negligently as to endanger human life or the personal safety of others and thereby

committed an offence punishable under section 125 of BNS.

- 125 (a) That you, on or about _____ at _____ at _____ caused hurt to (injured person's name) by doing an act (describe the act) rashly or negligently so as to endanger human life or personal safety of others and thereby committed an offence punishable under section 125 (a) of the BNS.
- 125 (b) That you on or about _____ at _____ at _____ caused grievous hurt to (name of injured person) by doing an act (described the act) so rashly or negligently as to endanger human life or the personal safety of others and thereby committed an offence punishable under section 125 (b) of the BNS.
- 303 (2) That you on or about _____ at _____ at _____ intending to take dishonestly a certain movable property (namely) out of the possession of _____ without his consent moved it in order to such taking and thereby committed an offence punishable under section 303 (2) of the BNS.
- 305 That on or about _____ at _____ at _____ you committed theft in a building used for dwelling or custody of property and thereby committed an offence punishable under section 305 of the BNS.
- 324 (4) (value of the property more than Rs. 20,000/- but less than Rs. One Lakh) That on or about _____ at _____ at _____ you committed mischief by causing wrongful loss or damage to the property of "A" valued at Rs. 50,000/- and thereby committed an offence punishable under section 324 (4) of the BNS.
- 324 (5) (value of the loss/damage more than Rs. One Lakh Rupees) That on or about _____ at _____ at _____ you committed mischief by causing wrongful loss or damage to the property of "A" valued at Rs. _____ (more than Rs. One Lakh) and thereby committed an offence punishable under section 324 (5) of the BNS.

Standards of Weights and Measures (Enforcement) Act,1985

- Rule 6(1) S.33/51 That on _____ at _____ at _____ village Lakhani at your shop by name Swastik General Stores, Main Road, Lakhni, you were found in possession of one pack of "Ho Cake" playing cards which was kept for sale and the package thereof was not bearing the name and address of it's manufacturer and the price thereof as well and you have thereby committed breach of the provisions of rule 6(1) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 read with section 33 made punishable under section 51 of the Standards of Weights and Measures (Enforcement) Act,1985.
- Rule 6(1) That on 29-08-1991 at _____ at Mouza Lakhani at your shop by name S.33/51M/s. Vikas Seva Kendra, Main Road, Lakhani, you were found in possession of two polythene packs which were kept for sale and the package thereof was not bearing the name and address of it's manufacturer and the price thereof as well and you have thereby committed breach of the provisions of rule 6 (1) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 read with section 33 made punishable under section 51 of the Standards of Weights and Measures (Enforcement) Act,1985.
- Rule 6(1) That on _____ at _____ at your shop by name Swastik General Stores, Main S.33/51 Road, Lakhni, you were found in possession

of one pack of "Hot Cake" playing cards which was kept for sale and the package thereof was not bearing the name and address of its manufacturer and the price thereof as well and you have thereby \ committed breach of the provisions of rule 6(1) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 read with section 33 made punishable under section 51 of the Standards of Weights and Measures (Enforcement) Act, 1985.

24/47

That on or about _____ at _____ at _____ you were found using the weight of 200 grams in the transaction of your shop namely Swastik General Stores which weight was not got reverified by you from the inspector of Weights and Measurements Dept. Sakoli, without any reason and thereby committed an offence under section 24 punishable under section 47 of the Standards of Weights and Measurements (Enforcement) Act, 1985.

Essential Commodities Act.

3/7

(cotton seeds)

That on 03-06-1997 or about 03-00 p.m. in front of your house at Beed you were found selling cotton seed bags of Mahindra Hybrid Seeds Company, Jalna without any licence and also were found selling the bag of cotton seed having the retail price Rs.345/- per bag, at the excessive rate i.e. Rs.545/- per bag and as such contravened the provisions of the Seeds (Control) Order 1983 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.

3/7

(seeds)

That, on ____ at _____ at _____ your above-named shop you were found dealing with seeds without maintaining such books on accounts and records relating to your business as directed by the Government and contravened Clause 18(1) of the Seeds (Control) Order, 1983 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act and within my cognizance.

(Sunflower Oil)

3/7

That on ____ at _____ at _____ you were found carrying the business as a wholesale dealer in respect of sunflower oil against the terms and conditions of the licence issued in that behalf and thereby committed breach of Clause 3(1) of the Maharashtra Scheduled Oilseeds and Oils (Dealers and Millers) Licensing Order, 1977 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act, 1955.

(Kesonene) 3/7

That on 26-1-1991 at about 11-45 p.m. in front of Gupta Provision Stores Mondha, at Beed, you accused No.3 a licensed retail dealer of kerosene, sold out 200 litres of kerosene to accused no.1 at excessive rate and did not issue him cash memo in respect of the said sale and thus committed breach of the terms and conditions of the licence granted to you and thereby contravened the provisions of Clause No.3 of the Maharashtra Scheduled Commodities Retail Dealers Licensing Order 1979 and committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.

3/7 (Kesonene)

That on the same date, time and place you accused no.1 were found

- to have filled kerosene as a fuel in the diesel tank of your truck bearing No. MHD-1837 in contravention of the provisions of Clause No.3 of Kerosene (Restriction on Use and Fixation of Ceiling prices) Order 1966 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.
- (kerosene) 3/7 That on 11-12-1995 at 06.00 p.m. In Mondha at Ambajogai you accused no.1 were found selling kerosene to accused nos. 2 and 3 at a price higher than that fixed by the Government and thereby contravened Clause 4(c) of the Kerosene (Restriction on Use and Fixation of Ceiling Price) Order, 1993 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.
- 3/7 (kerosene) That on ____ at _____ at _____ you accused no.1 were found selling kerosene to accused no.2 and 3 unauthorizedly and thereby contravened Clause 3(2) of the Kerosene (Restriction on Use and Fixation of Ceiling Price) Order, 1993 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.
- 3/7 (diesel,petrol) That on 31-12-1994 at 04.15 p.m. at Bag Pimpalgaon you were found in possession of a truck containing diesel and petrol in two separate tanks having wrong seals and you thereby contravened the provisions of Rule 4(a) of the Motor Spirit and High Speed Diesel (Prevention of Malpractices in Supply and Distribution) Order 1990 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act.
- 3/7 (petrol) That on 16-01-1990 at about 8.15 a.m. at the Petrol Pump of you accused no.1 at Beed, you accused nos.1 and 2, in furtherance of your common intention, sold adulterated petrol to the informant (name) _____ and thereby committed malpractice listed in Clause 2(e) of the Motor Spirit and High Speed Diesel (Prevention of Malpractices in Supply and Distribution) Order 1990 and thereby committed an offence under section 3 punishable under section 7 of the Essential Commodities Act read with section 34 of the Indian Penal Code.

Section 138 of Negotiable Instruments Act

(I) **(If the offence is alleged against an individual)**

: That the cheque bearing No. dated drawn by you on the account bearing No. maintained with (Name of the Bank) for payment of Rs...../- to (Name of the complainant) from out of that account for the discharge, in whole or in part, of debt or other liability, was returned by the Bank unpaid because (mention the reason) and you failed to pay the said amount within 15 days of the receipt of the demand notice dated..... issued by the above named complainant and you thereby committed an offence punishable under Section 138 of the

Negotiable Instruments Act

(II) **(If offence is alleged against a company/society)**

You accused No.1 being the company, you accused No.2 being the Managing Director of accused No.1 and you accused No.3 being a Director of accused No.1, who were in charge of and were responsible to accused No.1 company as well as for the conduct of its business, drew the cheque bearing No..... dated on the account bearing No. maintained with (Name of the complainant), from out of that account for the discharge, in whole or in part, of any debt or other liability, was returned by the bank unpaid because (mention the reason) and you failed to pay the said amount within 15 days of the receipt of the demand notice dated issued by the above-named complainant and you thereby committed an offence punishable under section 138 read with section 141 of the Negotiable Instruments Act.

Points for determination

1. Whether the cheque dated was drawn by the accused for the discharge of any debt or legally enforceable liability?
2. Does the complainant establish that the accused dishonoured the cheque ?
3. What order ?

Other points (depending on the facts of the case)

- Whether the complaint is within limitation ?
- Whether the complainant has locus standi to file the complaint ?

(If accused No.2 is a director of the company)

- Whether accused No.2 was in charge of and was responsible to accused No.1 company as well as to the conduct of business of the company?
- Whether the cheque has been dishonoured with the consent or connivance of /attributable to any neglect on the part of accused No.2 being the director/ manager/ secretary/ other officer of accused No.1 company?

Regular Civil Suit No.

Exhibit No.

Deposition of witness No. _____ for the Plaintiff/Defendant :

I do hereby state on solemn affirmation that :-

My name is :

My age is :

My occupation :

My residence is :

Taluka :

District :

Examination-in-Chief for the Plaintiff by Advocate

Cross Examination by Advocate counsel for defendants

Re-examination Nil.

Place
Date

Recorded in my presence
R.O.A.C.

S/d/-(date)
Civil Judge (Sr.Divn,)
Aurangabad

EPHEMERAL ROLL

Office of the :

Full Name :

Post held :

Date of Joining the office :

Date	Brief remarks regarding officer's work, character or conduct deserving to be noted including commendations, warning, rewards or punishments.	Reference to be file or case if any	Signature

Technical/legal issues

1. Is the suit within limitation vide Article_____ of the Limitation Act ?
2. Whether this Court has jurisdiction to entertain and try this suit ?
3. Is the suit hit by the principle of Res-judicata ?
4. Is the suit hit by the provisions of Order II Rule 2 of the Code of Civil Procedure?
5. Is the suit hit by the provisions of Section 47 of the Code of Civil Procedure?
6. A) Is the suit hit by the provisions of O.23 R.3-A of the Code of Civil Procedure?

B) Is the Suit hit by the provisions of O.23 R.4 of the Code of Civil Procedure?
7. Is the suit hit by the provision of Section 144(2) of the Code of Civil Procedure?

Factual Issues.AIR 1976 Bom. 315Order 14.Chapter VI para 90 C.M.**(1) Mortgage by conditional sale – redemption**

1	What is the nature of the transaction dated --- in respect of the suit property? A sale or mortgage by conditional sale?	Mortgage by conditional sale
2	Is the plaintiff entitled to get the suit-property redeemed?	Yes
3	Is the plaintiff entitled to get the possession of the suit property?	Yes
4	Is the plaintiff entitled to get possession of suit-property?	Yes
5	What order and decree?	The suit is decreed.

ORDER

1. The plaintiff is entitled to get the suit property redeemed on payment of Rs. _____ with interest @ Rs. 6% p.a. (or at the agreed rate, if any, wherever applicable) from the date of this decree till the date of payment of the said amount in to the Court.
2. The defendant shall pay mesne profits to the plaintiff from the date of payment of the above stated amount into the Court till the date of delivery of possession of the suit property to the plaintiff Enquiry be held as the mesne profits vide O.20 Rule 12(1) (c) of the Code of Civil Procedure.
3. The defendant do pay costs of the suit to the plaintiff and shall bear his own.
4. Draw Preliminary decree vide Order XXXIV Rule 7 of the Code of Civil Procedure.

(2) Sale transaction with a contemporary agreement of resale

Sr. No.	Issues	Findings
1	What is the nature of the transaction dated 1-2-3 in respect of the suit property?	Sale
2	Does the plaintiff prove that the defendant has executed an agreement on 4-5 -6 to reconvey the suit property to him	Yes
3	Does the Plaintiff prove that he was and is ready and willing to perform his part of the agreement dated 4-5-6?	Yes
4	Whether the plaintiff is entitled to get the agreement dated 4-5-6 specifically performed?	Yes
5	Whether the plaintiff is entitled to recover possession of the suit property?	Yes
6	Whether the plaintiff is entitled to get mesne profits?	Yes
7	What order and decree?	The suit is decreed

ORDER

- 1) The Plaintiff shall deposit the amount of Rs. _____/ _____ into the Court towards price of the suit property on or before _____.
- 2) On payment of the above said amount into the Court by the plaintiff, the defendant shall execute the re-sale/ reconveyance deed in favour of the plaintiff, failing which the plaintiff will be entitled to get it executed through the Court.
- 3) The Plaintiff shall be liable to pay expenses of execution of the re-sale/ reconveyance deed.
- 4) The defendant shall deliver possession of the suit-land to the plaintiff.
- 5) The plaintiff is entitled to get mesne profits from the date of payment of price of the suit land in the court till delivery of possession thereof to him. Enquiry be held as to mesne profits in respect of the said period vide Order 20 Rule 12(1)(c) of the Code of Civil Procedure.
- 6) The defendant shall pay costs of the suit of the plaintiff and shall bear his own.

(3) Recovery of possession of encroached land

Sr. No.	Issues	Findings
1	Does the plaintiff prove that the defendant has encroached upon the land of the plaintiff? If yes, to what extent?	Yes, to the extent of 10 R as shown in map Exh.40
2	Does the defendant prove that he has perfected title to the alleged encroached portion of land by adverse possession?	No.
3	Is the suit within limitation?	Yes
4	Is the plaintiff entitled to recover possession of the encroached portion of land?	Yes
5	Is the plaintiff entitled to get past mesne profits? If yes, to what extent?	Yes Rs.3000/-
6	What order and decree?	The suit is decreed

ORDER

1. The defendant do deliver to the plaintiff possession of the land admeasuring 10 R shown by Blue colour in the map exh.40, which shall form part of the decree.
2. The defendant do pay Rs.3000/- towards past mesne profits to the plaintiff with interest @ Rs. 6% per annum from the date of the suit till realisation of the said amount.
3. The defendant do pay mesne profits to the plaintiff from the date of institution of the suit till delivery of possession of the encroached portion of land.
4. Enquiry be held as to mesne profits in respect of the above stated period vide Order 20 Rule 12(1)(c) of the Code of Civil Procedure.
5. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

(4) Permissive possession, Recovery of open space and removal of super structure of the defendant.

Sr. No.	Issues	Findings
1	Does the plaintiff prove his title to the suit property?	Yes
2	Does the defendant prove that he has acquired title to the suit property by adverse possession?	No.
3	Is the plaintiff entitled to recover possession of the suit property?	Yes
4	Is the plaintiff entitled to recover past mesne profits? If yes, at what rate?	Yes, Rs. 1000/- per month
5	What order and decree?	The suit is decreed

ORDER

1. The defendant do deliver vacant possession of the suit property to the plaintiff within four months from today.
2. The defendant shall remove his structure from over the suit property, within 4 months from today, failing which the plaintiff will be entitled to get it removed at the costs of the defendant.
3. The defendant do pay past mesne profits of Rs. 15,000/- to the plaintiff with interest @ Rs. 6% per annum from the date of the suit till realisation thereof.
4. Enquiry be held vide O 20 R. 12(1) (c) of the C.P.C. in respect of mesne profits from the date of the suit till delivery of possession of the suit property to the plaintiff.
5. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

(5) Suit for recovery of possession on the basis of title which is resisted by the defendant vide S.53-A of T.P. Act.

	Issues	Findings
1	Does the plaintiff prove his title to the suit property?	Yes
2	Does the defendant prove that the plaintiff has agreed to sell the suit property to him by executing an agreement on _____?	Yes
3	Does the defendant prove that he is entitled to protect his possession over the suit-property vide Sec.53-A of the Transfer of property Act?	Yes
4	Is the plaintiff entitled to get possession of the suit property?	No
5	What order and decree?	The suit is dismissed

ORDER

1. The suit is dismissed.
2. The parties to bear their own costs.

(6) Money Claim-price of goods sold on credit

	Issues	Findings
1	Does the plaintiff prove that the defendant purchased on credit the goods worth Rs.4000/- from his grocery shop?	Yes
2	Does the defendant prove that the plaintiff is doing the business of money lending without licence?	No.
3	Does the defendant prove that the suit amount pertains to money lending transaction?	No
4	Is the plaintiff entitled to recover the amount of Rs. 4000/- from the defendant?	Yes
5	Is the plaintiff entitled to recover the amount of Rs. 1000/- towards past interest?	Yes
6	What order and decree?	The suit is decreed

ORDER

1. The defendant do pay Rs. 5000/- to the plaintiff with interest on Rs. 4000/- at the rate of Rs.9/- percent per annum from the date of the suit till realisation of the entire amount.
2. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

(7) Money Claim-Hand loan amount – set off

	Issues	Findings
1	Does the plaintiff prove that he lent the amount of Rs. 20,000/- to the defendant?	Yes
2	Does the defendant prove that the amount of Rs. 7,000/- is due and payable to him from the plaintiff towards rent of the house let out to him?	Yes
3	Whether the defendant is entitled to claim set off for the amount of Rs.7,000/-?	Yes
4	What is due and payable from the defendant to the plaintiff?	Rs. 13000/-
5	What order and decree?	The suit is decreed

ORDER

1. The defendant do pay Rs.13000/- to the plaintiff with interest @ Rs.6% per annum from the date of the suit till realisation of the said amount.
2. The defendant do pay proportionate costs of the suit on Rs. 13,000/-to the plaintiff and shall bear his own.

**(8) Suit for possession on the basis of previous possession,
S.6 of Specific Relief Act.**

	Issues	Findings
1	Does the plaintiff prove that he was in settled possession of the suit property within a period of six months before filing of the suit?	Yes
2	Does the plaintiff prove that the defendant dispossessed him of the suit property without his consent and otherwise than in due course of law?	Yes
3	Is the plaintiff entitled to recover possession of the suit property?	Yes
4	Is the plaintiff entitled to get past mesne profits? If yes, what amount?	Rs. 800/-
5	What order and decree?	The suit is decreed

ORDER

1. The defendant do deliver possession of the suit property to the plaintiff.
2. The defendant do pay Rs. 800/- towards past mesne profits to the plaintiff with interest @ Rs.6% per annum from the date of the suit till realisation of the entire amount.
3. The defendant do pay future mesne profits to the plaintiff. Enquiry be held as per O. 20 R 12(1) (c) in respect of the mesne profits from the date of the suit till delivery of possession of the suit land to the plaintiff.
4. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

(9) Partition Suit

	Issues	Findings
1	Does the plaintiff prove that the suit land block no. 100 is the ancestral property of the defendants and himself?	Yes
2	Does the plaintiff prove that the suit house no. 200 is the joint family property of the defendants and himself?	Yes
3	Does the plaintiff prove that the land block No.315 standing in the name of defendant No.2 is the joint family property?	No
4	Whether the ancestral and joint family properties of the parties have already been partitioned?	No
5	Is the plaintiff entitled to have partition of the suit properties? If yes, what would be the respective shares of the parties?	Yes, plaintiff and defendant nos.1 and 2 have 1/3 share each.
6	What order and decree?	The suit is decreed

ORDER

1. It is hereby declared that the plaintiff and defendant nos. 1 and 2 have 1/3 share each in the suit properties.
2. The partition of the suit land B.No.100 be effected equitably by the Collector, or any Gazetted subordinate of the Collector deputed by him in this behalf in accordance with the above declaration of shares in conformity with the law for the time being in force relating to partition, or separate possession of shares of the said land and the plaintiff be delivered possession of the land of his share.
3. The decree be sent to the Collector for compliance of the directions given in clause 2 above vide Section 54 of the Code of Civil Procedure.
4. The suit house be partitioned equitably in accordance with the above declaration of shares by appointing a Court Commissioner and the plaintiff be put in separate possession of his share therein. Preliminary decree to that effect be drawn up accordingly.
5. The defendants do pay costs of the suit to the plaintiff and shall bear their own.

**(10) Declaration & Mandatory Injunction & Prohibitory
Injunction
Easementary right of way (necessity).**

	Issues	Findings
1	Does the plaintiff prove that he has an easementary right by necessity to make use of the suit-way?	Yes
2	Does the defendant prove that the plaintiff has an alternative way to have access to his land?	No
3	Does the plaintiff prove that the defendant has obstructed the suit way by putting thorny fence over the suit-way?	Yes
4	Is the plaintiff entitled to the relief of declaration of his easementary right to use the suit-way?	Yes
5	Is the plaintiff entitled to get the relief of mandatory injunction for removal of the obstruction from over the suitway?	Yes
6	Is the plaintiff entitled to get the relief of perpetual injunction restraining the defendant from obstructing him while making use of the suit-way?	Yes
7	What order and decree?	The suit is decreed

ORDER

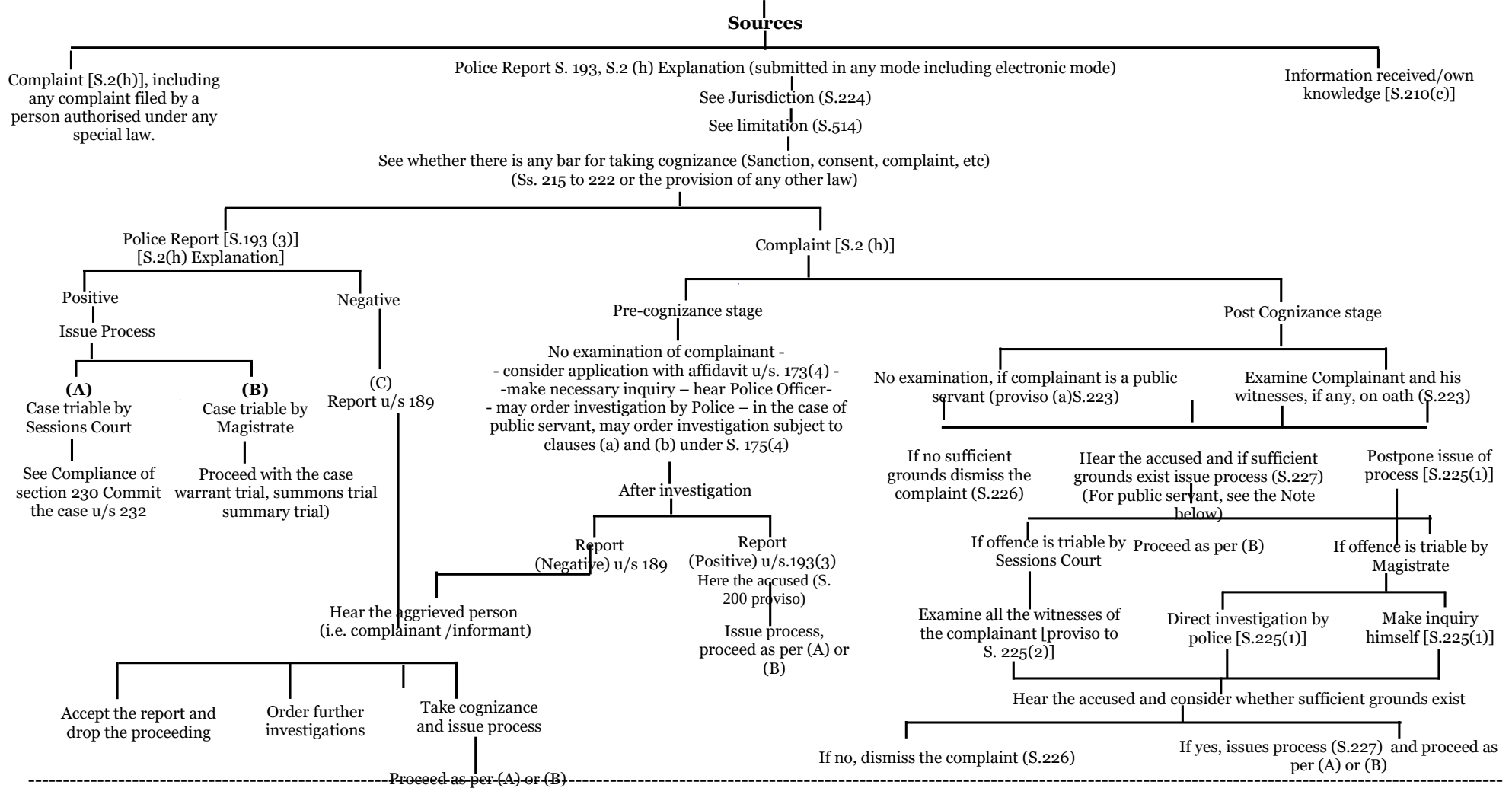
1. It is hereby declared that the plaintiff has an easementary right to make use of the suit- way.
2. The defendant do remove thorny fence from over the suit-way within 7 days from today, failing which the plaintiff shall be entitled to get it removed through the Court at the costs of the defendant.
3. The defendant or anybody claiming through him is restrained from obstructing the plaintiff while making use of the suit-way in any manner.
4. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

**ORDER – When Plaint is to be returned for want of
jurisdiction.**
(O.VII,R.10,10-A)

1. It is hereby declared that the plaintiff has an easementary right to make use of the suit-way.
2. The defendant do remove thorny fence from over the suit-way within 7 days from today, failing which the plaintiff shall be entitled to get it removed through the Court at the costs of the defendant.
3. The defendant or anybody claiming through him is restrained from obstructing the plaintiff while making use of the suit-way in any manner.
4. The defendant do pay costs of the suit to the plaintiff and shall bear his own.

Sd/-
Civil Judge (J.D.)

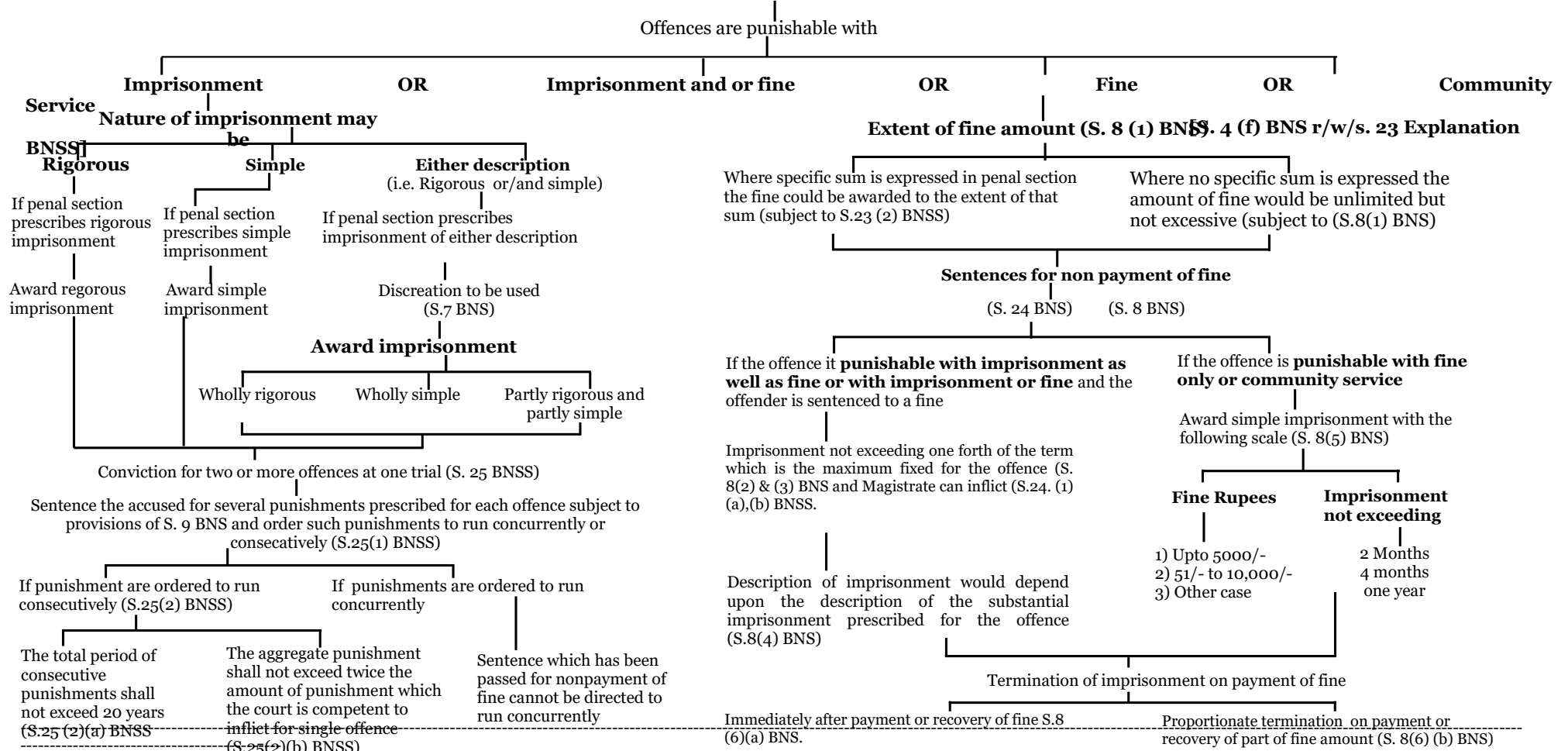
TAKING COGNIZANCE BY MAGISTRATE (S.210 BNSS)



Note : No cognizance on a complaint against a Public Servant can be taken for any offence alleged to have been committed in the discharge of his official functions/ duties, unless compliance of clauses (a) and (b) under sub section (2) of S.223 is done.

SENTENCES WHICH A J.M.F.C. MAY PASS (Section 23(2) BNSS)

(1) Imprisonment up to 3 years 2) Fine upto Rs. 50,000 or Community Service.....



- Note :-
- (1) Conviction in summary trial - no sentence of imprisonment for a term exceeding three months. S. 285 (2) BNSS.
 - (2) Offence u/s 138 of the Negotiable Instruments Act—even if tried summarily-sentence—imprisonment not exceeding one year and fine exceeding Rs. 50,000/- can be inflicted. (S.143 proviso N. I. Act)
 - (3) Follow the provisions of Ch.111 Para 30 of Cri. M. while sentencing Military Personnel with fine.
 - (4) Follow the provisions of Ch. VI. Para nos. 54 to 57 of Criminal Manual while inflicting sentences of imprisonment and fine.
 - (5) "Community Service" has been prescribed as a punishment for six offences only, i.e. u/s. 202, 209, 226, 303(2), 355 and 356(2) of BNS.