

**GENERAL RULES AND
CIRCULAR ORDERS
(CRIMINAL)
VOL. - I
PART - I
CHAPTER - I**

Court and Office Hours and Court Seal

*1. (a) ¹[**Court hours** - The *Court hours* shall ordinarily be from **10.30 AM. to 5.00 P.M.** with *recess* of half an hour between **1.30 and 2 P.M.** Except in morning sittings when it would be from **7.00 A.M. to 1.00 P.M.** with a *recess* of half an hour between **10.00 A.M. to 10.30 A.M.**

*^(B) **Sitting and rising hour** - The Courts shall ordinarily *commence the sittings* not later than **11 A.M. and rise at 4 P.M.** When day sittings are held and in case of morning sittings not later than **7.30 A.M. and rise at 12.30 P.M.**

Note 1 - The exact period during which morning sittings of the Courts will be held shall be fixed by the High Court, by the issue of general or special orders.

Note 2 - The recess facility will be available only to the Presiding Officers.

Note 3 - The hours of work and commencement of sittings of Criminal Courts shall be regulated from time to time by issue of general or special orders by the High Court, as and when necessary.]

2. (a) **Use of Saturdays by Sessions Judges and Chief Judicial Magistrates** - ²[The Sessions Judges will devote all working Saturdays and the Chief Judicial Magistrates will devote first and last working Saturdays of a month for administrative work at the Headquarters subject to adjustment of hearing of part-hard Sessions cases]

(a) ³[**Clearance day** - The last Saturday of each month may be observed as 'Clearance Day' by the Judicial Magistrates at the stations to be specified by the High Court by General or Special Orders. Whenever such Saturday is a holiday, the working day preceding that holiday will be observed as 'Clearance Day'.]

Note - ⁴[* * *]

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1. Substituted by C.S. No.S-IX-1S/79, dt.19. 7.1980.
 2. Substituted by C.S. No.76-XLIX-D-4S/93, dt.19.12.1996.
 3. Substituted by C.S. No.61-IX-9/89, dt.11.2.1992.
 4. Deleted by C.S.No. 62-IX-9/89, dated 11.2.1992.

3. **Court not to sit on holidays** - Without the consent of parties and in absence of urgent necessity, no criminal enquiry or trial shall be held on Sundays or gazetted holidays.

4. **Suspension of Court hour** - The Presiding Officer of Courts are authorised to suspend the work for about half an hour or to stand in silence for a minute or two after a suitable reference has been made when a man of repute passes away and when request (either oral or in writing) for suspension of work is made to the Court by the Bar Association. Facility should be given to the litigants and members of the Bar who wish to attend the funeral ceremony.

5. **Closure of Court in case of danger of Court's property** - Should any occasion arise when there is disturbance exposing the Court's property to danger, the Presiding Officers may close the Court when no other course is available. Such instances shall, however, be very rare and shall be immediately reported to the District Judge and the High Court explaining in detail the circumstances leading to the closure.

6. **Courts to be open** - Ordinarily all judicial matters shall be disposed of in open Court. The public should have access to or remain in the room or the building used by the Court except when the Presiding Officer thinks it fit in any particular case, to exclude either the public in general or any particular person. The grounds for doing so should, however be recorded in the Court's Diary and order sheet of the case.

Note 1 - Trial in camera - Cases of kidnapping, abduction, rape and proceedings under Section 493, 497 and 498, I.P.C., may be tried *in camera*.

Note 2 - Routine duties - The Judicial Officers in cases of indisposition are allowed to perform their current and routine duties in the Chamber for a maximum period of three days during any calendar year.

7. **Court language** - The State Government of Orissa have declared the following as Court language in the different districts in the State of Orissa in supersession of all previous notifications and orders on the subject -

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|--|---------------------------|
| (1) In the district of Ganjam except Ghumsar and the Balliguda Subdivisions and the [Civil Judge (Junior Division)]'s Court at Aska. | English, Oriya and Telegu |
| (2) In Gunpur, Rayagada, Bissam-katak, Pottangi and Malkangiri taluks in Koraput district. | English, Oriya and Telegu |
| (3) In all the districts of the State except Nos. 1 and 2 above | English and Oriya |

1. Substituted by C.S. No. 3, IX-1/95, dt. 31. 10. 1995.

8. Regular seal - The regular seal of the Court shall be placed in custody of a responsible Officer of the Court and the documents required to be sealed with it should be under his superintendence. This seal is to be used for sealing judgment, writs, processes, copies and other documents made or issued judicially.

9. Date seal - The date seal shall be affixed to all documents and papers presented to Court in such a way as to show clearly the date on which they are presented. It shall be affixed a second time in such a way as to deface the Court-fee levels, if any, appearing on them.

10. Orders as to custody of seals - The orders making the officers responsible for the custody and the use of the seals should be recorded in writing.

11. **Use of name seals prohibited** - The use of name seals whether by judicial or ministerial officers is. Prohibited.

12. Destruction of seals - The worn-out and useless Court - seals when replaced by new ones should be destroyed in the presence of the Presiding Officers concerned and note of such destruction should be made in the Order Book under the dated signature of the Presiding Officer.

13. Custody of seals of abolished Courts - When a temporary Court ceases to exist, the seals used by it shall be kept in the safe custody of the Registrar of the Civil and Sessions Courts at the headquarters station or the Chief Ministerial Officer of the Court of the Sub-divisional Judicial Magistrate, or Judicial Magistrate, as the case may be, at the outlying stations.

CHAPTER - II

Petitions, Complaints and Affidavits

14. Petitions and affidavits how to be drawn up - All petitions and affidavits should be in the language of the Court and as far as practicable typewritten. Every page of the petition and every interlineation, alteration or erasure therein shall be authenticated by initial of the petitioner, declarant or the appellant as the case may be or of his Pleader by whom it is presented.

Note - All petitions should be either typewritten or written on fullsize paper, the quarter margin together with at least 1" of space at the top and bottom of each sheet being allowed.

15. Contents of petitions - Every petition shall state concisely and clearly, (i) the facts, matters and circumstances upon which the petitioner relies; and (ii) the matter of complaint, if any, and the relief sought or prayer made.

16. Separate petition for distinct subject - Applications in regard to distinct subject-matter with separate prayer shall be made in separate petitions.

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17. Service of copy of petitions - In contested cases, no petition

or list of document shall be filed in Court unless copies thereof have been previously served on the opposite party or his Pleader. The opposite party or the Pleader served with such copies shall give receipt on the original petition or list.

18. Complaints to be received in fixed hours - Private complaints should be received daily at fixed hours, ordinarily at the commencement of the day's sitting, but not later than 12 Noon.

19. (a) All complaints and charge - sheets shall at subdivision headquarters be received by the Sub - divisional Judicial Magistrates and subject to control by the High Court by such other Judicial Magistrate specially designated in tilis behalf by the Chief Judicial Magistrate.

(b) At other places where there are more than one Judicial Magistrate, the Chief Judicial Magistrate would designated the Magistrate who shall receive the complaints and charge-sheets.

20. Contents of complaint petitions - Every petition of complaint shall contain the following particulars -

- (1) The name, age and other description of the complainant.
- (2) The name, age and other description of the accused.
- (3) The date, time and place of occurrence.
- (4) The list of witnesses with addresses.
- (5) Nature of offence with section of statute.
- (6) Whether any information was given at the Police-Station and if so, the' action taken thereon.
- (7) Whether any previous complaint regarding the same occurrence was filed, and if so, the name of the Court and the date and manner of disposal of the same.
- (8) Facts of the case.
- (9) Documents, if any relied upon by the complainant.

[**Note** - While making an application for issue of an order under Sections 94, 97 and 98 of the Code of Criminal Procedure, 1973, the applicant (or the party) should file an affidavit that he has not filed any such application on the same facts before any other Magistrate or in any other Court.]

21. Examination of complainant - The examination of the Complainant under Section 200 of the Criminal Procedure Code should be a thorough and intelligent enquiry into the subject - matter of a complaint to enable the Magistrate to find out whether the complainant is really aggrieved, or whether it would amount to

1. Inserted by C.S. No.1-XLIXD-9/74, dt. 23.12.1977.

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Abuse of the process of the Court and harassment to the accused. The examination of the complainant at this stage should be made by the Magistrate himself.

Note - Statement of the complainant should ordinarily be recorded on the back of the petition of complaint.

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Examination of the complainant under Sec. 200 Cr. P. C. should be a thorough and intelligent enquiry into the subject matter of a complaint to enable the Magistrate to find out whether the complainant is really aggrieved or whether it would amount to abuse of the process of the Court and harassment to the accused:

Debaki Pradhan v. Prakash Chandra Pal: 2010 (Supp.-II) OLR 803.

The Magistrate has to act while considering the question whether cognizance is to be taken or not. At the stage of taking cognizance Magistrate has simply to be satisfied whether the allegation make out a prima facie case for trial or not :

Sk. Siraj v. State of Orissa : 1994 (I) OLR 403.

22. Undesirability of using police agency for enquiry into cases - Magistrate are cautioned against indiscriminate use of police agency for the purpose of ascertaining matters as to which a Magistrate is bound to form his own opinion upon evidence given in his presence. This caution should be specially borne in mind in respect of all cases regarding offences not cognizable by the Police.

23. Registration of complaints and Police reports - All complaints and Police reports should be Registered immediately after their receipt in order of their receipt.

24. Affidavits before whom to be sworn - Affidavits to be sworn or affirmed before any Judge, Magistrate or Commissioner of Oaths appointed by the High Court or Court of Sessions or any Notary appointed under the Notaries Act, 1952 for use before any Court shall be drawn up in the first person and divided into paragraphs, numbered consecutively and each paragraph, as clearly as may be, shall be confined to a distinct portion of the subject and may be sworn or affirmed before any Judge, Magistrate or Commissioner of Oaths appointed by the High Court or Court of Sessions or any Notary Act,
1952 (54 of 1952).

25. Full description of deponent - Every affidavit shall state the full name, age, description and place of abode of the deponent and shall be signed or marked by him.

26. Authentication of corrections in affidavits - Alterations and interlineations shall, before the affidavit is sworn or affirmed, be authenticated by initials of the officers before whom the affidavit is taken.

27. Particulars to be noted by the Commissioner of Affidavits - The officer before whom the affidavit is taken shall state the date on

which and the place where the same is taken, sign his name and mention his designation at the end.

28. Certificate to be given by the Commissioner of Affidavits -

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

29. Affidavits to state on whose behalf it is filed - Every affidavit shall bear an endorsement stating on whose behalf it is filed.

30. Source of knowledge to be stated in affidavit - Every affidavit containing statements made on the information or belief of the deponent shall state the source or ground of the information or belief.

CHAPTER - III

Diary and Cause List

[Vide Rules on the subject in the General Rules (Civil), Volume I]

[Extracts from G.R.C.O. (Civil) Vol. I]

6. Diary - (a) Every Civil Court shall maintain a diary in the prescribed form. Each case for any day shall be entered in advance immediately upon a date or adjourned date being fixed, and the entry as to each case shall show the purpose for which it is set down on each of issues, or for trial after adjournment. The diary will show briefly the progress made in each case, and when witnesses are examined in any case, when witnesses are examined without contest separately shall be stated. A running total in red ink should be inserted from day to day, in order to show the total number of witnesses examined during each quarter of the year. A new serial number should be started at the commencement of each quarter.

(b) The top most heading should be "**For peremptory hearing**" and under each heading should be grouped separately each class of cases in their chronological order according to the dates of their institution. The part-hard case adjourned on the previous day should be shown as the top case under the heading "Peremptory hearing".

(c) Appeals and Miscellaneous cases should also be shown in the diary in the above manner. Execution cases should be noted last of all.

(d) The reason for adjournment shall be briefly stated in the Diary.

(E) The Presiding Judge shall insert with his own hand in the appropriate place (i) the hours of his arrival in the office, (ii) the hour at which he takes his seat for judicial work and (iii) the time of rising and (iv) the time of departure. In the case of any unusually short sitting on any day, a short note explaining the reason shall be given in the Diary.

Note - (1) When an officer has to perform criminal duties in addition to his work as a Civil Judicial Officer, he will maintain two separate diaries in the prescribed form, one for civil and the other for criminal work. He shall note the hours of sitting and rising in the civil diary only. On the Actual time devoted

to criminal work in the criminal work, he shall note the hours of sitting and rising in the civil diary or criminal diary only, as the case may be.

Note - (2) The Diary shall be signed each day by the Presiding Judge after careful scrutiny on completion of all the entries therein.

Note - (3) A separate diary should be maintained for the cases fixed for each place of circuit.

8. Daily causes lists - A daily list of case shall be posted in some conspicuous place in every Court house for the information of the parties and their pleaders. The cases should, as far as possible, be arranged in the order in which they are likely to be taken up. Execution and Miscellaneous cases may be shown either in the same list or in a separate list. The said list shall be prepared and posted on the preceding working day at 4.30 P.M. or in the case of morning sittings before 12 A.M.. In the list, the cases will be sufficiently described by their number, year and class. At the close of each day, the Peshkar shall prepare four copies of advance daily cause lists in prescribed forms in a bound book of printed lined perforated pages, with the help of carbon papers showing therein the cases fixed for the next day. One copy of the list shall be posted in the Court's notice board and another sent to the Secretary Ministerial employee or any other person authorised by the local Bar Association for being posted in the notice board of the Bar Association. The remaining two copies should be kept by the Peshkar for his next day's use. At the close of the following day, he shall fill up the adjourned dates in the two copies of advanced daily cause lists in the Court's notice board and take down the copy which was posted on the preceding day and will send the other copy to the Secretary or ministerial employee of the Bar Association for publication in the notice board of the Association. He will further prepare four copies of advance daily cause lists for the next day in the same manner. The advance daily cause lists shall be sent to the Secretary, Bar Association through the Despatch Register in which the dated signatures of the recipient will be obtained.

Note - (1) The maximum number of cases to be fixed for hearing on any day may be half more than could be done on that day and preference be given to undone work of that day on the next day.

Note - (2) The lists shall be prepared in the language of the Court and shall remain posted for one week after which they shall be filed in office for future reference, if necessary. At the end of every quarter the lists for the previous quarter will be destroyed.

Note - (3) The lists shall be signed by the Presiding Judge and exhibited before he leaves the Court.

CHAPTER - IV **Processes**

31.(a) Process to contain full description - Every person on whom a process is to be served or executed shall be described therein in ink in such manner as will serve to identify him clearly, *i.e.*, by the statement of his correct name and address and such further description as to identify him. will serve

Note - In the case of service or execution of a process to be effected in large towns, the name of the street, ward number of the Municipality and the number of the house, if known, should be given.

(b) Language of the process - shall ordinarily be issued in anyone of the languages of the Court. But process sent for service at another place where the language is different from that of the Court should be accompanied by translation in the language issuing them, to be issued such place or in English. by the notices / summons / warrants

1[Ic] Whenever are Court, the following shall be mentioned information about free Legal Services . on the bottom of form for Legal Services s, High t Legal Services , Distric Taluk t Legal Services Authorities and a Legal Services Committees, as per eligibility criteria, yo are eligible available to u and in case you are e and desire to avail of the free legal may contact any of the above Legal Services Authorities/Committees.”

2(C)(i) You are further informed that alternative resolution (A.D.R.) also available in case you desire to avail “Meditation” facilities are the said facilities.

“ଏଥୁ ସହିତ ଆପଣଙ୍କୁ ଜଣାଇ ଦିଆଯାଇଛି କି ଯେ, ଆପଣଙ୍କୁ ମାଗଣାରେ ଆଇନଗତ ସେବା ଯୋଗାଇଦେବାପାଇଁ ରାଜ୍ୟ ଆଇନ ସେବା ପ୍ରାଧିକରଣ, ଉଚ୍ଚ ନ୍ୟାୟାଳୟ ଆଇନ ସେବା କମିଟି, ଜିଲ୍ଲା ଆଇନ ସେବା ପ୍ରାଧିକରଣ ଏବଂ ଡାକ୍ତର ଆଇନ ସେବା କମିଟି ପ୍ରତିଷ୍ଠା କରାଯାଇଅଛି । ଯଦି ଆପଣ ଆଇନ ଅନୁଯାୟୀ ମାଗଣାରେ ଆଇନଗତ ସେବା ପାଇବା ପାଇଁ ଯୋଗ୍ୟ ବିବେଚିତ ହେଉଥାଆନ୍ତି ଏବଂ ଏହି ସେବା ପାଇବା ପାଇଁ ଚାହୁଁଥାଆନ୍ତି, ତେବେ ଆପଣ ଆଇନ ସେବା ପ୍ରାଧିକରଣ/ଆଇନ ସେବା କମିଟିର ପରାମର୍ଶ ନେଇପାରନ୍ତି ।”]

32. **Persons authorised to issue summons** - Summons issued to witnesses shall ordinarily be signed by the Chief Ministerial Officer of the Court with the words ‘BY ORDER OF THE COURT’ prefixed to signature; but Magistrates and Judges shall themselves sign the summons issued to the accused persons. All summonses shall bear the seal of the Court.

33. **Time and place of hearing to be stated in summons** - Every summons relating to a case shall state the place of hearing and the date and time when the presence of the person summoned is required.

34. **Summons to Military Officers** - Whenever it may be necessary to summon an officer or soldier in Military employ to attend a Criminal Court as a witness, the process-server who is to serve the summons, shall be instructed to take it under cover to the Officer-in-Command of the Regiment or detachment with which the witnesses may be serving and to apply for his assistance in serving it. With his assistance the process-server shall then proceed to serve the process and shall make his return

direct to the Court. In such cases sufficient time should always be given to admit of arrangement being made for the relief of the witness summoned.

35. **Summons to expert** - All summons meant for the Fingerprint or Handwriting Expert should not be sent to any particular expert by name. They should be sent to the Director of the Fingerprint Bureau by designation.

1. Inserted by C.S. No. 95 (XLIX-O-3/2009, Ot. 3.4.2010)

2. Inserted by C.S. No. 95 (XI-31/2011, dated the 18th January 2014)\

3. Inserted by C.S. No. 95 (XI-31/2011, dated the 26th September 2014)

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36. Non-bailable warrant - The date of execution to be stated - The Court may record a separate endorsement on every non-bailable warrant of arrest the date by which the Officer-in-Charge of the Police-station shall report to the issuing Court that the fact of execution or non-execution of the warrant.

37. (1) Time for delivery of process in the Nizarat - Processes should, except in urgent cases, be made over to the Nazir or the Police Officer at least 10 days before the date fixed.

(2) **Register of processes made over for service to Nazir** - A Register of processes made over to the Nazir for service shall be maintained in the Form No. (R) 9-A.

(3) **Register of processes issued to police** - A Register of warrants and other processes issued to each Police Station shall be maintained in the ledger Form No. (R) 1 O, some pages being allotted to each specified Police-Station.

38. **Return of processes** - Processes made over to the Nazir or the Police Officer for service must be returned to the issuing Court as soon as possible, and atleast one day before the date fixed.

39. **English translation of the report when necessary** - When the process which has been served or returned unserved is the process of a Court outside Orissa transmitted for the purpose of service only, then the report regarding service or non-service of the process shall be accompanied by an authorised English translation thereof.

40. Different Register of processes - Rules 35 to 39, 41 and 43 of Part I, Chapter - II of General Rules and Circular Orders (Civil), Volume I shall also apply to processes issued on the criminal side and one common set of Registers in Form Nos. (R) 11, (R) 12 and (R) 13 of the

General Rules and Circular Orders (Civil), Volume II be maintained in respect of both Civil and Criminal processes issued from the Nizarat.]

41. Production of post office records - As regards production of post-office records under Section 92, Criminal Procedure Code, by Post-masters, see Rule 74, Chapter - I, Page 31 of the Post-Office Manual, Volume I, 1912.

42. Process against Members of the Parliament and State Legislature

- No summons or other process issued against a Member of the Parliament or of a State Legislature shall be sent for service to the Presiding Officer or the Secretariat of the Parliament or the State Legislature. No such summons or other process shall be served on any Member within the precincts of the House of which he is a Member.

43. Letter of request - A Letter of request instead of summons should be issued to the Secretary of the House of Parliament or of the

1. Substituted by C.S. No. 1S-IX-1 0/82, dt. 9.6.1982.

State Legislature for examination of any officer of the Secretariat as a witnesses in the Court of law or for production of any document in the possession of the House of Parliament or State Legislature.

44. Production of record from the custody of Parliament or State Legislature - Original documents in the custody of the House of Parliament or of the State Legislatures should not be called for if certified copies thereof would serve the purpose. It is only in cases where parties insist upon strict proof that the Courts should call for the originals.

Note - In this connection attention of the Judges and Magistrates is also called to Section 78 (2) of the Indian Evidence Act which specifies the way in which the proceedings of the Legislature can be proved

45. (i) Arrest of Members of Parliament and State Legislature -

When a Member of the House of the People is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a Court, the Judge or Magistrate, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction as the case may be, as also the place of detention or imprisonment of the member in the appropriate prescribed form.

(ii) When a Member is arrested and after conviction released on bail pending an appeal or otherwise such fact also be intimated to the Speaker by the concerned authority in the appropriate prescribed form;

(iii) The provisions contained in the above sub-rules will apply *mutatis mutandis* to Members of the Council of State and of a State Legislature.

CHAPTER - V

Process - Servers and Nizarat

46. Rules relating to service of process and the duties of Nazir and his staff and the maintenance of various Registers contained in the G.R. & C.O. (Civil), Volume I shall be followed by the Criminal Court.

[Extracts from G.R.C.O. (Civil) Vol. I]

II - PROCESS-SERVER AND NAZARAT

A- Process-serving establishment

67. Process serving establishment - There shall be a joint process serving establishment for all the Civil Courts, Sessions Courts and Courts of Judicial Magistrates at the same station under the direct control of the Nazir who will be responsible for proper service of process made over to him for the purpose. The process-serving peons recruited on the civil and criminal side shall be entrusted to execute processes, both on the civil and criminal sides. The Nazir and the staff shall also be subordinate to any such Court issuing process for the purpose of execution of that particular process and shall place themselves under the order of the Presiding Officer in that regard. The Register of process-serving peons shall be maintained in the prescribed Form (H) 9-R.

68. Strength of process-servers to be determined in every five years -

The Judge of every district shall ascertain after every five years' the average number of original processes issued from his own Court from each of the Courts subordinate thereto during the immediately preceding five years' and fixed the number of process servers to be employed, each peon being for this purpose considered capable of executing during the year the number of original processes given in the following table :

District [Civil Judge (Junior Division)]	Summons and Notices issued by all Courts and other processes issued by 1[Civil Judge (Junior Division)] except in cases valued at over R. 1,000	Processes other than those mentioned in Column (2)
1	2	3
Bhadrak, and Kendrapara	500	225
Sambalpur, Bargarh, Nawpara, Cuttack, Jajpur,	} 450	200
Balasore and Angul		
Ganjam	400	300
Puri	450	200
Dhenkanal	450	200
Bolangir	450	200
Koraput	400	200
Kalahandi	400	200
Phulbani...	400	200
Mayurbhanj...	400	200
Keonjhar...	400	200
Sundargarh...	400	200

Note - (1) For the purpose of this rule all copies of processes served in one village in one case by a process-server at one and the same visit shall be reckoned as one original process, while copies served in the same village for separate visits or in different villages shall be reckoned as separate visits to the same village.

Note - (2) Where a summons or notice is served by a peon at Sadar within the jurisdiction of any outlying 1[Civil Judge (Junior Division)] under the special orders of the Court, it will be treated as belonging to the class mentioned in Column 3.

Note - (3) Processes served by special peons as in the cases of warrants or arrest, should be reckoned as service of three original processes only in case of due execution and not when returned unexecuted.

1. Substituted by C.S. No. 33, IX-1/95, dt. 31.1.0.1995.

Note - (4) Each day on which a peon is occupied in keeping custody of attached movable property, standing crops or of a person under arrest in attending on Commissioners deputed to deliver possession or in taking records, letters etc. from one station to another or in guard duty at the residential office of Judicial Officers should be reckoned as service of 3 original processes.

69. Distribution of process servers - The District Judge may authorise the appointment of such total number of peons for the whole district as may suffice for the execution of all the processes issued for service within it and may from time to time apportion such peons among different stations in such manners as may appear necessary.

70. Increase or decrease of strength of process-servers - On the examination of the figures in the manner as in Rule 68, the District Judge shall increase or reduce the number of peons according as the number of processes has increased or decreased by 10 percent, the surplus permanent hands in case of diminution being gradually absorbed against permanent vacancies by stopping fresh recruitment until the permissible limit has reached.

47. Determination of the Strength of Process Serving establishment -

The Sessions Judge of every Sessions Divisions shall ascertain the average number of original processes issued during the last three years from his own Court and from each of the Courts subordinate to him and the peons to be employed in the Sessions Division shall be sufficient for the execution of that number. The process serving establishment of the Criminal and Civil Courts in the State of Orissa having been amalgamated, each peon of the process serving establishment shall for this purpose, be considered capable of executing during the year the number of original Criminal Processes noted against each district in the following table -

District	Number of original processes	
Cuttack	900
Balasore	900
Puri	900
Sambalpur	900
Ganjam	900
Bolangir	900
Dhenkanal	900
Koraput	600
Kalahandi	600
Phulbani	600
Mayurbhanj	600
Keonjhar	600
Sundargarh	600

Note - The term 'original process' means the original document which is filed with the record of a case, including the names of all persons residing within the jurisdiction of the Court upon whom copies of it (whether it be a summons warrant, notice or other process) are to be served in the same case and at the same time.

CHAPTER - VI

Proceedings under Sections 145 and 147, Cr.P.C.

48. Final orders in proceedings under Sections 145 and 147, Cr.P.c. - Final orders in proceedings under Sections 145 and 147 of the Criminal Procedure Code should be drawn up in Form Nos. 25 and 27 of the Second Schedule of the Code (High Court Forms Nos. (M) 47 and (M) 49, Volume (II) such modifications being made therein in accordance with the provisions of Section 476 of the Code as the circumstances of each case may require.

CHAPTER - VII

Confessions and statements of Accused

49. (i) Time for reflection to confessing accused - The recording of the confession of an accused person immediately on his production by the Police should be avoided. Ordinarily, he should be allowed a few hours for reflection, free from the influence of the Police, before his statement is recorded. The Police should not be allowed to be present when a confession is recorded.

- (ii) **Confession to be recorded in open Court** - Confession should be recorded in open Court and during the Court hours except when unusual circumstances require a different procedure as, for instance, when an open record would be detrimental to the public interest or when the recording of the confession in open Court is rendered impracticable by reason of the fact that the Court is closed for two Or more successive days on account of holidays.
- (iii) **Precautions to be followed before recording confession** - A Magistrate recording a confession should satisfy himself in every reasonable way that the confession is made voluntarily. It is not necessary actually to invite complaints of police ill-treatment, though of these, if spontaneously made, cognizance should be promptly taken of the same. However, it should be made clear to the prisoner that the making or with holding of a statement is within his discretion and any indication of use of improper pressure should be at once investigated.
- (iv) **Certificate about the genuineness of the confession** - The Magistrate should question a confessing prisoner with a view to ascertaining exact circumstances in which the confession was made and the connection of the Police with it, in other words the Court should

record the confessions inasmuch detail as possible with a view to obtaining materials from which its genuineness can be judged and to testing whether it is freely made or is the outcome of suggestion. To the certificate required by Section 164 of the Criminal Procedure Code, the Magistrate should add a statement in his own hand, of the grounds on which he believes that the confession is genuine, of the precautions which he took to remove accused from the influence of the Police and of the time, if any given to him for reflection [*vide* Form No. (M)2].

(V) Warning to the confessing accused - The Magistrate should formally warn the accused though not necessarily in set words, that anything said by him will be taken down and may therefore be used as evidence against him, even if he retracts the same.

(vi) Remand to police custody - A remand to police custody should not be allowed unless good and satisfactory grounds are shown for it, a general statement that the accused may be able to give further information should not be accepted.

(vii) Remand to Magistrate's custody - Whenever possible, where the object of the remand is the verification of the prisoner's statement he should be remanded to the charge of a Judicial Magistrate.

(viii) Period of remand - The period of the remand should always be as short as possible.

(ix) Remand not allowed when confession is declined - A prisoner who has been produced for the purpose of making a confession and who has declined to do so, or has made a statement which, from the point of view of the prosecution, is unsatisfactory, should in no circumstances be remanded to police custody.

(x) Statement by prisoner declining to make confession - If a prisoner produced for the purpose of making a confession declines to make any, the Magistrate before whom he is brought shall record in Form No. (M) 2 the refusal of the prisoner in his own words, and shall also record any statement which the prisoner may desire to make in lieu of a confession.

CASE LAW

After warning sufficient time should be given to reflect and the prisoner should be left alone for some time to collect his mind : AIR 1956 SC 217, 222 : 1956 Cri.L.J. 421. Half an hour was considered insufficient and generally it would be reasonable to insist upon at least 24 hours time : AIR 1957 SC 737.

CHAPTER - VIII

Commitment of the Accused to the Court of Sessions

50. Procedure to be followed by the Magistrate committing an accused to the Sessions Court - 1 [A Magistrate, while committing the accused to the Court of Sessions, under Section 209 of the Code of Criminal Procedure, shall supply to the accused copies of police reports and other documents as required under Sections 207 and 208 of the Criminal Procedure Code on proper receipt. All the commitment records of the Magistrate should also be sent to the Sessions Court immediately for being tagged on with the records of the sessions trial and the Sessions Judge after final disposal of the case, should consign those papers to the Record Room along with the Sessions case record for preservation and destruction with the sessions case record as per the rules prescribed. The Committing Magistrate shall also supply to the Public Prosecutor and the State Defence Lawyer, if any, a brief of the case records which shall consist of the following :-

- (a) The report of the Police Officer of the complaint.
- (b) The First Information Report recorded under Section 154 of the Criminal Procedure Code or the complaint petition.
- (c) Statements recorded under Sub-section (3) of Section 161 of the Criminal Procedure Code of all persons cited as witnesses in the charge-sheet or the statements recorded under Section 200 or 202 of the Criminal Procedure Code of all persons examined by the Magistrate.
- (d) The confession and statements, if any, recorded under Section 164, Cr.P.c.
- (e) Seizure List.
- (f) Spot Map.
- (g) Inquest Report.
- (h) **Post-mortem** certificate or injury certificate
- (i) Dead body chalan.
- (j) Command certificate.
- (k) Letter forwarding articles to the Chemical Examiner.
- (l) Report of the Chemical Examiner and seizure list.
- (m) T.I parade report.

The receipt of the above shall be obtained in Form No. (M) 24
(A) and the same shall be forwarded along with the record to the
Court of Sessions.

CASE LAW

When the case is committed to the Court of Session, the Committing Court shall remand to accused to custody till conclusion of trial :

1993 (I) OLR 532 : *Amiya v. State.*

51. Enquiry as to the means of the accused committed -

When a Magistrate commits an accused to the Court of Sessions, he should enquire whether the accused has sufficient means to engage a pleader and he should question the accused whether he desires to make his own arrangements for his defence in the Sessions Court or whether arrangements should be made by the Sessions Court to engage a lawyer on his behalf. In either case the Magistrate should when committing the accused intimate the Court of Sessions accordingly.

52. [The Committing Magistrate while committing the accused to the Court of Session under Section 209, Criminal Procedure Code, will fix a date on which the accused will appear in the Court of Session and will obtain a personal bond from the accused whom he releases on bail. On the accused appearing the Sessions Judge will decide whether the case will be retained in his Court or will be transferred to the Court of additional/Assistant Sessions Judge and fix the date for appearance of the accused before the said Court.]

CHAPTER - IX

Sessions Business

53. Register of Sessions cases - Cases committed to the Court of Session shall be entered in the Register of sessions cases in Form No.

(R) 23 serially in the order of receipt of commitment records in the Sessions Court. The series of numbers shall be separate for each calendar year. A separate index number shall be given to each accused.

Note - (1) Separate Registers for each Revenue district shall be maintained.

- (2) Special cases under the Criminal Law Amendment Act, 1952 (XLVI of 1952) shall be entered in the Trial Registers in Form No. (R) 3, separate Registers being maintained for each Revenue district.
- (3) For statistical purposes, sessions cases should be treated as brought to trial during the year when the accused is committed irrespective of the fact whether the records are received in the Court of Sessions during the year or during the next succeeding year.

54. Abstract of charge - Column 4 of (R) 23 is meant to contain an abstract of the charge, offences are to be stated as concisely as possible with the section of the Indian Penal Code or other law applicable. When a prisoner is charged with several offences, the heads

1. Substituted by C.S. No.72, XLIX - D6/91, Dt. 4. 4. 1996.

of charge on which he has been convicted must be indicated by red underlining.

55. Reasons of adjournment and passing of light or severe sentence to be noted in the Register - In the column of Remarks of Form (R) 23, Sessions Judges should state the grounds of postponement when any trial is postponed; the sentence passed on any prisoner in addition to any other sentence in a different case passed at the same Sessions or one which is to take effect on the expiration of another sentence which the prisoner may be undergoing; the reasons which have prompted a specially light or specially severe sentence in any particular case and generally any matter necessary to enable the High Court to exercise the power of revision vested in it by Chapter - XXX of the Code of Criminal procedure.

56. Particulars of previous conviction - Whenever an enhanced sentence is passed upon an accused on conviction on a charge within the terms of Section 75 of the Indian Penal Code, the Sessions Judge should enter in the column of Remarks of (R) 23, the date of each previous conviction, the offence charged, and the sentence passed on each occasion.

57. **Priority to sessions case** - Sessions cases should usually be given preference over civil and other criminal matters, but every Sessions Judge should arrange as he finds most convenient, for the disposal of urgent civil and criminal matters.

58. Sessions case to be heard in order of receipt - Sessions trials should ordinarily be held in the order in which commitments are made. Sessions Judge should, however, exercise his discretion in the matter of giving priority to certain cases, particularly cases involving capital sentence subsequently received judging the seriousness of the offence and the convenience of the accused. It should always be the endeavors of every Sessions Judge to see that the sessions trial is brought to a close with due expedition and without unnecessary adjournments.

59. Fixing Circuits at a place not notified - If any Sessions Judge wants to fix any circuit at a place not notified to be a place of circuit, he should in advance intimate the reasons thereof to the High Court and obtain prior approval.

60. Arrangement of Sessions business in Circuits - As far as possible at least two sessions cases should be posted for hearing in every circuit. Part-heard sessions cases should be combined with other sessions cases. A circuit solely for the purpose of consideration of charge or hearing on the question of sentence or for delivery of judgment should, as far as possible, be avoided. If, however, no other business is available, the Sessions Judge should devote the rest of the day in inspection work.

Instances of fixation of circuits for anyone of the above purposes should be intimated to the Court.

61. Posting of civil and criminal appeal - The Sessions Judge may also post some civil and criminal appeals ¹[and civil and criminal revisions] arising out of the place of circuit and presented by local lawyers for hearing along with sessions cases.

62. Court hours not to be spent on journey - Save in exceptional circumstances working hours of the Court should not be wasted merely for journey to and from the place of circuit and the place of the headquarters.

63. When an Asst. Sessions Judge to submit records to the Sessions Judge - When an Assistant Sessions Judge on consideration of the records and documents and after hearing the parties finds that a case comes within the purview of Section 228 (1) (a), Criminal Procedure Code, he shall instead of framing charges resubmit the record to the Sessions Judge along with a report supported by reasons that the case is not triable by the Court of Sessions. The Sessions Judge would then make arrangements for transfer of the cases to the file of the concerned Chief Judicial Magistrate for disposal according to law.

64. Arrangement to be made when Sessions Judge is unable to proceed to a place of circuit - When a Sessions Judge has fixed cases at different places of circuit one after another, and is unable to close the case at the first place to enable him to proceed to the next place, he shall make such arrangements sufficiently ahead at the second place as he deems fit to relieve the prisoner from unnecessary prolonged detention as also to minimise inconvenience to the witnesses.

²[**65. Rules relating to appointment of the State Defence Counsel** Rules, 1974 as amended is reproduced below:

(1) These rules may be called the " Appointment of State Defence Counsel Rules, 1974".

(2) They shall extend throughout the State.

(3) These rules shall come into force at once.

(4) ³[(a) *State Defence Counsel*- 'State Defence Counsel' means a counsel appointed by a Court of Sessions or by a Court of Magistrate for defence, at the expenses of the State, of an accused who is not represented by a Pleader and who has not sufficient means to engage a Pleader in sessions trial or in any other criminal trial, as the case may be.

1. Inserted by C.S.No. 85, XLIX-D-8/98, dt. 31.12.1998.

2. Substituted by C.S. No.32-XI-1 /81, dated 21.1.1984.

3. Substituted by C.S.No. 71 - IX-6/90, Dt. 4.4.1996.

- (b) If an appellant in a Criminal Appeal pending before the Sessions Judge/Additional Sessions Judge/ Assistant Sessions Judge has no means to engage an advocate or if an advocate appearing for him does not attend the Court and does not argue when called on for hearing or submits a memo of "no instruction" the Sessions Judge, or the Additional Sessions Judge or the Assistant Sessions Judge, as the case may be, shall appoint an advocate *amicus curiae* to represent the appellant and dispose of the appeal after hearing him.
- (C) The advocate *amicus curiae* so appointed shall be governed by the same terms and conditions which govern the State Defence Counsel appointed in a Sessions case under these rules.]
- (5) **Panel of Defence Counsel** - The Sessions Judge shall prepare a panel of legal practitioners with their consent for each place of sitting of the Court of Sessions and for each Magisterial Station in his Sessions Division, keeping in view the need of such station, for being appointed as State Defence Counsel every calendar year.
- (6) (i) **Qualification** - A person shall be eligible to be included in the panel for appointment as State Defence Counsel in sessions cases only if :
- (a) he has been in practice as a lawyer for not less than 7 years ; or
 - (b) he had been a member of Judicial Service of the State for not less than 7 years :
- Provided that in computing the period of service as aforesaid, the period of practice as a lawyer shall be taken into account.
- (ii) A person shall be eligible for inclusion in the panel of State Defence Counsel in Magisterial Courts only if :-
- (a) he has been in practice as a Lawyer for not less than 5 years; or
 - (b) He had been a member of Judicial Service of the State for not less than 5 years.
- (7) A Court of Session or a Criminal Court shall not, so long as a Panel Lawyer is available, appoint an outsider as State Defence Counsel.
- (i) **Resignation** - Any person in the panel may tender his resignation in writing to the Sessions Judge.
 - (ii) **Filling up vacancy** - Any vacancy in the panel caused by resignation or otherwise may be filled up by Sessions Judge.
 - (iii) **Penalty for negligence or refusal to accept any engagement** -
If any person after having agreed to serve in a Panel neglects or refuses to accept an engagement without any reasonable cause his name will be struck off the panel.

- (iv) *Removal from Panel* - If any counsel after accepting any engagement neglects or refuses to discharge his duties properly, his name may be struck off the panel.
- (8) *Time for appointment* - The appointment of State Defence Counsel shall be made, sufficiently ahead of the commencement of the trial. The concerned Magistrate shall make the appointment from out of the panel prepared by the Sessions Judge under Rule 5 for that station.
- (9) *Supply of brief* - The State Defence Counsel shall be furnished with a brief of the case free of cost at least seven days before the commencement of the trial. If after appointment of State Defence Counsel, the accused appoints another counsel, the appointment of State Defence Counsel shall cease and the brief prepared for the State Defence Counsel shall be made available to the Counsel privately engaged by the accused.
- (10) *Grant of free copies* - No fees are to be required or paid for searching for or copying papers wanted by the State Defence Counsel for the purpose of defending the accused in the case.
- (11) *Fees of defence counsel* - The daily fees of the State Defence Counsel in Sessions and Criminal Cases shall be the same as the fees of Public Prosecutor or Assistant Public Prosecutor, as the case may be, as fixed by the State Government from time to time.
- (12) *Fees when employed outside headquarters* - The fees of the State Defence Counsel when employed outside their usual headquarters shall be double the usual daily fees at the headquarters.
- (13) *Fees during halt on holidays* - The daily fees at the headquarters shall ordinarily be allowed to the State Defence Counsel for the days of necessary halt at intervening holidays during the absence from headquarters.
- (14) *No fees if case is adjourned without hearing* - [The State Defence Counsel shall not be entitled to any fee on dates when cases are adjourned without hearing but half fee may be admissible when he attends the Court to hear the judgment pronounced or for all un-expected adjournments of a case and for putting appearance in interlocutory matter including hearing of bail applications.]
- (15) *Travelling allowance* - The State Defence Counsel shall be entitled to traveling allowance at the rate admissible to Public Prosecutors.
- (16) *Separate defence counsel for separate accused when necessary*
- If a State Defence Counsel has to be engaged for several accused persons and their respective defences are such that it appears to be undesirable to entrust the defence of all the accused persons to a single

1. Substituted by C.S.No. 63 - XLIX-O-4/89, Ot. 18.9.1992.

Counsel, as many pleaders may be appointed for the defence, as the necessity of the case seems to require :

Provided that a single Defence Counsel shall be appointed for more than one accused unless there is conflict of interest.

CASE LAW : Whenever a criminal appeal is filed and the appellant does not appear, then the course open to the appellate Court is to appoint an Advocatus curiae: Tikan Bindhani v. State of Orissa : 2010 (I) OLR 190.

CHAPTER - X

General Provisions as to Enquiry or Trial.

66. List of witnesses to be filed in the first hour - In Sessions cases and Police cases, the Public Prosecutor or the Assistant Public Prosecutor and in non-police cases the parties shall be required to make over to the Bench Clerk not later than 11 A.M. (Standard time) in case of day sittings and 7.30 A.M. (Standard time) in case of morning sittings, a list, verified dated and initiated by such officer or the witnesses who are in attendance for examination. The omissions of a name of the witnesses from the list shall be no bar to such witness being examined if presented for examination but no costs shall be allowed to any witness on account of his expense for the day's attendance if his name is neither entered in the list nor he is actually examined.

Note 1 - This rule in no way affects the obligation on the part of witnesses to attend punctually at the time for which they are summoned.

Note 2 - Not only the names of the witnesses entered in the lists mentioned in this rule but also of those whose names though not so entered are actually examined will find entry in the Register of attendance of witnesses which is to be filled up by the Bench Clerk.

- 67. Convenience of lawyers no ground for adjournments** - The convenience of lawyers shall not ordinarily be regarded as a good ground for adjourning a case.
- 68. Examination of witnesses proceeding outside India** - All Courts should take care that officers who are about to proceed on leave out of the State, are examined before their departure, in any pending criminal cases in which they are important witnesses.
- 69. Prolonged postponement of cases for examining handwriting expert to be discouraged** - Where the evidence of the Government expert in handwriting cannot be obtained without undue delay and inconvenience, other available evidence should be taken. The prolonged postponement of criminal trials for the purpose only of obtaining expert evidence of handwriting should be discouraged.
- 70. Accused may sit during trial** - The accused person should be informed by the Court at the beginning of every trial that he may sit, if he desires to do so, and chairs or benches should, whenever available, be provided for this purpose. The accused must, however, stand up, whenever he is addressed by the Court.

71. **Witnesses to give evidence from the witness box** - No witness should be provided with any seat in the dias. All witnesses should give their evidence from the witness box. A witness should normally stand when giving the evidence. But, however, a chair may be provided in the witness box, upon which any witness may sit receiving the prior permission of the Presiding Judge or Magistrate, as the case may be. This permission may be given on valid grounds such as (a) health, (b) age, and
- (c) the length of time to be occupied in giving the evidence and the like.
72. **(1) Verification of solvency of sureties** - The responsibility for accepting the surety as solvent for the required amount is primarily that of the Presiding Officer of the Court and in ordinary cases he should discharge it himself by making such summary enquiry as in the circumstances of the case he might think fit. This enquiry should in no event be left to be done by the Bench Clerk or any other official of the Court.

(2) Insistence upon the possession of immovable property by sureties in bonds of small amounts not exceeding R. 1,000 would cause serious inconvenience to the accused in procuring a surety. The Judge or Magistrate may, therefore, in suitable cases, where the amount of the bond does not exceed R. 1,000 / - assess the solvency of the surety even upon the basis of his movable property and assets. The intending surety should present his application for surety ship in Form No. (83-A). The Judge or Magistrate should consider the application in the light of proof produced and, if necessary, examine the surety personally and may also require further proof as he deems fit. The Judge or Magistrate after necessary enquiry may pass an order either accepting or rejecting the application.

1[72. A. Whenever an accused is released on bail he need not ordinarily be required to appear before the Court until the charge sheet is filed and the process is issued by the Court. The Magistrate while releasing the accused on bail should require execution of a bond with or without surety, as the case may be, binding the accused not only to appear as and when required before him but also to appear when called upon in the Court of Sessions.]

CHAPTER - XI

Mobile Courts

73. Holding of Mobile Courts - The Judicial Magistrates who have powers to take cognizance should comply with the requisitions for holding Mobile Courts but always subject to their previous engagement

in the Court.

1. Inserted by C.S. No. 39-XLIX-D-47-84, dt.25.8.1984.

THE HIGH COURT OF ORISSA

74. **Mobile Court Magistrate should dissociate from Police Officers** - The Judicial Magistrates should dissociate themselves from investigation or detection of offences by the Police and Excise Officers.
75. **Manner of noting the Mobile Court cases in the Register** - The Judicial Magistrate holding Mobile Courts should take with him the Trial Register of his Court and enter all cases of which he takes cognizance during mobile duty. After return to the Court, the Bench Clerk should fill up these cases in the appropriate Register in Form No. (R) 1 with the help of the Trial Register and also fill up Column 2 of the latter Register. To facilitate quick compilation of figures, these cases may be indicated by the letter 'M' below the serial number of the cases in Column 1 of the Trial Register for the purpose of distinguishing them from the regular cases.
76. **Realisation of fines in Mobile Courts** - Realisation of fines imposed in Mobile Courts should in no case be left to the Bench Clerk. The Magistrate holding Mobile Court should himself collect the fines and deposit the same with the Nazir on return to headquarters.
77. **Issue of receipts** - The Magistrate shall issue a receipt in Form No. (A) 8-D to the persons paying fines at the spot in the Mobile Court.

CHAPTER - XII

Commission for Examination of Witnesses

78. **Commission to the Master of the Mint of the Controller of Paper Currency** - When the evidence of an officer connected with the Mint of the Currency Department at Calcutta is required as to the genuineness or spuriousness of a coin or currency note, the Court or Magistrate concerned should ordinarily send the coin or currency note, to the Magistrate of the Mint or the Controller of paper currency as the case may be, under cover of the Court-seal or by a messenger for his examination and report. As to the summoning and examining officers of the Mint, attention of the Judicial Officers is drawn to Section 292 of the Criminal Procedure Code, 1973.
79. **Commission to the Controller of Printing, Stationery and Stamps, Calcutta** - Summoning of officers of the Stamp Department, Calcutta to give evidence in Criminal Courts regarding the secret water mark causes considerable inconvenience to that Department. In cases, therefore, in which such evidence is required the Court should, unless there be special reasons to the contrary, consider the desirability of sending the papers to the Controller of Printing, Stationery and Stamps, Calcutta, under cover of the Court-seal, or by a messenger for his examination and report. As to the summoning and examining officers

Of the Controller of Printing, Stationery and Stamps attention of the Judicial is inflicted to the Criminal Procedure Code, 1973.

Note - The procedure indicated in Rules 78 and 79 above shall be followed *mutatis mutandis* for the examination as witnesses of the Indian Security Press, Currency Note Press and the Central Stamp Store, Nasik Road.

80. Issue of commission of foreign Court - Commission for the examination of witnesses residing in the foreign countries to be issued under the Criminal Procedure Code, 1973 should be issued to the Courts or Judges or Magistrates as specified in Appendix VII as having authority in this behalf in' that country.

81. Form to be used - In issuing such commission, Form No.

(M) 88-A should be used except in the case of colony of Singapore in respect of which Form No. (M) 88-B should be used.

82. Commission to be forwarded through High Court - It should be noted that commission issued to witnesses residing in the colony of Singapore are to be forwarded through the High Court which has to forward it direct to the High Court in the colony of Singapore unlike the Commission issued to witnesses residing in other foreign countries specified in Appendix VII which have to be sent through the Channel of Ministry of External Affairs, Government of India, New Delhi, for onward transmission to the foreign Courts concerned.

CHAPTER - XIII

Mode of Recording Evidence

83. Manner of recording deposition - Depositions should be written on both sides of the paper, a margin of one-fourth of the sheet being left blank. Only one deposition should be written on each sheet of paper.

84. Use of typewriting machine f or recording deposition -

A typewritten machine may be used for the purpose of recording depositions and memoranda of evidence in criminal cases. The typewriting machine must be used by the Presiding Officer himself or by the person who records the depositions and memoranda of evidence to the dictation of the Presiding Officer in open Court and a certificate must be given that this has been done. Each page of the record so made must be attested by the Presiding Officer's signature.

85. Description of witness and accused to be in the hand of the Presiding Officer - Every Sessions Judge and Magistrate shall, in the examination of witnesses and accused persons, record in his own handwriting in each deposition or statement, the name of the person

Examined, the name of his or her father and if a married woman the name of her husband, profession and age of the witness or accused person and the village, thana and district in which the witness or accused person reside. The entry of age shall be the Presiding Officer's own estimate and in his own handwriting.

Note - In recording the profession a general word like 'service' should not be used. The precise nature of the service should be indicated.

86. Expression of doubtful expressions - (a) In depositions in which there may be any doubt as to the exact meaning of any expression used and in which the doubtful expression has an important bearing on the defence with which the accused is charged, the words actually used should be transliterated in order that the Court may be in a position to determine their exact signification.

(b) Use of interpreter - Should any instance occur in which a foreign language is used or in which the evidence may be given in a dialect with which a Judge may be unaccustomed, an interpreter may be employed.

(c) Expenditure of interpreter - All Sessions Judges and District Magistrates are authorised to incur expenditure on account of interpretation of evidence given in Kui, Khond, Ho, Savara and other Adibasi languages not understood by the accused or Court or the Lawyers, [to a limit not exceeding Rs.25/- per day]. Sessions Judges and District Magistrates are also empowered within the limit prescribed to pass similar charges incurred by Magistrates subordinate to them. Sessions Judges and District Magistrates will report to the High Court expenditure incurred under this rule, as it is incurred.

87. Deposition to be paragraphed - Deposition of each witness should be separately paragraphed and consecutive numbers should be assigned by them.

88. Reading over certificate to be personally signed by the

Presiding Officer - The Magistrate or Presiding Judge shall personally sign the certificate at the bottom of the deposition of each witness to the effect that "Read over and explained to the witness in presence of the accused/pleader representing the accused and admitted to be correct."

CASE LAW

Rule 88 - Magistrate/Presiding Judge, shall personally sign certificate at Bottom of deposition of each witness - Duty of trial Jutiqe or Magistrate - Discussed: Radheshyam Singhania v. Ranjit Kumar Patnaik and another : 1(1999) CCR 546 : 1 (1999)BC 157.

THE HIGH COURT OF ORISSA

Rule 88 - Trial Court's duty under - Indicated.

Held, according to the provisions in Chapter XIII in the General Rules and Circular Orders of the High Court of Judicature, Orissa (Criminal) (Vol. I) in Short, "G.R.C.O.) Rule 88 after recording the deposition of a witness it is a bounden duty of a trial Judge or the Magistrate, as the case may be, to read over and explain the contents of the deposition to the witness in the language he understands and thereafter the witnesses called upon to sign on the deposition and accordingly that certificate is granted: Radheshyam Singhania v. Ranjit Kr. Patnaik and another : 85 (1998) CLT 407 : (1998) 15 OCR 282.

89. Deposition regarding several accused of the same name at one trial - When several accused persons bearing the same or similar names are included in one trial, care should be taken in recording the evidence given by such witness, to specify the name of the father of the accused whenever the name of anyone of them is mentioned.

90. Evidence of person who is about to die - When any person whose evidence is essential to the prosecution of criminal charge against any accused person, or to the proper investigation of an alleged crime with which no person has been specifically charged, may be in imminent danger of dying before the case comes to trial, the deposition of such persons, if possible, be recorded in the presence of such accused person (if any), or of attending witnesses, and in the event of his death, submitted at the trial as evidence of this fact.

91. Marking of documents on behalf of defence on - The Courts shall mark the documents (a) which are admitted as evidence on behalf of the prosecution with figures in the order in which they are admitted thus :

Exhibit I, Exhibit 2, etc.

(b) Making of documents on behalf of defence - The documents admitted as evidence on behalf of the defence with capital letters, thus :

Exhibit A, Exhibit B, etc.

(c) Documents marked by the Court - When documents are admitted at the instance of the Court and neither party is willing to accept them as evidence on his behalf, they shall be marked as C-I, .C-II, etc., Etc.

92. Marking of a series of documents of the same nature - When a number of documents of the same nature are admitted, as for example a series of receipt for rent, the whole series shall bear one number or capital letters, a small number, or small letter being added to distinguish each paper of the series, thus :

Exhibit I1, 12, etc.

a b etc., Etc., Exhibit

Aa, Ab, etc., etc. Exhibits C-

I/1, C-II/2, etc., Etc.

93. List of documents admitted in evidence - A list of the documents admitted in evidence on behalf of the prosecution and another of document admitted in evidence of the defence shall be prepared by the Clerk of the Court, and signed by the Judge/Magistrate. The documents shall be entered in these lists in the order in which they are admitted and marked. [*For form of list see Form No. (M) 20, Volume II*].

94. Whenever a document is admitted in evidence it should not ordinarily be returned until the case in all its stages is over. Return of documents may, however, be ordered whenever the Court is of opinion that a reference to the original documents is not necessary. But in all such cases the document can only be returned on substitution of a certified copy.

95. Separate file for documents received in evidence -

Documents admitted as evidence at the trial and not included in file A, shall not be shown in the table of contents of that file, but shall be placed in a separate or supplementary file to which is to be attached to the list referred to in Rule 93. This file will include not only documents produced for other purposes, but also documents used to refresh the memory of witnesses, e.g., reports of a medical witness, etc.

96. Documents not admitted in evidence - Documents which

have not been admitted in evidence should not be made part of the record unless the Court directs otherwise. They should immediately on the conclusion of the trial, be returned to the person producing them or his pleader after he has signed the receipt for the same in the appropriate column of the list [*Form No. (M) 21*]. A Pleader when required to do so is bound to take back any document produced by his client which has not been admitted in evidence and to sign the receipt referred to above.

97. Marking of Articles admitted in evidence - When any

article connected with the offence charged is produced in a Criminal Court and, after being proved is admitted in evidence, it shall be marked by the Court with a Roman Number, thus -

M.O.I., II, III, etc.

98. List of articles admitted in evidence - List of such articles admitted in evidence shall be prepared by the Clerk of the Court, and shall be signed by the Judge. The articles shall be entered in the list in the order in which they are admitted and marked. [*For form of list, see Form No. (M) 20, volume II*].

99. Return of articles to be marked in the list - Whenever an article, which has been admitted in evidence is returned, or destroyed, a note of the fact shall be made in the column for remarks.

CHAPTER - XIV
Judgment and Sentence

100. **Judgment to be legibly written** - Judgment should be written with a margin of one-fourth of each sheet being left blank.

101. **Procedure when the Judgment is transcribed by Stenographer or typed by Typist** - A Stenographer may be employed to record judgment in criminal cases, provided that the Presiding Judge attaches a certificate to the effect that the judgment has been recorded Athis dictation and attests each page thereof by his signature.

Note - (1) When a Presiding Judge uses a typewriting machine himself, a certificate must be given that this has been done and each of the record so made shall be attested by his signature.

1[* * * * *]

102. Judgments to be paragraphed - Judgment should be written down in separate paragraphs by assigning consecutive numbers to them.

103. (a) Remarks in culpable homicide cases - Sessions Judges, in all cases in which they convict persons for culpable homicide not amounting to murder, shall invariably mentioned in their judgment the circumstances under which the culpable homicide was held not to amount to murder.

(b) Sessions Judges shall invariably record their opinion whether the act by which death was caused was done with the intention of causing death or of causing such bodily injury as was likely to cause death, or with the knowledge that it was likely to cause death, but without any intention to cause death, or to cause such bodily injury as was likely to cause death.

104. Noting the nature of case at the end of acquittal judgments

- The Judicial Magistrates are required to declare at the end of their acquittal judgments whether the cases are found to be true, intentionally false, mistake of fact or mistake of law, as the case may be, for statistical purposes.

105. **(a) Hearing on the question of sentence** - The hearing of argument on the question of sentence should be taken up soon after the pronouncement of the judgment of conviction. If, however, it is considered necessary to adjourn hearing on the question of sentence,

adjournment may be granted for a short period and necessary measures

1. Deleted by C.S.No. 4-XLIX-D-21 /79, dt. 19.10.1979.

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may be taken for securing the attendance of the accused on the date of hearing on the question of sentence and the passing thereof.

(b) Judgment in any criminal case cannot be deemed to be complete unless the sentence is passed. The Presiding Officers should, therefore write and sign the judgment up to the stage of finding the accused guilty and convicting him for particular offence and after completion of the hearing of argument on the question of sentence, the Judge or the Magistrate, as the case may be, may pronounce the sentence imposed. The list of witnesses examined, documents and material objects exhibited should then be appended to the judgment thereby making it complete in all respects.

106. **Procedure of passing enhanced sentence** - Whenever an enhanced sentence is passed on conviction on a charge within the terms of Section 75 of the Indian Penal Code, the Sessions Judge or Magistrate shall state in his judgment the date of such previous conviction and the sentence passed as well as particular offence charged.

107. **Mode of recording of order of acquittal of Lunatics** - The following is suggested a suitable form of finding of acquittal on the ground of insanity:

"The Court finds that (.....) did kill (.....) by striking him on the head with a club but that, by reason of unsoundness of mind, he was incapable, of knowing that he was doing an act which was wrong or contrary to law, and that he is not therefor guilty of the offence specified in the charge, *viz*and the Court directs that the said (.....) be acquitted, and that, under the provisions of Section 471, Criminal Procedure Code, the said (.....) be kept in safe custody in the ".

108. **List of witnesses, documents and material objects to be appended to the judgment** - The list of the witnesses examined, the documents and material objects admitted in evidence in the case should be appended to the judgment of every case in chronological order. For copying purposes, however, such lists will not be treated as a part of the judgment unless the copy applied for is for the purpose of appeal or revision.

109. Time for delivery of judgment - Ordinarily judgment in all criminal cases, appeals and revisions should be delivered soon after the hearing. But where it is not possible to do so, either on account of the length of the case or for other sufficient reasons, the delivery of judgment should not be postponed *sine die*. A definite date should be fixed not more than 1[three weeks] after the conclusion of arguments on which the judgment should be delivered. But in any case, the judgment must be

delivered within 30 days from the date of conclusion of arguments. All cases in which the judgment is not delivered within '[three weeks] from the date of the conclusion of argument, should be brought to the notice of the Registrar, High Court direct by means of a demi-official letter by the first day of every month next succeeding the date of delivery of the judgment furnishing copies thereof to the respective Sessions Judges stating therein the names of the parties and the numbers of the cases in which judgments are delivered after more than 1[three weeks] in their respective Courts. Particulars as to the number of adjournments made, if any, after the conclusion of hearing and the dates of such adjournments till the delivery of judgments shall also be stated.

Note - The period of 30 days and 2[three weeks] may be reckoned from and exclusive of the date on which arguments are heard and concluded.

110. **Delivery of all pending judgments by Judicial Officers either proceeding on leave or on transfer** - Judicial Officers before proceedings on leave or transfer and before making over charge should deliver all pending judgments and intimate the fact of clearance to the Sessions Judge and in case of Sessions Judges to the High Court.

111. **(a) Communication of observations in judgments** - When a Sessions Judge or a Magistrate has any occasion in any judgment whether at any trial or on appeal or in revision expressly to condemn or to praise the action of the police or of any particular police officer, a copy of such judgment should be forwarded to the District Magistrate for his information and necessary action.

(b) Observations, either of an adverse or commendatory nature made about an Executive Magistrate by any Sessions Judges or Judicial Magistrate should be forwarded to the State Government in Home Department by the Sessions Judge concerned, for their information and necessary action.

(c) Such observation made about any other public servant made by the Court of Sessions or Magistrate should be brought to the notice of his immediate superior officer.

112. **(a) Forwarding copies of judgments of Courts to different authorities** - Sessions Judges and Magistrates should forward to the Defence Department (Army Branch) of the Government of India copies of judgments of all cases in which Commissioned Officers have been tried for criminal offences. In the case of other ranks, it is not necessary to supply copies of judgments, but the Defence Department should be supplied with copies of the conviction and sentence only.

2. Substituted by C.S. No. 24-XLIX-D-1 0/82, dt. 13.1.1983.

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Whenever a Military pensioner is convicted and sentenced to imprisonment and also when such conviction and sentence are confirmed in appeal, a copy of the judgment should be sent by the Criminal Court or the Appellate Court, as the case may be, to the Controller of Defence Accounts (Pension), Allahabad and another copy to the pension paying officer concerned.

(b) In the case of a reservist of the Army who may be sentenced by a Criminal Court to imprisonment for any term exceeding three months, a report should be made to the Commandant of the Regimental Centre (Ministry of Home Affairs letter No. 110/50-Judl., dated the 12th October 1950). A list of Regimental Centres will be found in Appendix VI.

1. Sessions Judges and Magistrates shall forward to the Registrar of the Council of Medical Registration, Orissa, free of charges, a copy of the judgment in all cases where a Registered medical practitioner is convicted of any non-bailable offence. In other cases when a judgment contains any unfavorable remarks on the professional conduct of a Registered medical practitioner, whether accused in the case or a witness, a copy of the judgment or relevant extracts therefrom, shall be sent if the Court pronouncing the judgment considers that the conduct of the Registered practitioner has been such that it is desirable to call the attention of the Medical Council to it.
2. Sessions Judges and Magistrates shall forward to the Inspector General of Registration, a copy of judgment in which the official character and conduct of a Registering officer is impugned.
3. Copies of judgments should be sent by all Sessions Judges and Magistrates to the Forensic Science Laboratory in all cases where a reference was made to the Laboratory for examination of exhibits which helped the investigations of cases. Copies of such judgments or orders or the manner of disposal of the case may be sent to the S.P. (C.I.D.) Crime Branch who will transmit the same to the Laboratory concerned.

(F) Copies of judgments in cases tried by a Court of Session or a Chief Judicial Magistrate should invariably be sent to the District Magistrate concerned within 3 days of the delivery thereof.

(g) In all criminal cases instituted on the complaint of a Court, a copy of the trial Court's judgment may be sent to the complaining Court as soon as practicable after judgment has been pronounced.

113. Copy of Sessions judgment to committing Court - Copies of judgments in sessions cases should be sent to the committing Court who after making necessary entries in the concerned Registers shall return the same.

114. **Copy of appellate judgment to the trial Court** - The appellate Courts shall send a copy of judgment in appeal to the Court against whose judgment the appeal was preferred.
115. **Shorthand note books to be page-marked and signed** - Every shorthand note book used by a Stenographer for taking down dictations of judgments and orders shall be page marked consecutively according to the sequence in which the pages of the note book are made use of and signed by him in each page. He shall put his signature with date at the end of the record of every dictation.

CHAPTER - XV

Appeals

(CHAPTER - XXIX, CR.P. CODE)

116. **Separate or joint appeals** - Where several accused persons are convicted in a single trial, each of them can prefer an appeal against his conviction either separately or jointly with one or more of the other accused when one accused has been convicted at different trials, he should prefer a separate appeal in each case.
117. **Manner of forwarding Jail appeals** - Petitions of appeal against the sentence or orders of Sessions Judges, presented to officers in charge of Jails shall be forwarded by such officers direct to the Registrar of the High Court, intimation of the fact being at once given, in each instance, to the Judge whose sentence or order is appealed against by sending him a copy of the letter [*in Form No. (M) 16, Volume II*] addressed to the Registrar with forwarding Memo.

Note - Sessions Judges need not send the records of such cases to the High Court until they are requested to do so upon the admission of the appeal.

118. Manner of intimation of the date of hearing and calling

for record - In the case of appeals preferred to the Court of Session by persons convicted or directed to execute bonds under Sections 108 to 110, Cr.P.c. by Judicial Magistrate or directed to execute bonds under Section 107, Cr.P. C. By an Executive Magistrate at the Sadar Subdivision of a district, the letter intimating the date fixed for the hearing and calling for the record of the case [*Vide Form No.(M) 11, Volume II*] should be sent by the Sessions Judge to the Chief Judicial Magistrate in case of appeals against the sentence or order of a Judicial Magistrate or to the District Magistrate in case of appeals against the order of an Executive Magistrate for compliance. In the case also of persons convicted or directed to execute bonds as

aforesaid by Magistrates at other subdivisions the letter should be sent to the Chief Judicial Magistrate or the District Magistrate as the case may be for compliance, and duplicate thereof sent' at the same

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Time, to the Sub-divisional Judicial Magistrate or Sub-divisional Magistrate concerned.

Note - Notice of hearing of the appeal shall be given to the complainant (Private prosecutor, mentioning therein that the State has the right to appear to oppose the appeal and that except where the right is given by the law to him, the person to whom the notice is issued, requires the permission of the Court to appear, and ordinarily will not receive such permission, if the State appears.

119. Forwarding sessions records to the High Court - When the record of a case tried at the Sessions is submitted to the High Court, the Sessions Judge shall forward simultaneously all the police diaries connected with the case. He should also forward such of the material exhibits in his opinion will be of importance at the hearing in the High Court and if any such exhibit is bulky, he should ask for the instructions of the High Court. It is important to send any material exhibit directly connecting the accused with the crime. In murder and homicide cases all weapons of offence should invariably be forwarded. Such of the material exhibits as are not sent up with the record should not be returned or destroyed until the period for filing an appeal has expired, or if an appeal is filed, until the appeal has been decided.

Note - When records are called for by the Appellate Court for purpose of reference in appeals, revisions and references, the trial Court or the Court which is in custody of records should call for all the records and documents even if they were returned to the parties, make the records complete and then send them to the Appellate Court.

120. Report about the means of the accused to engage a pleader-When the records of a case tried at the Sessions is submitted to the High Court in connection with Section 366 or 378 of the Code of Criminal Procedure, the Sessions Judge shall also state whether the accused has funds or not to employ a pleader in the High Court for his defence and in the case of an appeal under Section 378 or of a revision under Section 397 of the Code of Criminal Procedure when notice has been given to the accused to show cause why the order passed should not be set aside, and sentence of death passed, the Chief Judicial Magistrate shall, in returning the notice, state thereon whether the accused has funds or not to employ a pleader in the High Court.

121. Manner of sending bail orders by the Appellate or Revisional

Courts - When an Appellate Court or a Court of Revision directs the release of a prisoner on bail pending the hearing of an appeal or an application for revision, such Court shall send the warrant for his release on bail to the Chief Judicial Magistrate or if the order under appeal or revision was passed by a Court in an outlying subdivision, in the

Alternative to the Sub-divisional Judicial Magistrate of such subdivision or, if the said order was passed by a Court not at the sub-divisional headquarters, to the Judicial Magistrate concerned and send a copy of the order to the trial Court. The Magistrate concerned shall comply with the bail orders on the every day of its receipt and in case of non-compliance on that day shall note the reasons for the same in the order sheet. If such person is unable to furnish the bail required to him, the Court receiving the warrant for the release of the prisoner on bail shall forthwith return the same to the Appellate Court or the Court of Revision which issued it, with an endorsement thereon to the effect that the prisoner is unable to furnish the bail.

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*Duty of the Magistrate to keep the appellate Court and the revisional Court informed in case the accused does not furnish bail within 15 days - Bail order should be treated to be operative even after that - Prisoner should be released on bail as soon as he is able to furnish the bail bond - Magistrate need not wait for any further clarification or order from appellate/revisional Court : **Thabir Suna v. State of Orissa : 1999 (II) OLR 257 : I (2000) CCR 166 (Cri.)***

122. **Order of suspension to be sent to Jail** - Whenever an Appellate Court orders the suspension of the execution of a sentence of imprisonment under Section 389 of the Code, it shall send a copy of the order to the Superintendent or Officer-in-charge of the Jail in which the appellant is confined.
123. **Effect of order of suspension** - The effect of an order by an Appellate Court suspending the execution of a sentence of imprisonment pending disposal of an appeal, is that the appellant, if detained in jail, is to be treated, in all respects, as an under-trial prisoner.

124. In case of an order for stay of realisation of fine, it will have the effect of suspension of all proceedings relating to realisation of fine and warrant for realisation of fine issued shall, on receipt of order of stay, be forthwith recalled.

125. Application for return of articles retained in the

High

Court - Articles as are sent up with the record such as Sticks, Stones, Knives, Bill hooks, Axes, Guns, rags or clothing, earth, etc. And all articles of trifling values are ordinarily retained in the High Court and destroyed there. Any application for the return of these articles (for return to parties or for reference in any other case) or of any articles that High Court has omitted to return, shall be made within one month from the date on which the records of the case are received back in the Lower Court.

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CHAPTER - XVI

Reference and Revision

126. **Certificate in revision application** - Every criminal revision application shall contain a certificate that no revision application in respect of the same matter has been previously filed.
127. **Certified copy of judgment or order to be filed in revision cases** - Every criminal revision application shall invariably be accompanied with a certified copy of the judgment or order sought to be revised.

128. Compliance of requisitions of Sessions Judges - Sessions Judges are guided but not to go beyond the following instructions in communication with the Magistrates.

Chief Judicial Magistrates and District Magistrates are to comply with all requisitions for records, returns and information made by Sessions Judges with regard to any case appealable to them or referable by them to the High Court, decided by any Judicial Magistrate or Executive Magistrate respectively or made by Sessions Judge under the orders of the High Court in exercise of their duties of superintendence over subordinate Courts. The Chief Judicial Magistrates and District Magistrates are also to render any explanation which the Sessions Judge may require from them and to obtain and submit any explanation which Sessions Judges may require from the Judicial Magistrate and Executive Magistrates respectively in order to assist the Appellate Courts in respect of all the three classes of cases above referred to.

Note - The attention of Sessions Judges and Chief Judicial Magistrates is invited to the provisions of Section 405 of the Criminal Procedure Code that in the case of prisoners whose conviction and sentence by a Magistrate is affirmed by a Court of Session or Chief Judicial Magistrate but modified by the High Court of Sessions Judge on revision it is the duty of the Sessions Judge or the Chief Judicial Magistrate, as the case may be, to whom the decision or order of the High Court or Sessions Judge is certified, to issue order conformable to the decision so certified.

129. Manner of calling for the records - When the record of a proceeding in the Court of any Judicial Magistrate or Executive Magistrate is called for by the Sessions Judge under Section 395, Criminal Procedure Code, it shall always be done through the Chief Judicial Magistrate or the District Magistrate respectively.

130. ¹[* * *]

1. Deleted by C.S. No. 69 - IX-3/95, Dt. 11.12.1995.

CHAPTER - XVII
Execution of Sentences
(CHAPTER - XXXII, CR.P.C.)

131. 1 [Whenever a Magistrate convicts an accused and sentences him to fine either with or without any substantive sentence of imprisonment, there should be a separate order mentioning whether the fine has been paid or not and if the fines is not paid, there should be a further order in the order-sheet to start a miscellaneous case in which the original order of the Court imposing the fine and default sentence should be extracted. The Magistrate should then take action in the miscellaneous case record either to grant time under Section 424 of the Code of Criminal Procedure or to send the accused to jail custody. The miscellaneous case should bear a separate number in order to distinguish it from the original case record. The question of issue of warrant for realisation of fine may be taken up only after the accused has undergone the whole of default sentence. In this connection, reference is also invited to Sub-rule (b) of Rule 140 *infra*].

132. (a) Issue of Fine Cheque - When an offender is sentenced to fine by a Magistrate, a small printed form, called the Fine Cheque, shall be at once filled in by the Bench Clerk with the particulars, and sent by him with the person fined, in charge of a constable, to the Nazir, i.e., the Clerk who is employed as the cashier.

(b) The printed forms prescribed in the above rule will be bound together like a cheque book, each book containing 100 forms with the serial numbers printed on both foil and counterfoil. The foil or outer section will be torn off and sent with the person fined to the Nazir and the counterfoil retained in the Magistrate's office. The form should be used by the Magistrate in all cases, whether the fine is imposed by himself or by the Court of Sessions or High Court. The counterparts will enable the Register of Criminal Fines to be easily checked.

133. (a) The duty of Nazir on receiving the Fine cheque and the convict - The Nazir will call upon the prisoner to pay the amount of fine. If the fine be paid in full the person fined should be released unless he be also sentenced to substantive imprisonment. The Nazir will then report the fact to the Court on the foil received by him from the Bench Clerk. If the sentence be one of fine only without any imprisonment in default of payment and the fine be paid. in part, the prisoner 'Will be released and the

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sentence in order that a warrant may be issued for the realisation of the balance. If the sentence be one of fine only and the fine be not paid tall, the Nazir shall apply for a warrant for the realisation of the whole amount and other necessary orders. No person not under sentence of imprisonment alternative or otherwise shall be detained on account of inability to pay the fine. Where the sentence is one of fine, with or without a substantive term of imprisonment, but with an alternative sentence of imprisonment in default of payment of the fine, if the fine be not wholly satisfied at once, the Nazir shall report to the Court which imposed the sentence for its orders as to the term of imprisonment proportionate to the amount still unpaid which, under Section 69 of the Indian Penal Code, the convicted person has yet to undergo. In such cases the fact of the payment of the fine, in part, should be noted on the warrant of imprisonment by the Magistrate who issued it. Where, however, the fine has not at all been paid, the fact of non-payment should be noted in the warrant of imprisonment in every case.

(b) Duty of the Clerk-in-charge

**of
the
fine**

Register - The

Clerk-in-charge of Fine Register who will ordinarily be the Magistrate's peskar, will make the necessary entries in the Register of Criminal Fines. The foils with the Nazir's report thereon shall be shown to the Clerk-in-charge of the Fine Register without delay.

134. Receipt for payment of fine - A receipt should be granted to the person paying a fine by the Nazir in Form No. A-8 (D).

135. Procedure on realisation of fine during the currency of

the term of Imprisonment - Any payment made during the currency of the term of imprisonment must be at once reported by the Nazir to the Magistrate who, after satisfying himself that the necessary entries relating to the payment have been made in the Fine Register, shall immediately give notice of such payment to the Superintendent of the district jail in which the prisoner was first confined after conviction with a view to the amendment of the sentence of imprisonment or the release of the prisoner, as the case may be. The fine realisation statement shall be drawn up by the Court in the

prescribed form and in the English language, and shall be sent in duplicate, with the Court-seal affixed thereto, to the jail, the original being sent on the first opportunity and the duplicate on the following day. The responsibility of the Court shall not cease until it has received back the duplicate statement with an acknowledgment from the jail showing that the necessary corrections have been made in the release diary.

Note - If the fine is paid before the transfer of a prisoner from the subsidiary jail in which he was first confined to the district jail. the fine realisation statement should be sent to the subsidiary jail.

**136. (a) Procedure
when Sessions
Court imposes a
sentence**

of fine - 1[When a Court of Sessions issues a warrant for realisation of fine imposed by. it the same shall be sent for realisation of the fine to the Chief Judicial Magistrates of the district who shall treat it in all respects as a fine imposed by him. After making necessary entries in the Register of Criminal Fines maintained by him, the Chief Judicial Magistrate shall take steps for realisation of the fine amount. He is also competent to write off the fine amount in terms of Rule 145, if the fine amount cannot be recovered.

Note - If the fine mentioned in this rule was imposed in any previous quarter, it shall for all purposes be treated as an outstanding fine brought forward in red ink from the previous quarter.]

(b) In cases in which the Sessions Court itself realises the fine it has imposed, it shall prepare the usual warrant for the realisation of the fine and forward it to the Chief Judicial Magistrate of the district with an endorsement thereon to the effect that the fine has been realised and the fine shall thereupon be entered in the Register of

Criminal Fines.

137. Procedure to be followed when an order of fine is either

confirmed or enhanced on appeal -

When an order of fine is confirmed on appeal, the fine amount will continue to be shown in the Register in which it was originally entered and be treated as one imposed by the Court which originally tried the case. If the fine is enhanced in appeal or a new fine is imposed in modification of a sentence of imprisonment, the additional fine or new fine will be entered in the Register of Criminal Fines of the Court originally trying the case as a fine imposed by the appellate Court and for purpose of its realisation, will be treated as a fine imposed by the original Court. When a fine is enhanced on appeal, the entry of the original fine in the Register of Criminal Fines will remain unchanged, a note only being made against it about the order of the appellate Court. The trying Judge or Magistrate or his successor-in-office would take necessary steps for realisation of the fine amount after disposal of the appeal.

138. Realisation of fines by police - At each Police Station a Register in Form No. (A) 19 shall be kept of all warrants received by the police for

realisation of fines within its jurisdiction. Every such warrant shall specify the time within which it should be returned which ordinarily should not exceed six months. The police must return the warrant in due time whether the- amount of the fine imposed or any part of it be realised or not. They should not retain time-expired warrants in their possession.

1. Substituted by C.S. No.
30-IX-2/81-dt.3.1.1984.

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nor after the warrant has been returned, pay any domiciliary visit to a defaulter with a view to the realisation of any portion of the fine outstanding, unless fresh orders to that effect are issued. Any enquiries they may make when they have no warrant to authorise their action should be made only under the order of a Magistrate with a view to ascertaining whether there are grounds for the issue of a fresh warrant. Such enquiries should not ordinarily be made, by an officer lower in rank than a Sub-Inspector of Police.

Note - In exercise of the power conferred by Sub-section (2) of Section 386 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor-in-Council is pleased to make the following rules to regulate the manner in which warrants under Sub-section (1), Clause (a) of the said section are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant, namely :

- (1) A warrant issued under Sub-section (I), Clause (a) of Section 386 of the Code of Criminal Procedure, 1898, for the levy of a fine

shall ordinarily be directed to a police officer **(see Form No. XXXVII, Schedule V of the said Code.)** The authority issuing it shall specify a time within which the attached property is to be sold or the return of the warrant.

- (2) The police officer or other person to whom a warrant is directed under Rule 1 shall attach any movable property belonging to the offender.
- (3) If no person claims the property attached, the police officer or such other person directed to execute the warrant, shall sell it within the time specified in the warrant without any previous reference to the Magistrate.
- (4) If any person

makes any claim in respect of the property attached, then the ownership of such property shall be determined by the Magistrate who issued the warrant or his successor-in-office or the Magistrate-in-charge of the accounts, The services of a Junior Deputy Magistrate or Sub-Deputy Magistrate or Circle Officer may be utilized, if necessary, for the investigation of such claims.

- (5) Subject to the proviso to Section 386 (1) of the Code of Criminal Procedure, 1898, if at any time subsequent to the return of the warrant, and within the period of six years from the passing of the sentence, the fine, or any part thereof remains unpaid (see *Section*

70 of the
*Indian Penal
Code)*

and the Court
has reasonable
ground for
believing that
any

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movable
property
belonging to
the offender
is within its
jurisdiction,
it may issue
a fresh
warrant for
the
attachment
and sale of
such
property.
Such
warrant
shall be
made
returnable
within a
time to be
definitely
fixed
therein.

139. Report about the assets of the defaulter - If it appears that a defaulter can, in all probability, pay the amount of fine outstanding against him, the police officer shall forthwith report the matter to the Magistrate having jurisdiction with a view to the issue of a warrant. In all other cases he will merely note 'no assets' in the remarks column, dating the entry.

Note - Report of subordinate police officer that the offender has no assets should be checked by local enquiry by a superior police officer, ¹[not below the rank of

Sub-Inspector of Police] before the same is accepted by the Magistrate. The checking officer should furnish a certificate to the following effect.

I verified on the spot in presence of Shri..... and for the convict has no movable/immovable properties.

140. (a) Levy of fine within six years and thereafter
70 of the Indian Penal Code gives power to levy a fine within from the passing of the sentence or during the term of imprisonment of the offender if this exceeds six years. But this is subject to the provisions contained in the proviso to Section 421 (i) of the Code of Criminal Procedure.

(b) [* * *] Should the fine be paid or levied by process of law, whether in whole or in part while the offender is undergoing imprisonment in default, Sections 68 & 69 of the Indian Penal Code will apply. When, however, efforts made to realise the fine in full have proved unsuccessful and the offender has undergone the whole of the imprisonment awarded in default of payment of the fine, the Court must proceed according to the proviso to Section 421 (1) of the Code of Criminal Procedure. Before issuing a warrant in such a case, the Court must record in writing the special reasons which, in its opinion, make the issue of a warrant necessary, it would, for example, be open to the Court to take into consideration such a fact as the persistent refusal to pay fine by an offender who is well able to do so. On the other hand it would also be open to the Court to consider whether the circumstances of the case or the means of the

offender justify any further
action.

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1. Substituted by C.S.No.
68/1X-4/95, Dt. 11.12.1995
 2. Deleted by C.S. No.10-
XLIX-D-15/80, dt. 9.2.1982.
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(c) In cases where a substantive sentence of imprisonment is awarded in addition to a sentence of fine, a warrant for the levy of the amount by distress and sale of movables should, if the Court elects to adopt this particular method, be issued with as little delay as possible. Realisation or payment of the fine in whole or in part while the offender is in jail whether under the substantive sentence or the sentence in default will under Sections 58 and 59 of the Indian Penal Code cancel or proportionately reduce the sentence of imprisonment awarded in default. When, however, the offender has undergone the full term of imprisonment awarded in default and the fine still remains unrealised the Court must proceed, as indicated above, in accordance with the proviso to Section 421 (1) of the Code of Criminal Procedure.

141. **Entry of warrants in Thana Register** - Warrant of this description, subsequent to the first must be entered in the Thana Register in red ink but be treated as a fresh entry, a reference being made in the remarks column to the year and number of the original warrant.
142. **Enquiry as to the assets of a defaulter after his death** - In the event of the death of a defaulter being reported one final and formal enquiry should be made as to whether he has left anywhere any property of any kind liable for his debt.
143. **Return of warrant after realisation of fine** - All fines realised should be remitted with the returned warrant at once to the Magistrate's Nazir. The Nazir shall send the returned warrant to the Clerk-in-charge of the fine Register noting on it the amount received and the date of receipt.
144. **(a) Inspection of Thana Register by the Magistrate** - The Magistrate should call for the Register of each Thana at least once a quarter and have it compared with the Fine Register of his Court. He should also note that the police enquiries have been regularly made and properly recorded. The comparison must never be made by the Nazir. It should, when possible, be done by a Magistrate.
- (b) Entries in the Thana regarding realisation of fines imposed in other districts, or in a subdivision of the same district should be compared with the entries of the fine warrants in the Court's Register of processes and with the Magistrate's cash-book, once a quarter.
145. **Writing off of irrecoverable fines** - Subject to the control and supervision of the Sessions Judges, the Chief Judicial Magistrates in respect of fines imposed by Judicial Magistrates, the District Magistrate subject to the control and supervision of the Revenue Divisional Commissioners may at their discretion, give orders for the writing off of all fines which (a) in consequence of the death of the defaulter or (b) after

due enquiry that there are no assets of the defaulter or (c) the whereabouts of the defaulters cannot be ascertained and the defaulters have undergone default sentence may be irrecoverable.

1[Provided that-

- (1) Where the apprehension of the defaulters cannot be secured on account of their change of places or abode after their appearance in Court either in person or through recognised agents, to commit them to jail custody to undergo the default sentences, the fines imposed upon them may be written off.
- (2) Where the defaulters have been released on bail, the fines imposed upon them may be written off only after taking appropriate steps against the bailers for realisation of the bail amounts.
- (3) Where a Magistrate decides not to issue a distress warrant after the convict has undergone the whole of default sentence, there being no special reason for it, he shall be competent to write off the fine amount. After passing the order to write off the fine amount, he should close the connected misc. case and direct that the connected entry in the fine Register may be struck off.]

146. Realisation of fines imposed in other districts - In cases of fines imposed in one district but realised in another, the following procedure is to be observed:

(a) The Court imposing the fine will issue a distress warrant direct to the Magistrate of the district or districts where the property of the prisoner is supposed to be. The Magistrate of the district, on receipt of this warrant, will deal with it as if the fine was imposed in his own district. This warrant shall contain the following particulars : Name of prisoner, sentence, date of sentence, name of the district jail in which the prisoner was first confined after conviction and name of the Court issuing the warrant.

Note - If the prisoner has not been transferred from the subsidiary jail in which he was first confined to the district jail, then the name of the subsidiary jail.

(b) The proceeds of all fines so realised will be paid into the local treasury, with the realisation of the Court that makes the recovery. The amount should be carefully distinguished from local fines, and will be separately acknowledged by the Treasury Officer. No entry of these fines will be recorded in the 'Fine' Registers of the district where the fine was recovered, but the amount realised must be credited in the Magistrate's

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cash-book and in the Register of Criminal Fines of other districts and a footnote made in his fine statement of the total amount realised on account of their districts, the sums relating to each district being carefully distinguished for comparison and check in the Accountant-General's Office. The Magistrate-in-charge of Fines should examine and sign the Register of Criminal Fines of other districts daily and should see that realisations are promptly acknowledged.

(c) The Clerk-in-charge of the Fine Register is responsible for seeing that the realisation of all such fines is immediately communicated to the Chief Judicial Magistrate or Sub divisional Judicial Magistrate, as the case may be, of the concerned district or subdivision in which the fine was imposed by the despatch to him of both the treasury receipts and the warrant. The use of remittance transfer receipts is strictly prohibited. The Chief Judicial Magistrate or Subdivisional Judicial Magistrate, as the case may be, will at once send an acknowledgment of the receipt of the Treasury receipt and warrant to the Magistrate of the district where the fine was realised. He will also note the

realisation in his Register of Criminal Fines and include the amount in the monthly statement of fines which he renders to the Accountant-General with a note against the item showing into which treasury the amount has been paid and the date of payment.

The rule is applicable *mutatis mutandis* in respect of fines imposed by a Magistrate at headquarters and realised in a subdivision, or imposed in one subdivision and realised in another of the same district.

(d) The fact of recovery will then be reported to Superintendent of Jail referred to in Clause (a) by the Chief Judicial Magistrate of the district or Sub divisional Judicial Magistrate in which the fine is imposed, provided that if the fine is realised in the district in which the prisoner is confined, the Magistrate of the district should also immediately send intimation direct to the Superintendent of Jail in which the prisoner is confined.

(e) In all cases of communicating the realisation fines by the despatch of the treasury receipt to the district or subdivision where such fines were imposed, it will be the duty of the Clerk-in-charge of the Fine Register to send reminders whenever acknowledgements of receipts of such

communications are unduly delayed.

Note - When the distress warrant is issued to the Magistrate of a district in another Part 'A' State or 'C' State a clear note should be made on it as to the manner in which the amount is to be credited, i.e. whether to Government, or to a Municipality or to Cantonment fund or to any other Local Body, or whether it is to be held as a criminal deposit. If the amount is creditable to Government or to criminal deposits, the proceeds of the fine should be paid into the local

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treasury for credit to Government, as required by Clause (b) and an intimation should be sent to the Chief Judicial Magistrate or Subdivisional Judicial Magistrate as laid down in Clause (c). If the amount is creditable to a Municipality or to a Capital Cantonment Fund or to any other local body, the proceeds of the fine should be remitted by a remittance transfer receipt to the Chief Judicial Magistrate or Subdivisional Judicial Magistrate on whose account the fine has been collected. He will endorse a receipt to the Treasury Officer if the Municipality or Cantonment fund or other local body banks with the district treasury for credit to its account ; otherwise the receipt should be endorsed to the Chairman or Secretary of the Municipality or local body concerned.

147. Execution of substantive sentence of imprisonment

- In all cases where the accused is a soldier or a person holding any rank in the army, the warrant for detention or imprisonment shall set forth accurately the rank of the prisoner, and the Regiment of Military Department to which he belongs.

148. **Committing Prisoner** - Every Criminal Court when committing a prisoner to jail, shall attach to the warrant of commitment a note in criminal process Form No. (M) 61, Volume II.

149. **Committing persons to jail who fail to furnish security** - When a Magistrate passes an order to give security under Section 122, Criminal Procedure Code for a period exceeding one year and such security is not given on or before the date on which the period for which such security is to be given commences, he should commit the person against whom the order is made to prison, until the orders of the superior Court are received making the necessary modification in Form No. (M) 39 or (M) 40 of the Second Schedule, Criminal Procedure Code. When he receives the order of the superior Court, he should, if the order is one to detain the person in jail, issue a revised warrant in the terms of that order. The warrant will not, in such a case, be issued by the superior Court but by the Magistrate before whom the proceedings were instituted.

(b) Where a superior Court, on a reference being made to it under Section 122(2), Criminal Procedure Code directs release of the person detained, the warrant for release shall, as in the case of an appeal, be issued by the superior Court in Form No.17 of the Second Schedule, Criminal Procedure Code [Form No.(M) 41, Volume II.]

150. **Sentences to take effect one after the other** - When a person has been committed to jail under two separate warrants, the sentence in the one is to take effect from the expiry of the sentence in the other, the date of such second sentence shall, in the event of the first being remitted on appeal be presumed to take effect from the date on which he was committed to jail under the first or original sentence.

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151. **Recommendation for remission or suspension to be made through High Court** - All recommendations for remission or suspension of a sentence made, under Section 432 of the Code of Criminal Procedure by officer of any subordinate Court to State Government in regard to a convict whose case has been before the High Court on appeal, shall be made through the High Court.
152. **Recommendation to Government in case of infanticide** - In all cases in which women are convicted for the murder of their infant children, the records shall be submitted promptly through the High Court to the Government with any recommendation under Section 432, Cr.P.C. by the Sessions Judge as to the propriety or otherwise of commuting or reducing the sentence with his reasons for the same.
153. **Copy of order passed under Section 356, Cr.P.C. to be attached to warrant** - In the case of convict, against whom an order is passed under Section 356 of the Criminal procedure Code, a copy of the order passed under that section should be attached by the convicting Court to the warrant referred to in Section 418 of the Code.
154. **Appellate Court to send release warrant to jail on reversing the sentence** - In every case in which a sentence is reversed, the appellate Court shall fill in the prescribed Form No. (M) 77 warrant of release on appeal, and shall send the same direct to the Officer- in-charge of the jail in which the appellant is confined.
155. **Appellate Court to send modified warrant to jail** - In every case in which a sentence is modified on appeal the Appellate Court shall prepare a fresh warrant in Form No. (M) 78 in accordance with the terms of the order passed and shall send the same direct to the Officer-in-charge of the jail in which the appellant is confined. When the fresh warrant is returned with an endorsement of execution under Section 430, Criminal Procedure Code, the Appellate Court shall forward it to the Court, from the decision of which the appeal was preferred, to be attached to the original record.
156. **Procedure to be followed when Appellate Court issues release warrant or modified warrant** - The Appellate Court shall, at the same time when the release warrant or fresh warrant is issued recall and cancel the original warrant of commitment and this warrant as well as the release warrant when returned with an endorsement of execution shall be attached to the record of the original Court.
157. **Procedure to be followed when retrial is ordered** - In the event of the conviction and sentence being set aside and retrial ordered the Court directing the retrial shall communicate its order to the jail authorities with a view to the necessary action being taken under Rule 558 of the Orissa Jail Manual, 1942, Volume I (Part I).

158. **Telegraphic release orders prohibited** - Judicial Officers are prohibited sending by telegraph orders to Officers-in-charge of jails for the release of prisoners in their custody.

159. **Appellate Court to notify result of appeal of prisoners to officers-in-charge of jail** - Irrespective of the procedure prescribed in Rules 154 to 157 above, the Appellate Court shall, for the information of the appellant, notify to the Officer-in-charge of jail in which such appellant is confined the result of his appeal. The notification shall be made in Form No. (M) 14, Volume II.

160. **Issue of revised warrants** - Judicial officers must understand that this notice is intended solely for the purpose of communicating the result of the appeal to the appellant, and in no way relieves them from the duty of issuing revised warrant whenever necessary.

Proviso 1. (a) Forwarding warrant of commitment to

Appellate Court - Provided that, where an accused has been admitted to bail pending the hearing of his appeal, the original warrant of commitment shall after being returned by the jail authorities to the Court which issued it be forwarded to the Appellate Court.

(b) **Return of warrant on sentence being reversed** - In every case in which a sentence is reversed on appeal the Appellate Court shall return the original warrant, with a copy of its order to the Court by which the accused was admitted to bail with direction to discharge him.

(c) **Return of warrant on order of retrial** - If the conviction and sentence are set aside and a retrial of the accused is ordered by the Appellate Court, that Court shall return the original warrant together with its order on the appeal, either to the Chief Judicial Magistrate or to the Court which tried the case, with directions to retry the prisoner for the offence charged.

(d) **Issue of modified warrant** - In every case in which a sentence is modified on appeal, the Appellate Court shall prepare a fresh warrant [in the Form No.(M) 78, Volume II] and shall forward the same with the original warrant and with a copy of its order to the Court by which the accused was admitted to bail, with directions to take measures to secure his surrender and commitment to jail on the modified warrant.

(e) **Return of warrant on confirmation of sentence** - In every case in which a sentence is confirmed on appeal, the Appellate Court shall return the original warrant, with a copy of its order, to the Court by which-the 'accused was admitted to bail, with directions to take measures to secure his surrender and recommitment to Jail on the original warrant.

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**Duty of the Court
on surrender of the
convict** - In each of the last

above-mentioned cases, it shall be the duty of the Court

to which the accused surrenders to his bail to endorse warrant the dates of his release on bail and of his subsequent

Despatch of the order of the Appellate Court - The copy

of the order of the Appellate Court referred to in Clauses (

of this proviso shall be in

Form No. (M) 15, Volume II

and shall be prepared and

despatched immediately

after the order has been

passed without waiting for

the judgment, a copy of

which shall be

sent to the Court concerned as soon as it is prepared. A

copy shall be sent by the Appellate Court to take measures to secure the

release of an accused and his

recommitment to jail on an

original or on a modified

warrant shall be carried out

by the Court or Magistrate to

whom it has been issued

without any delay.

Note -The bail bond, if

any must invariably

accompany the copy of

the order.

Proviso 2. Procedure

on surrender of

accused in Appellate

Court

- Provided also that where an

accused surrenders to his bail

in the Appellate Court such

Court in every case in which

the sentence is reversed on

appeal, shall discharge him;

and in every case in which

the sentence is modified or

confirmed on appeal, such

Court shall forward the

accused in charge of a police

officer, with the modified or

the original warrant, to the

Chief Judicial Magistrate,

with directions to commit him to custody as in cases (d) and (e) of Proviso 1.

Note - Whenever a Sessions Division consists of moral discipline one the Chief Judicial Magistrate in this proviso shall be heard to the Chief Judicial Magistrate of the district in which the Sessions Court is sitting for the hearing of appeals.

161. Duty of Court to which High Court certifies judgment

Court to which the judgment of the High Court may have been certified for the purpose of giving effect thereto will be guided by the above Rules (154 to 160). Except when the High Court otherwise directs, the lower Court shall issue the warrant of release or modification of sentence.

Note - When an appeal is preferred to the High Court against conviction and sentence passed by the Sessions Judge and the appeal is admitted to bail, the original warrant in case of reversal or modification of the sentence should be returned by the Magistrate to the Sessions Judge to be filed with the Sessions record.

162. Sentences finally passed to Court - Where the High Court simply modifies a sentence passed by a Sessions Judge without change of section, and where the High Court passes a new sentence by changing the conviction section or punishment section or otherwise, the sentence finally passed shall count, unless specially otherwise, the sentence finally passed shall count, unless specially otherwise directed, from the first day of imprisonment under the original sentence.

163. **Issue of dusti release order prohibited** - Issue of dusti orders for the release of prisoners is strictly prohibited. Orders for release of prisoners should in no case be made over to private individuals for delivery to the jail authorities. It is, however, the duty of all Criminal Courts to see that order of release is taken to the jail authorities without delay.

164. Duty of trial Court to secure return of warrant - It is the duty of the trial Court to issue reminders to the jail authorities from time to time to secure the return of the original warrant and that its duty of complying with Rule 156 is not discharged until the original has been obtained from those authorities and cancelled and attached to the record.

165. Particulars of the case and offence to be noted in modified warrant - The Appellate Courts while issuing modified warrants [*Form No. (M) 78*] should note the number of the case both of the trial Court and the Appellate Court and sections under which the original conviction was recorded.

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

167. Manner of calculation of term of imprisonment - In calculating the sentence of imprisonment the date on which the sentence is passed and the date of release both ought to be included and considered as day of imprisonment.

168. Returned warrants to be filed with the record - Warrants of commitment which are returned to Courts after execution should be filed with the records of the respective cases and dealt with under rules, or destruction of records.

169. (a) Procedure in case of death sentence - Sessions Judge shall make arrangements for communicating every order of the High Court or Supreme Court imposing, confirming, reversing or commuting a sentence of death to the Superintendent of the Jail, where the prisoner is confined within 24 hours of the receipt of the order in the Court of Session.

(b) Immediately after the receipt of the order of the Supreme Court or the High Court confirming or passing the sentence of death, the Sessions Judge shall issue a warrant in Form No. 42 of Second Schedule of the Code of Criminal Procedure, (Suitably amended with regard to cases in which a sentence of death is passed by the Supreme Court or High Court) accompanied by a copy of judgment for delivery to the

convict, transmit the same to the Superintendent of the Jail in which the person so sentenced is confined :

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Provided that, the Sessions Judge shall withdraw the warrant-

- (a) On receipt of an order of stay either from the High Court or the Supreme Court ; or
- (b) On receipt of direction from the High Court to postpone the execution; or
- (c) When the Sessions Judge, for any sufficient reason, considers that the execution should be postponed to a future date :

Provided further that, on receipt of a copy of an order from the High Court or the Supreme Court of the stay having been vacated, or on receipt of further instructions from. the High Court that the sentence may

be executed, the Sessions Judge shall issue a fresh warrant fixing a date for the execution.

In any case in which the warrant has been withdrawn by the Sessions Judge, consequent on his having postponed the execution to some future date, the Sessions Judge shall issue a fresh warrant for the execution of the sentence being carried out on that date.

170. **Time of execution of death sentence** - The date named by the Sessions Court in its warrant for the execution of a sentence of death shall not be less than twenty-one or more than twenty-eight days from the date of issue of such warrant.

171. **No modified warrant to issue on communication of death sentence** - No modified warrant should be issued when the sentence of death is commuted by the order of the President or Governor. The order itself will serve the purpose of a warrant. A copy of such order need only be sent to the jail authority.

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**Custody
and
Disposal of
Property**

172. Register of

property - 1[Any property produced in the Criminal Courts should be entered in the Property Register to be maintained in Form No. (R) 27, immediately after receipt thereof. The primary responsibility of preparing and signing the Register shall be of the Nazir 2[or the Clerk-in-charge of the Malkhana as the case may be] both in the District Courts and in the outlying stations. The Registrar, Civil and Sessions Courts at the district Headquarter Stations and at outlying stations the Subdivisional Judicial Magistrate and where there is no Sub-divisional Judicial Magistrate, the Judicial Magistrate shall be the Judge-in-charge of the Malkhana. The entries made in the Property Register should be countersigned by the Judge-in-charge of Malkhana to indicate that the property received in the Court is actually so entered.]

1. Substituted by C.S.No. 25-IX-9/82, dt. 16.5.1983.

2. Inserted by C.S.No. 36-XLIXD-36/83, dt. 6.6.1984.

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¹[**Note** - The Mal chalans under which properties are received by the prosecuting agencies shall be first entered in the Register of Received maintained in the Court and thereafter sent to the Nazir/Clerk-in-charge of Malkhana who shall make entries of the properties in the Register of property (R) 27 and note the C.M.R. No. assigned to such properties against the corresponding entry in the Register of letters received and preserve the Mal Chalans till disposal of the properties.]

173. Description of incriminating articles -

When death or hurt has been caused by a blow from a stick or other weapon, or when any person is convicted of the offence' of being in illegal possession thereof, the height and dimensions of the weapon should be stated in the Register and the list of exhibits with such particularity as may enable the Appellate or Revisional Court to form an opinion as to the character of the weapon and the intention with which it was probably used and to enable such Court to judge the appropriateness of the sentence and the appropriateness of the sentence.

174. Description of valuable properties in the Register -

In case of valuable properties such as valuable metals or ornaments prepared out of such metals, full description of such properties along with their weight shall be noted in Column 4 of the Register.

175. Verification of the Register - ²[The Judge-in-charge of the Malkhana] should verify personally at least every 3 months, the property with reference to the Property Register and make an endorsement with the date of the verification in the remarks column of the Register. He should also make a report to the Sessions Judge every three months of having verified the properties indicating in brief the result of his verification.

176. Unclaimed notes and coins how to be dealt with - Currency notes and coins, if not claimed by any person within 30 days from the final disposal of the case, should be remitted to the person concerned by money-orders. If the amount remitted is returned undelivered by the Post Office because the payee could not be traced, it should be credited to Government.

³[**176** (a) As to the proper custody of the goods in the Malkhana, if identification of cash be not required, the sum if it be beyond R. 1,000 should be deposited in the Bank].

177. Disposal of property to await the result of appeal - In cases where appeal or revision lies to the High Court, ⁴[all Criminal Courts including] the Court of Sessions should not dispose of the material

1. Inserted by C.S.No. 73-IX-6/95, Dt. 6.4.1996.
2. Substituted by C.S.No. 26-IX-9/82,dt. 16.5.1983.
3. Inserted by C.S. 78 (XLIX-D-14/97, Dt. 21.4.1998)
4. Inserted by C.S.No. 75-IX-7/95, Dt. 4.10.1996.

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objects for four months after the expiry of the period of limitation for appeal or revision; and if intimation regarding the filing of appeal or revision is received, till the disposal-of the appeal or revision.

178. **Report of loss or defalcation** - A report should be made to the High Court and the Accountant-General as soon as a loss or defalcation occurs.

179. **Half-yearly report of property** -A half-yearly report should be submitted to the High Court to the effect that the material objects in cases decided six months prior to the date of the report have been disposed of. The report should also state the number of cases in which the material objects remained to be disposed of with the necessary explanation therefor.

180. **Special orders regarding disposal of property** - In cases where the property cannot be disposed of in the manner directed by the Court specific orders of the Court should be obtained from the Court for its disposal in any other manner.

181. **Disposal of property subject to speedy and natural decay** - Notwithstanding anything contained in these

rules the Court may dispose of immediately after the disposal of the case any seized property consisting of livestock or property subject to speedy and natural decay or the property in respect of which a bond has been executed under Sub-section (2) of Section 452 of the Code of Criminal Procedure.

182. **Notice to take back property** - In other cases, the person concerned, should after the final disposal of the case or two months after the expiry of the period of appeal or revision, be asked by service post-card to appear before '[The Judge-in-charge of the Malkhana] to receive the property. If he fails to do so within 15 days from the date of intimation, the property should be sold at his cost by public auction and the amount so realised credited to criminal deposit.

183. **Sale when to take place** - The property mentioned in the preceding rule and the property ordered to be forfeited to the State shall be sold as soon as possible four months after the expiry of the period of limitation of appeal or revision or two -months after disposal thereof, as the case may be. 2[The Judge-in-charge of the Malkhana] shall make proper enquiry and ascertain the fact that neither appeal nor revision is filed in the matter before the property is put to auction.

184. **(i) Sale by whom to be conducted and how to be made** - The sale should be

conducted by the Nazir of the Court. 3[Judge-in-charge of Malkhana] shall cause a proclamation of the intended sale to be made in the notice board of such Court.

1. Substituted by C.S.No. 27-IX-9/82. dt. 16.5.1983.
2. Substituted by C.S.No. 28-IX-9/82, dt. 16.5.1983.
3. Substituted by C.S.No. 29-IX-9/82, dt. 16.5.1983

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- (ii) Such proclamation shall state the date, time and place of sale and specify as fairly and accurately as possible the description of the property to be sold.
- (iii) It shall also state that the bidders will have to pay the price immediately.
- (iv) It shall be incumbent upon 1[The Judge-in-charge of Malkhana] of outlying Court to fix up-set price of the articles sold.
- (v) The sale shall not take place until after the expiration or at least 15 days from the date on which the copy of the proclamation has been affixed on the Court's Notice Board.
- (vi) Auction sale should be held during the Court hours and within the Court premises.
- (vii) The Officer conducting the sale may in his discretion adjourn the sale to a specified date and hour recording his reasons for such adjournment.
- (viii) No public servant and no officer or other person having any duty to perform in connection with the sale shall bid for, acquire or attempt to acquire an interest in the property sold.
- (ix) Proceeding of the sale be recorded on the bid sheet.
- (x) If convenient, the property may be sold by lots.
- (xi) Valuable articles, however, should not, as far as possible, be sanctioned in lots.
- (xii) Sale shall be confirmed in the name of the highest bidder unless 2[The Judge-in-charge of the Malkhana] thinks that the bid offered is grossly inadequate, in which case the property shall be put to sale again.
- (xiii) The price of the articles shall be paid at the time of sale.
- (xiv) The officer conducting the sale shall pass a receipt for the price paid and then hand over the property to the purchaser.
- (xv) If the price not paid, the property shall be resold.

185. (a) Forwarding of counterfeit coins and implements to the Treasury - Criminal Courts in making orders under Sections 452, 453 and 458 of the Criminal Procedure Code or the disposal of counterfeit coin should consider whether the coin should not be forwarded to the nearest Treasury or Sub-Treasury Officer with directions to him to deal with it in a manner similar to that prescribed by Rules by the Government of India, in the Department of Commerce and Industry.

2. Substituted by C.S.No. 27-IX-9/82,dt. 16.5.1983.

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(b) The above instructions should be held to apply to any implements such as dies, moulds, etc. used in coinage. In case, such coins or implements are forwarded to a Treasury Officer, a copy of the judgment delivered in the case with which they are connected, should at the same time be forwarded to that officer.

186. (1) Forged currency notes and implements confiscated - how to be dealt with - In the case of forgery of currency notes, the disposal of implements, such as moulds, dies, etc., used in, and confiscated by a Court of law, is a matter for the consideration of the Court which tries the case; and when they are ordered by the Court to be delivered to the police for destruction, the police shall themselves arrange for their destruction/ and not send them to the currency offices or mints for destruction; provided that if the police consider any particular implements are of special interest and should be preserved, they shall make them over to the Criminal Investigation Department for this purpose.

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

(3) All arms, ammunition of prohibited bore which are confiscated should be sent to the nearest arsenal for disposal.

187. Disposal of excisable goods in Court custody - In the

case of excisable goods held in the custody of Criminal Courts, notice of the date of auction or other method of disposal shall be

authority concerned requiring issued to the Excise authority to arrange for the collection of the duty leviable, if any, goods for the issue of transport permits where necessary. The authority may also be required to satisfy itself that the person in auction or otherwise is licensed to deal in such goods.

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Arrangements of
Records of
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Proceedings

A -
Records of
Court
of
Sessions

188. Sessions Records
- Every record of a Court of Session shall consist of two files, to be styled and marked, respectively, File A and File B.

189. File A shall contain the following papers which shall be arranged in the following order-

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- (1) Title Page*
- (2) Table of Contents*
- (3) Order Sheet
- (4) Papers showing how the proceedings were initiated together with any sanction to the proceeding granted under Section 195, 196 or 197, Criminal Procedure Code that is to say: the complaint, first information to the police or order of the Magistrate under Section 190 (1) (c) on which the proceedings were taken, final reports of the police under Section 173 of the Criminal Procedure Code.
- (5) The charge under which the trial has been held, amended or otherwise with a record thereon that it has been read and explained to the accused, and the plea of the accused.
- (6) Any document or documents connected with the offence charged, or in respect of which the charge is made, *e.g.* the statements made by the accused which form the subject of a charge of giving false evidence.
- (7) List of articles connected with offence, which has been proved and exhibited, but which cannot be attached to the records, *e.g.* any weapon used in the commission of any offence against the person, stolen property in an offence against property, counterfeit coin and materials for counterfeiting, etc.
- (8) The deposition of the witnesses for the prosecution examined at the trial in chronological order, except that when a witness had been cross-examined, or Re-examined in a later stage of the proceedings, such cross-examination or re-examination, shall be attached to his original deposition.

Note - When a witness has been cross-examined under Section 145 of the Evidence Act, for the purpose of contradicting him as to previous statements made by him in writing or reduced into writing (*e.g.* deposition taken during the enquiry before the Magistrate), such statements shall be filed in the record immediately after the deposition of the witnesses to which these relates. Every such statement, when proved, shall be marked by the Court in a series of its own which shall be noted in the order sheet, but need not be included in any list.

- (9) The depositions of witnesses who are absent at the trial, which are admitted under Section 33 of the Evidence Act, or Section 299 of the Criminal Procedure Code or otherwise, *e.g.* depositions of witnesses taken on commission; dying declarations admitted in evidence.

* The title page and table of contents in records of Courts of Sessions should invariably be written up in English and in the combined form prescribed.

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- (10) Deposition of medical witnesses admitted under Section 291, Criminal Procedure Code.
- (11) Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 293, Criminal Procedure Code.
- (12) Documents admitted as evidence on behalf of prosecution.
- (13) Confession or statement, if any, of the accused recorded under Section 164, Criminal Procedure Code, and admitted in evidence.
- (14) The examination (if any) of the accused before the Sessions Court.
- (15) Any written defence that may be laid before the Court.
- (16) The depositions of the witnesses examined for the defence in chronological order.
- (17) Documents admitted as evidence for the defence.
- (18) Memorandum of arguments, if any.
- (19) If the trial involves a charge of previous convictions, the evidence for the prosecution to prove such convictions and the evidence for defence, if any.
- (20) Judgment, finding and sentence.
- (21) Police case diary.

The following papers shall be subsequently added to complete the record-

- (22) Copy of the judgment, or order of the Appellate, or Revisional Court.
- (23) Warrant returned after execution by the jail authorities.
- (24) If the sentence has been remitted in whole, or in part by the President or the Governor, a copy of the order of remission.

190. File B shall contain

- (1) Title Page
- (2) Table of contents, * and
- (3) All other papers not included in File A

B-Magistrate's Records

Warrant and Summons Cases

191. Magistrate's Records - The record. of every warrant or summons case tried by a Magistrate shall consist of two files, to be styled and marked, respectively, File A and File B.

* To be written up in English and in the combined form prescribed.

192. The following papers shall be included in File A in the

following order :-

- (1) Title Page
- (2) Table of Contents
- (3) Order Sheet'
- (4) Papers showing how the proceedings were initiated together with any sanction to the proceedings granted under Section 195, 196 or 197 of the Criminal Procedure Code, that is to say, the petition of complaint, the first information, or other report to the police or order of the Magistrate under Section 190 (1) (c) Criminal Procedure Code, on which the proceedings were taken, and if there has been a police investigation, the final report of the police under Section 173 of the Criminal Procedure

Code.

- (5) The charge with a record therein that it has been read over and explained to the accused and plea of the accused in warrant case instituted on a police report.
- (6) Statement, if any, of the accused under Section 252, Criminal Procedure Code, in summons cases (For summons cases only).
- (7) Deposition of witnesses for the prosecution examined at the trial in chronological order, except that, when a witness has been cross-examined, or re-examined in later stage of the proceedings, such cross-examination, or re-examination shall be attached to original deposition.
- (8) Deposition of witnesses who are absent

at the trial,
which had been
admitted in
evidence under
Sections 32 and
33 if any, of the
Evidence Act,
or otherwise.

(9) Report of the
Chemical
Examiner or
Assistant
Chemical
Examiner to
Government
admitted under
Section 293,
Criminal
Procedure
Code in
warrant cases
(For warrant
cases only.)

(10) Documents admitted
as evidence for
the prosecution.

(11) List
of articles
connected with
the offence
which have
been proved
and exhibited
but which
cannot be
attached
to the record,
e.g., any
weapons used
in commission
of an offence,
stolen property,
etc.

(12) The
charge with a
record therein
that it has been
read over and

explained to the
accused and the
plea of the
accused in
warrant cases
instituted
otherwise than
on a police
report.

THE HIGH COURT OF ORISSA

- (13) Any document or documents, connected with the offence charged or in respect of which the charge is made, *e.g.*, statement made by the accused, which form the subject of a charge of giving false evidence, etc. (For warrant cases only).
- (14) Any confession or statement made by the accused before a trial and recorded under Section 164, Criminal Procedure Code (For warrant cases only).
- (15) Examination of the accused under Section 254, Criminal Procedure Code, in summons cases or under Section 313, Criminal Procedure Code, in warrant cases and any writtez: statement filed by the accused during the trial.
- (16) The deposition of the witnesses examined for the defence in chronological order.
- (17) Documents admitted as evidence for the defence.
- (18) Memorandum of arguments, if any, filed by the parties.
- (19) Judgment, finding and sentence.
- (20) Police case diary.

The following papers shall be subsequently added to complete the record:

- (21) Copy of the judgments or order of the Appellate or Revisional Court or Courts.
- (22) Warrant returned by the jail authorities after execution of sentence.
- (23) Any petition, or other paper bearing on the offence charged and material to elucidate or justify the decision of warrant cases (For warrant cases only).

193. File B shall contain:

- (1) Title Pages,
- (2) Table of contents, and
- (3) All other papers not included in File A.

Complaints dismissed under Section 203, Criminal Procedure Code.

194. (a) Record of Complaint dismissed - It shall not be necessary to prepare a title page, table of contents, or order sheet in the case of complaints dismissed under Section 203, Criminal Procedure Code, but such complaints (with the order passed thereon), shall be formed into weekly, monthly, or quarterly files as may be most

convenient and each such file shall constitute one record, to which shall be attached a title page and a table of contents of each file or record thus formed as single entry shall be made in the list which accompanies all records sent to the District Record Room. These files shall be preserved for one year from the date of the latest order in each.

(b) No title page and table of contents need be attached in the case under the Municipal Bye-laws nor in those under Section 34 of the Police Act.

195. Records of summary trials - In cases tried summarily, the A file should contain only the form of summary trial kept under Section 263 or 264 of the Criminal Procedure Code, and whatever else the Court may record under the provisions of these Sections; and all other papers connected with the trial, should be placed in the B file. In the absence of express orders to the contrary, the A file alone should be forwarded to a Court of Appeal or Revision. In the case of such records, no title page, table of contents or order sheets need be prepared.

196. Records of

inquiry - The rules relating to the records of summons cases shall apply to the records of inquiries under Section 107, Criminal Procedure Code and to such other proceedings as, under the Code, the procedure applicable to summons cases applies; and the rules relating to the records of warrant cases shall apply to the records of inquiries in other cases with such modification in details as the circumstances of such cases may require.

197. Appellate records - The record of the Appellate or Revisional Court shall be arranged in the same way as that of the Court of

Original Jurisdiction, except that there shall be no separate papers which would belong to the B file being attached to the A file.

198. Arrangement of papers - In every case, the papers as far as possible, be attached to the file to which they refer, in the order in which the trial proceeds, and shall be arranged in the order in which they are brought before the Court. The necessity of sorting papers in the record room must be avoided.

199. Combined title page and table of contents - To each file of every record there shall be prefixed a combined title page and table of contents in Form No. (M) 19, Vol. II. This form should be written up in English.

200. Table of contents - The Table of Contents should be written up in the manner indicated in Form No. (M) 19, Vol. II.

CHAPTER - II

The Order sheet

A-Order sheet for Sessions Courts

201. Order sheet in Sessions trial - An order sheet in Form No. (M) 18, Volume II, shall be used in all Sessions trial, and shall form part of the record of such trial.

Note - 1[Order shall not be written on petitions, reports and similar documents. The serial number and the date of the order passed on any petition shall be noted on such petition].

202. Manner of maintaining order sheet - The order sheet shall contain a complete record of the proceedings from the commencement to the conclusion of the trial, and every order passed during the trial. It may be written by the Bench Clerk, but shall be signed, at the end of the proceedings on each day, as well as on the conclusion of the trial by the Sessions Judge after he has satisfied himself about the correctness of all the entries made therein. The order sheet shall invariably be written in English.

203. **Contents of order sheet** - It shall contain :

- (1) An abstract of the charge or charges.
- (2) A note of the fact that charge has been read out and explained to the accused and a note of his plea.
- (3) A note stating by whom the case is opened, and, if any preliminary objections are taken, the substance of such objections with the orders passed thereon.
- (4) The names of the witnesses for the prosecution, as they are examined.
- (5) Particulars of any documentary evidence, or articles, admitted in evidence for the prosecution with a note, if any, tendered in evidence and rejected as well as the order passed.
- (6) If the accused has been examined, a note of the fact and whether on being asked, he has stated that he means to call Evidence.
- (7) A note of the fact that the prosecutor sums up his case (as the case may be) before, or after any defence made.
- (8) If accused or his pleader addresses the Court a note of such fact.
- (9) The names of any witnesses examined for the defence, and particulars of any documentary evidence or articles admitted for the defence.

Note - If any, are rejected, the order should be noted.

- (10) If the prosecution replies, the fact should be noted.
- (11) The fact that there was a hearing on the question of sentence.

B-Order sheet for Magistrate's Courts

204. sheet - A form

Magistrate's order sheet in Form be used by the

No. (M) Magistrate and it shall each
17, Volume II is to trial. The order
form part sheet should be
of the record of
written in
English.

Note - 1[Order shall not be written on petitions, reports and other similar documents. The serial number and the date of the order passed on any petition shall be noted on such petition].

205. Contents of order sheet - The order

sheet shall include every interlocutory order from the date of complaint or the date on which the accused is sent in custody to the Magistrate by the police and shall also contain the substance of the final order.

206. Signing of order sheet - Each

order entered

in
the
order
sheet shall be signed by the
Magistrate.

**207. Nothing
in
the
order
sheet
about**

**commitment
or
re-**

**commitment of the convict
to jail** - The commitment of the
convict to jail, his release on
bail granted by the trial
appellate or revisional Court
and his re-commitment to jail
after disposal of the appeal or
revision should invariably be
noted in the order sheet of the
original record of all the
Criminal Courts.

Note - When the original
record is in the Appellate or
Revisional Court the order may
be recorded in a separate sheet
and the same be sent to the
Appellate or Revisional Court
for being tagged to the original
record.

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III**

**Inspe
ction
of**

Records

208. **Inspection of pending records** - No record not deposited in the Record Room shall be inspected without the permission of the Sessions Judge or the Magistrate to whose file it appertains.

209. **Procedure of inspection of pending records**

- The Sessions

Judge or the Magistrate may either in his presence or in the presence of the Registrar, Civil & Sessions Court or the Chief Ministerial Officer allow inspection of any such record to public officers, pleaders and mukhtars in the case, subject to the general conditions laid down for inspection of records in the Record Room (*vide Chapter - VI, Rule.230 post*).

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1. Inserted by C.S. No.34-XLIX-D-21/81, dt. 8.5.1984.
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210. **Inspection of records on the date fixed** - The Presiding Judge or Magistrate may, in his discretion without making a written order in that behalf, permit a party or his pleader to inspect in the Court room the record of a pending case fixed for the day.
211. **Inspection of records of subordinate Courts by the Sessions Judge** -When the Sessions Judge desires to examine the record of a case in a Court subordinate to his Court, he may order the Court forthwith to forward the same to him.
212. **Inspection by the High Court** - Nothing in these rules above shall apply to any inspection by or on behalf of the High Court.

CHAPTER -IV

Transmission of Records to the District Record Room

213. **Record Room** - 'Record Room' is a room set apart for the storage of the records of decided cases and 'Record Keeper' is the ministerial officer in immediate charge of such records.

Note - The rules contained in the General Rules and Circular Order (Civil) Volumes I and II in so far as they relate to the maintenance of Registers, arrangement of records, receipt of records, custody and removal and transmission of records and of the documents for which no provisions has been made in these rules shall be followed in respect of criminal records.

214. **Consignment of records of decided cases** - The records of all the decided proceedings before the Court of Sessions and Judicial Magistrate will be kept in the District Record' Room and records of all decided proceedings before the Executive Magistrate will be kept in the District Magistrate's Record Room.
215. **Consignment of dormant file records** - Records transferred to the dormant file shall be consigned to the Record room with a separate list in Form No. (E) 13-A. They shall be kept in separate bundles without being mixed up with records of disposed of cases so as to trace them out easily.
216. **Period of consignment** - The records of all decided cases shall be forwarded to the District Record Room of the Sessions Judge by-' officers at the headquarters in the course of second month and by officers at out stations in the course of the fourth month succeeding the month in which they were decided or disposal of, on the dates fixed by the District Judge for the despatch of civil records.
217. **Period of consignment** - The records of all decided cases shall be forwarded to the District Magistrate's Record Room by the Executive Magistrates at the headquarters in course of the second month and by the Executive Magistrate at out stations in the course of the fourth month succeeding that in which they were decided.

218. ~~Time of periodical consignment~~ - ~~The District~~ Magistrate shall fix the dates on which the records of each Court shall be despatched to his Record Room endeavoring so to fix the date that too many records shall not reach the Record Room at one and the same time.
219. **Consignment of used up shorthand note books** - Completely used up shorthand note books shall be consigned to the Record Room along with the consignment of records.

CHAPTER - V
Preservation and Destruction of Records and
Returns of Exhibits

220. List of records consigned - A list in Form No. (R) 13, Volume II shall accompany all the records sent by Magistrates to the Record Room and a list in Form No. (R) 14, Volume II shall accompany all records in Sessions Cases, Criminal Appeals and Revisions sent to the Record Room.

One list only shall be prepared for the records of all the four classes into which the cases have been classified under Rule 223. The records of cases mentioned in proviso in Rule 223 shall be entered in a separate list.

221. **Size and shape of the lists** - These lists must be uniform in size and shape and shall be bound up from time to time, so as to constitute catalogues of the records sent to the Record room. They shall be preserved for the same period as the record to which they relate.
222. **Manner of preparation of the lists** - The lists required by Rule 220 shall contain an entry of every case disposed of during the period to which they relate and be prepared in duplicate by means of Zanetic (Pen) carbon paper. One copy of each list shall be forwarded with the records. The duplicate copy shall be sent to the Registrar or the Judge-in-charge of the Record Room under a separate cover and shall be returned to the issuing Court duly signed by the Record Keeper who shall acknowledge that the records have been received. These duplicate copies, shall on return, be preserved by the issuing Court for 1[Three years] from the dates of despatch of the original copies to the Record Room.

Note 1 - In every list entries shall be serially numbered Cadre should be taken to correct the classification of records as shown in the lists when this becomes necessary owing to the convictions being modified or set aside by higher Court.

1. Substituted by C.S. No. 17-IX-23/80, dt. 9.6.1982.

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Note 2 - A note shall be made against each entry in the list of records

mentioned in the proviso to Rule 223 if and when destruction is carried on.

223. Calculation of period of preservation of records - The period from which the records shall be preserved, such period being calculated from the date of the final judgment or order in each case, shall be as follows

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Note - 1[The records of Sessions cases in which sentence of imprisonment for life has been passed shall be preserved till the lapsed jail warrants are received back in the concerned Courts].

2[**Note - 2** The Records of Narcotic Drugs and Psycho tropic Substances Act cases, in which the convict is sentenced to undergo imprisonment for 20 years or more, shall be preserved till the lapsed jail warrants are received in the concerned Courts"]

Class I - To be preserved for 14 years

- (a) Files A and B of Sessions and Magistrates cases in which the accused has been acquitted or convicted of offences punishable under Sections 392

to 402, Indian Penal Code, inclusive.

- (b) Files A and B of proceedings under Sections 109 and 110, Criminal Procedure Code.
- (c) File A of Sessions cases other than those mentioned in (a) above, resulting in the conviction of the accused.
- (d) File A of non-bailable Magistrates' cases other than those mentioned in (a) above resulting the conviction of the accused.
- (e) File A of appeals and applications for revisions against judgment or orders passed by Magistrate s in cases (a), (b) and (d).

3. (f) The case records of Motor Accidents Cases shall preserved permanently.]
Class II - To be preserved for five years

- (a) File A of possession cases under Chapter - XI, Criminal Procedure Code.
- (b) File A of Security cases under Chapter - VIII, Criminal Procedure Code, other than those mentioned in I (b) above.
- (c) File A of appeals and applications for revision in respect of the cases mentioned in (a) and (b) above.
- (D) File A of appeals preferred under Section 6 (c) of the Essential Commodities Act, 1955.

2. Inserted by C.S.No. 70-
XL-D- 16/95, Dt. 6.2.1996.

3. Inserted by C.S.No. 87,
XLIX-D-7/98, dt. 27.1.1999.

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Class III - To be preserved for two years

- (a) Files A and B of other miscellaneous cases.
- (b) Files A and B of Magistrates'ailable cases.
- (c) File A including B papers of appeals and s application
respect cases
for revision inof mentioned in (a) and
(b) above.
- (d) File B of cases mentioned in Classes I and II,
excepting cases in (a) arid (b).

Class IV - To be preserved for one year

- (a) Files A and B of cases in which Magistrates has
declined to issue process.
- (b) Files A and B of cases in which a Magistrate has
passed an order of discharge under Sections 118 or 245
or 249, Criminal Procedure Code.
- (c) Files A and B of cases in which the accused has been acquitted,
excepting the cases referred to in Class I
(a) above.
- (d) Cases in which the accused has been executed under a
capital sentence, except in cases in which such
sentence has been passed under Section 396, Indian
Penal Code, vide Class I (a) above.

Proviso 1 - Provided that the following records shall be
treated as permanent:-

- (i) The record of any case in which any of the accused or
parties proceeded against has not been apprehended.
- (ii) File A or form of summary trial under Section 263,
Criminal Procedure Code, as the case may be, in cases
in which the accused has been convicted of an offence,
a repetition of which renders the offender liable to
enhanced punishment.
- (iii) Records of any case in which an order for
maintenance has been made under Section 125,
Criminal Procedure Code.

Note - The records mentioned, in Clauses (i), (ii) and (iii) of this proviso
may however be destroyed when all the persons on whose account they have
been preserved are known to be dead.

And the case of the records mentioned in Clauses (i) and (ii) of this
proviso (except when offence is one punishable with death or imprisonment for
life) death shall be presumed when tire records have been preserved for 30
years, and the records may then be destroyed.

Proviso 2 - Provided that the record of no case in which the

sentence has not expired shall be destroyed.

Proviso 3 - Provided that record of any case in which an order of attachment has been made under Section 146, Criminal Procedure Code: shall not be liable to destruction so long as such order remains in force.

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Note - A quinquennial revision should be made in respect of the records mentioned in Proviso 1 of Rule 223 with a view to the destruction of those that have become liable to destruction under the instructions contained in note to it.

224. Preservation of records beyond the preservation period Sessions Judges and Magistrates may, at their discretion, preserve any particular paper on the record of any particular case, beyond the above period.

Return of Exhibits.

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225. **Return of exhibits** - When an entry in a public Register, or in a private account book or other bulky record, not being itself an entry in respect of which an offence has been committed, or is alleged to have been committed is produced in evidence, and made an exhibit in the case, and the retention of such Register, account book or record would cause inconvenience to the public, or the person producing the same, such Register, book or record shall not be retained by the Court but shall be returned

to the person by whom it has been produced. Before returning the Register, book or record the Court shall mark, for the purpose of identification, such entry or entries as have been exhibited in evidence, and shall cause a certified copy of the entry or entries to be filed with the record of the case. The person to whom the Register, book or record is returned, shall be bound to produce the same before the Court when required to do so, and may be required to enter into a bond to that effect.

226. **(a) Notice to return exhibits** - On the judgment, or order, in any case becoming final notice shall be given to the person by whom any document admitted and used in evidence, was brought into Court, or to his pleader, requiring him to take it into his keeping, within six months from the date of the notice, failing which the document will be destroyed, when the records to which it relates is destroyed. The notice must distinctly warn the owner that the document will be kept at his own risk, and that the Court declines all responsibility for its safe custody.

Note - For form of notice, see Form No. (M) 22, Volume II.

(b) A copy of the notice shall be put in

the Court in which the
case

was tried.

227. **Not to return
impounded document -**

When returning documents,
care must be taken that any
document which the Court
has impounded is not
delivered out of the custody
of the Court.

228. **Destruction of
records -** The destruction of
records in accordance with
these rules shall take place at
the end of each quarter by
burning in the presence of the
Record-Keeper, Sessions
Judges and District
Magistrates will note in their
Annual Reports whether
these rules have been duly
observed.

Note - The above rules must be read in connection with provisions of Section

5 of the Destruction of Records (Act V of 1917).

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Custody
and
Examination of and
Requisitions for
**Transmission of
Records from one
Court to another**

**229. Custody of
disposed of records**

- The records of decided cases shall be retained in the Record-rooms of the Courts to which they appertain or of the superior Court of the district, and shall not be allowed to pass, out of the custody of the officers of such Courts, except when called for by superior judicial authority, or required for the purposes of Order XIII, Rule 10 of the Code of Civil Procedure

by a Civil Court. His improper and inconvenient that records of the Courts of Justice should be sent to other public officers or functionaries. If a reference to their contents is required the proper procedure is ordinarily to obtain copies of the requisite papers.

230. (a) Access to the Record-Rooms -

The Record Rooms of the Criminal Courts are not open to the public generally, but public officers of the district, including Head Clerks, may, with the permission of the Sessions Judge or District Magistrate, as the casemay be, be allowed to enter the Record Room, and in the presence of the Record-Keeper or one of his Assistants deputed for the purpose and under his control, to examine the record of any specified case, provided that such entry is made in pursuance of a public purpose.

Pleaders and Mukhtars, duly authorised by any that behalf, may, under similar conditions, and at a place provided for the purpose in the Record-Keeper's office examine any specified record; but in doing so, shall make only brief

231. Time for Inspection of records -

The examination of records by Pleaders shall be

allowed only on office days and during such office hours as the Sessions Judge or District Magistrate may prescribe.

232. Calling for the records - When in the course of proceedings

a Criminal Court, it becomes necessary refer to the public documents deposited in other Courts, the ordinary is to require copies of them to be filed. It frequently happens, however, that in the course of a criminal trial the production of a record becomes necessary. In such case, Court where the record deposited shall comply with the requisition of the Court for the production of the record even though the reason given for production of the record may be considered insufficient.

Note - This course should also be followed when no reason is given in the requisition. If the record required is that of an appeal pending before the Sessions Judge or the Chief Judicial Magistrate, he should intimate the fact to the officer making the requisition, and request him to return the record without delay.

233. **Complying with requisitions of the Commission** - When the State Government appoints a Commission of Inquiry into misconducting on part of a police officer in consequence of strictures expressed by a Court, the original record of the decided cases in question should be forwarded to the Commission on requisition.

How records should be transmitted from one Court to another

234. Transmission of records - The following instructions should be observed in transmitting records from one Court to another :

- (a) If the two Courts are situated in the same station, the record should be despatched by hand properly packed with a Peon Book in which a serial number and date should be entered, and the signature of recipient should be taken. The serial number and date appearing in the Peon Books should be reproduced in the remarks column of the Register of records removed. If requisitioning Court is situated in a different station, records should be sent by parcel post, the Postage being paid by means of service stamps.
- (b) Records relating to different cases may, if not inconvenient, be packed in the same parcel, provided such records are separately tied up.
- (c) In the parcel containing a record should be enclosed a forwarding letter and the cover of the parcel should bear the distinguishing number and date of that letter.
- (d) A letter of advice should be forwarded simultaneously with the despatch of the parcel by post but separately and by ordinary letter post and in it the number and date of the following letter referred to in the preceding clause should be quoted.
- (e) An acknowledgement should invariably be required from the Court to which a parcel containing a record has been sent, and in the event of none being received

Note 1 - For forms of covering letter and of letter advising despatch of records, see Forms Nos. (M) 23 and (M) 24, Volume II.

Note 2 - For cost of transmission of records to Civil Courts at the instance of a party, see Rule 309, Part IV, post.

235. Report of lost or missing records - Whenever it is discovered that a record or portion of a record or a document on the file of a record or Register, etc. Is destroyed or missing, the loss or theft shall be immediately reported to the Sessions Judge in whose division of office

the loss or theft has occurred, and he, in turn, shall report the fact to the High Court and state the steps taken to try and recover the papers missing. The Presiding Officer of the Court concerned should take personal charge immediately of their remanents and proceed with the work of construction of records.

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236. **Judge-in-charge** - At headquarters, the Registrar, Civil and Sessions Courts and at the outlying stations, such officers as may be appointed by the District and Sessions Judge co to be the Judge-in-charge of the copying section will be responsible for the strict compliance of the rules relating to the same.

237. **Time for presenting applications** - All applications for information or copies shall be made in the prescribed Form Nos. (M) 3A and

(M) 3B during the first two hours of the Court's sitting to the Register or the Judge-in-charge of the copying section as the case may be :

Provided that an application either for copy or information may be

presented at any time during Court hours of expedition fee has been paid.

Note - An application for copies of running depositions may be filed at any

time during Court hours.

238. **Procedure for prisoners to apply for copies** - An application by a prisoner may be made through the Superintendent of the Jail or through a friend on the prisoner's behalf; in the latter case the application shall be sent to the Superintendent of the Jail, to be attested by the prisoner,

and if it be so attested, shall thereafter be treated as the prisoner's own application. The Superintendent of the Jail shall note on the application whether the prisoner wishes the copy to be Sent to the jail or to be delivered to the friend, if any, who applied for it.

239. **Number of application** - Only one application should be made for copies of papers or for information required in respect of a single cause or matter from a single record or Register and it should be limited to a single question. In other words where copies are required of several separate papers on a single cause or matter from the same record, only one application need be made. Where several causes on a single matter or cause have been tried together, separate applications are not required in respect of each cause. A single application for a copy of all or any part of the record is sufficient.

240. Records called for in connection with the original case or appeal, revision or review will be treated as part of the record of such case.

Note - Questions regarding particulars of any document or record necessary to be inserted in an application for copy for its proper identification (e.g., date of document, date of disposal, number of the case, names of parties, etc.) will be treated as a single question.

241. Where copies or information relating to papers or Registers connected with different matters or cause are wanted as many applications as the matters or causes to which they relate are necessary.

242. When an application for information or for a copy is filed and search in once made, no amendment in the application shall be allowed unless a further search or extra searching fee is paid.

243. Sale of Forms - The form of application for information and copy

[Form Nos. (M) 3A and (M) 3B] will be obtained from the Nazir or any other employee in charge of saleable form at. 1[R. 85 per 100 copies or R. 1 per sheet].

244. From Nos. (M) 3A

and (M) 3B shall be indented from the Government Press. The saleable forms shall be kept in the personal custody of the employee in charge of such forms and shall be properly accounted for in the Register in Form No. (A) 17 B.

245. **Application to be rejected for want of searching fee** - An application will not be considered complete or preparation of copy will not commence until the requisite searching fee is paid in full. If full payment is not made within three days of notifying the same, the applications may be rejected unless the Registrar or the Judge- in-charge of the copying section thinks fit to grant extra time.

246. **Copies required by public officers** - No fee will be payable for searching or for copying or for typing papers required by public officers for public purposes. In these cases copies are to be made on plain paper.

Note 1 - Local bodies and Managers under the Court of Wards are not to be

treated as public officers for the purpose of this rule.

Note 2 - Remissions and reductions of Court-fees for grant of copies ordered by the Government under Section 35 of the Court-fees Act, 1870 are detailed in Rule 330 Post.

247. Procedure on presentation of application - Applications

shall be consecutively numbered and Registered as they are received in the Register in Form No. (R)'28 and the date of receipt shall be noted or stamped thereon; the receipt portion after being initiated shall be forthwith made over to the applicant.

Note 1 - Application for free copies shall be entered in the Register

(R) 29.

1. Substituted by C.S.No. 84, IX-3/98, Dt. 18.11.1998.

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Note 2 - Urgent applications will be entered in the Register in red ink. An application for information will be entered under a sub-number to the last preceding application for copy.

248. **Reference to Clerk-in-charge of records** - The application after being Registered shall be sent to the Clerk-in-charge of the record who shall take necessary further action.

249. **Manner of dealing referred applications by ministerial**

officers - Each ministerial officer through whose hands the application passes shall put his initial, the date and hour of receipt and passing on the application by him on the back of the application. These entries should be made one below the other and must be legibly written, the dates and hours being shown against the entries beyond a vertical line on the left to be drawn about three inches from the left hand side on the reserve of the application. Each Clerk receiving an application shall at once comply with the requisition on its back or pass it on to another who can do so.

Note - There should be no unnecessary delay in complying with the requisitions of the copying section.

250. When application may be rejected -

Applications in respect of which the information for copy asked for cannot for any reason be given, shall be rejected. Such applications are to be destroyed at the end of every quarter.

If the application is merely defective in that search is necessary in order to trace the record, a searching fee, except when it is an application for free copy, shall be demanded and affixed to the application for copy and the information shall be supplied on the application form without any separate application in accordance with the rules.

This concession is to be liberally interpreted in favour of the application for copy.

Note - When an application for copy is rejected on the ground that the original has been destroyed, the fact should be noted on the back of the application and the endorsement should be signed by the Judge-in-charge.

II. INFORMATION

251. **Who can apply for information** - Any person may apply for information from the records and Registers of any Court.

252. **Information applied for should be short answers** -

Information requiring anything but short answers shall not be given. If any extract from the record is desired the

proper course is to apply for a copy.

253. How application for information is to be dealt with -

After an application for information has been Registered it shall be sent to the ministerial officer in immediate charge of the record and it shall be the duty of the latter to note the necessary information and to return the

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the application to the Head Comparing Clerk with the least possible delay. On the applicant's appearance and on his producing the receipt referred to in Rule 247 above, the application shall be made over to him.

Information will be given in writing in the remarks column of the application ordinarily on the next open day after its presentation. Urgent applications. for information will, if possible, be complied with on, the same day.

III
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C
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254. Supply of copies - A party to criminal proceeding may

at any stage, before or after the disposal of the case, obtain copies of the records of the case or proceeding including exhibits 1[except printed or lithographed maps and plan] which have been put in and finally accepted by the Court as evidence :

C
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S
E

Pleader can file an application for certified copy of the order under Rule 254 on behalf of the party if such power is given by the party to make such an application on his behalf :
Bighneswar Patra v. The Officer-in-charge, Copying Section,

Kendrapara Court and another: 2004 (1) OLR 631.

2[254-A. The District Judge while finding any of the copying sections of his Judgship failing to cope up with the work load and facing difficulty in making copy within the prescribed period, be may engage a private Entrepreneur to instal a photo copier machine within the Court premises as a licensee in order to facilitate the parties in securing early supply of certified copies of documents on his agreeing to abide by the following terms and conditions:

- (A) That he shall work under the control and supervision of the Court ;
- (b) That he will charge at the rate of 50 paise per sheet of photo copy taken out by his

machine;

(c) That he will bear the cost of the photo-copy paper and the drawing of copy ;

(d) That he will always keep his photo copier machine during working hours on all working days of the

3[(e) Copiers as licensees in the premises of various Courts may take up private work otherwise than entrusted with them by the

1. Inserted by C.S.No. 74- IX-12/93, Dt. 30.8.1996.

2. Added by C.S.No. 44- XLIXD-29/86, Dt.12.12.1986.

3. Substituted by C.S.No. 86, IX-14/96, Dt. 23.1.1999.

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Courts
whenever
there is no
work of the
Courts
entrusted to
them. The
time in this
regard will be
fixed by the
District
Judges.]

- (f) That he
will prepare
photo copy of
documents
entrusted with
him on the
very day of
entrustment
under the
direct
supervision of
an assistant of
the Copying
Department
defailed for
the purpose
and no sooner
the copies are
made out,
hand over the
original
documents as
also all of the
copies taken
out of the
same to the
said Assistant;

- (g) That he
shall not
lift copy
of the seal

**or
signature
of any of
the
Hon'ble
Judge of
the Court
or
Presiding
Officers of
the
Subordina
te Courts
while
taking out
the copies
of the
document
s;**

- (h) That he will not destroy tamper with or mutilate in any manner any of the original documents entrusted with him for being copied out and shall make himself personally responsible for safe custody of the entrusted documents;
- (i) That he will remove his machine from the Court premises immediately as and when directed to do

so;

AND

- (j) That he will furnish personal security and also cash security of R.,000 (which is liable to forfeiture on violation of the terms and conditions) for abiding by the aforesaid terms.

2. Grant of certified copy of xerox process shall not be allowed of judgments and orders which are in the manuscript form or upon which the Judge/Presiding Officer concerned has indicated for not issuing certified .copy by appending a mark such as 'n-x', upon the document concerned, unless permission of the Judge/Presiding Officer concerned is taken in that behalf.

3. An applicant requiring to have copy of any document drawn by means of photo copier machine shall so indicate by putting the words "Xerox copy" on the top of the copy application form.

4. Where the facility of taking out copy by means of a photo copier machine is available and drawal of copy by means of

such a machine is permissible, the applicant intending to avail of the benefit may, in lieu of supplying the required impressed stamp papers, supply, for being affixed to the copy, adhesive stamps of the value thereof in addition to depositing with the Assistant concerned of the Copying Department, the value of the photo copy papers required to be used for drawal of the copy at the rate of R. 0.50 paise per sheet.

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5. ——— ~~The Assistant concerned on receiving applications for supply~~ photo copy shall, after evaluation, .collect from the applicant photo-copy-

paper charges at the rate of Rs. 0.50 paise per sheet of paper in the manner indicated in Sub-rule (4) and indicate the amount collected by him for the purpose, separately on the counter foil of the application where he is required to state the date and hour when the copy is to be made ready for delivery while acknowledging receipt.

1[5.(a)(i) The installation of photo copier machine, in the Court premises shall be made after consultation with the High Court.

(ii) Register, Civil Court/ other officer appointed by the concerned District Judge will remain in-charge of the Xerox machine.

(iii) All the documents for which certified copies are required be given by the Xerox process subject to order of the competent a u t h o r i t y. Rules granting for certified copies will be applicable as per the existing provisions in the C.R. & C.O. The persons desirous to .get the certified copies by Xerox process are to give the proper charge-sheet as would have been fixed by the District Judge and required adhesive stamp. The District Judge should fix the maintenance charge to be paid on each ,of the copy application considering the number of papers used.

(iv) No such fees are required where there is provision for supply of free copies. The amount collected from the parties be deposited in the local treasury to facilitate for withdrawal by the District Judge for purchase of papers and other connected articles and payment of maintenance charge to the company concerned.

(v) The party desirous of taking certified copies of civil matters by Xerox process may apply to the District Judge after considering the urgency of the matter and pendency of the application for urgent criminal matters may allow to grant of certified copies by Xerox process.

(vi) No private work will be allowed to be done by the departmental Photo copier machines.

(vii) After installation of departmental Photo copier machines in their respective judgship may consider to take action against the private entrepreneurs under Rule 254-A of the G.R. & C.O. (Criminal) Volume-I for removal of the machine from the Court premises.]

6. The Assistant of the Copying Department in charge of receiving application for supply of copies shall enter each applications made for preparation of copy with the aid of a photo copier machine chronologically, in a separate Register in the following *pro forma* no sooner all the requisites are made available and thereafter, he shall take the original document

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shall take the original document along with the Register and amount deposited in cash to the operator of the Photo copier machine and get the photo copy drawn by the operator in his presence and under his supervision. After drawal of the copy, he shall collect the original document as also all the copies thereof drawn with the aid of the machine from the said operator and making him over the charge for preparation of the-copy. collect his signature in token on payment of the charges in Column 8 of the Register, maintained in the following *pro forma* :
(See
Page No.102)

7. After the photo copies of the documents are received in the Copying Department immediate steps shall be taken for certifying the copies after erasing the signature and seal of Hon'ble Judges of the High Court of Orissa, or of the Presiding Officers of the Subordinate Courts if available upon the photo copies.

8. The Assistant as also the Head Comparing Clerk of the Copying Department shall draw

daily total of the collections and disbursements indicated in the Register maintained under Sub-rule (6) and sign against the same in token of correctness of the entries. The Judge-in-charge, Copying Department shall inspect the Register maintained under Sub-rule (6) once in a week.]

255. Supply of copies of judgment, etc., to a stranger - A stranger to criminal proceeding may, after final disposal of the proceeding, obtain copies of judgment or orders at any time.

256. Restriction to supply of the y copies of private to a stranger - A stranger to a proceeding has no right

private copies of documents except with the consent of by whom they were produced or is successor-in-interest. He may obtain copies of other documents in which he has an interest including depositions for *bona fide* use in the Courts.

1[Note - Copies of police papers and other relevant documents relating to any accident should be supplied to the claimants instituting cases under Section 11 O-A of the Motor Vehicles Act.]

2[256-A. Certified copies of the documents collected by the

investigating agency which have linked with the Motor Vehicles Accident cases shall be granted to the Insurance Company after following usual procedure for obtaining such copies, in case of pending proceedings, as, if a case is disposed of, even a third party can apply for certified copy of document :

Provided that if the case is disposed of in Lok Adalat a copy of such order be given to Insurance Company in free of cost.]

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1. Added by C.S.No. 53-XI-6/87, dt.1 0.3.1988.
 2. Inserted by C.S.No. 81 (XLIX-D-26/97, Dt. 8.6.1998).
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257. **Copies of private documents when to be withheld** - Copies of public documents which applicants may have a right to inspect are not to be withheld from them even though they may be used as evidence against Government; but discussions or opinions of public officers written previously to a decision, as they can be no legal evidence and no one has a right to inspect them, are not to be given.
258. A copy of a copy should not be granted unless good grounds are shown for not applying to the office where the original is kept.
259. **Restriction to the supply of copy from a record called from another Court or office** - Copies of papers from a record called for from another Court or office not being subordinate to the Court or office to which the copy section is attached shall not be given, unless an application for copy is made through the Court or office which sent the record or paper and such Court or office forwards the application for compliance.
260. **Supply of copy of any paper in a pending case** - Every application for copies of papers in a pending case shall be laid before the Court with whom the case is pending for such orders as in the discretion of the Court may be made.
261. **Copies of printed maps not to be supplied by the copying Section** - Copies of printed or lithographed maps and plans will not be supplied by the copying Section. Applications should be made to the office where the original maps are deposited or to the office where they are available for sale.
262. **Specification as to the purpose for which copy wanted** - Every application for copy shall state whether or not the person applying is a party to the case from the record of which copy is wanted. If the applicant is not a party or: his pleader, the application shall state the Object for which a copy is required.
263. **Doubt as to propriety of giving copy** - Where there shall arise any doubt as to the propriety of giving copy, the Clerk-in-charge of the record shall take orders of the Judge-in-charge of the Court concerned in this regard before the document is made over to the Copyist or Typist for preparation of copies.
264. **Application fee for copy** - ¹[Each application for copy is required by Article (a) of Schedule II of the Court-fees Act, 1870 as amended by the Orissa Court-fees (Surcharge Amendmen.) Act, 1947, Orissa Court-fees (Surcharge Amendment) Act, 1951, Orissa Court-fees (Surcharge Amendment) Act, 1958 (Acts 16 and 17 of 1958) and the Court-fees (Orissa Amendment) Act, 1974 to bear Court-fees Stamps worth fifty-five paise to the affixed to the application In the form of adhesive Court-fee Stamps.]

1. Substituted by C.S. No. 8-1XS-87/81, dt. 9. 2. 1982

**REGISTER FOR
XEROX COPY**

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S1. No	Name of applicant	Date of application	Nature of document of which copy is applied for and number of the case and year in which filed	Number of pages of which Xerox copies to be prepared	Charges for preparation of the Xerox copy collected from the applicant
1	2	3	4	5	6

265. Duty of Head Comparing Clerk - After an application for copy has

been Registered, the Head Typist or the Head Comparing Clerk shall forward the application to the proper officer who shall at once enter it in a Register to be kept in Form No.(R) 30, bring out the document to be copied and keep it in readiness for the estimating of the folios and Court-fee stamps required for the copy. The Head Typist or the Head Comparing Clerk shall depute a Comparing Clerk to make the estimate by reference to the original document. The Comparing Clerk shall enter the amount of Court-fee stamps and the number of folios required in the space provided for the purposes in the application, sign and date the entries, make the necessary entry in Column 5 of Register No. (R) 30 and return the completed application to the Head Typist or the Head Comparing Clerk. The number of folios required should be carefully calculated so that it may not be necessary to obtain additional folios from the applicant, a contingency which ordinarily under a proper system ought never to arise.

Note 1 - The expression "Head Comparing Clerk" in the rules in this CHAPTER - includes a Comparing Clerk to whom the functions of the Head Comparing Clerk have been delegated by the Sessions Judge for the purpose of these rules.

Note 2 - In outlying stations where there is only one Comparing Clerk the estimating of the folios and Court-fee stamps may, if the Judge-in-charge so directs, be made by the officer to whom the application is forwarded.

266. Notifying folios and stamps - The Head Typist or the Head Comparing Clerk shall notify the number of folios and Court-fee stamps required for the copy in the case of each application on the same day, or, at the latest, on the day following, unless they have already been filed by means of an entry in the prescribed Register [Form No. (R) 32]. This Register shall be kept at a convenient place prescribed by the Sessions Judge for public inspection during such hours as the Judge-in-charge may direct. When the folios or stamps are deficient, the deficit shall be notified in the same manner. Rejected applications shall also be shown in this Register.

267. Time for filing folios and stamps - The requisite folios and stamps shall be filed before the Head Typist or the Head Comparing Clerk within three days of the giving of the notice in Rule 271. If this is not done the application may be rejected. If the application has been rejected, a note to that effect shall be made against the application in Register No (R) 32. The Comparing Clerk going round the offices shall make estimates take with him the rejected applications and shown them to Judge-in-charge who shall sign the

applications on the reverse and after restoring the documents to the proper places make the appropriate entries in Column 7, 8 and 9 of Register No.(R) 30.

1. Substituted by C.S. No. (IV-21/1992,dt. 18.1.2014)
 2. Substituted by C.S. No. (IV-21/1992,dt. 18.1.2014)
 3. Substituted by C.S. No. (IV-21/1992,dt. 18.1.2014)
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268. **Procedure for supply of Court-fees** folios by the applicants _ The applicants should file along with the folios a list showing the number and date of the application, the name of the applicant and the number of folios filed. Court-fee stamps either for copying fees or for value of forms or tracing cloth should be noted before they are made over to the copyist, the lists and papers should be stitched to the respective original applications, should be compared with the reports of the Copyists on the back of the application and should be initiated by the Judge-in-charge as a token of the fact that the correct number of folios, plain paper and Court-fees required Copyists be of the value, as reported by the , have been filed.

269. Additional folios - If the folios supplied by the applicant fall short of the actual requirement, additional folios should be called for. The additional folios should be filed during the prescribed

in the same hours with a list manner as ordinary folios are filed, and before they are distributed to the Copyists concerned. The list stitched with the original application, should be compared with the report of Copyist and initiated by the Judge-in-charge.

ministerial The officer attending the Court Officer Room of the Judge-in-charge will enter them in prescribed Register. A receipt for them should be given on the counterfoil as prescribed by the rules.

270. Distribution of completed Copyists among or Typists - After Rules 1[266, 267 and 268] the requirements of are complied with and the applications satisfy all conditions for copying, the *Head Typist or the Head Comparing Clerk 2[in out-lying stations and

Head Typist in the District Headquarters Stations] will distribute the completed applications for copying among the Copyists and Typists

indicating the date by which copy should be made ready. 1[The Head

Typist or the Head Comparing Clerks in the Out-lying Stations and the Head Typists or the Head Comparing Clerk in the Head quarters Stations] will maintain a Register in Form No. (R) 33 in which he should enter the distribution of applications aforesaid. Each type folio shall contain 180 words in English or partly in English and partly in vernacular or 240 words in vernacular, four figures counting as one word.

271. Copying of document written in language or character not known to the Copyist/Typists - When an application is made for the copy of any document in a language or character which the Copyists/Typists are not acquainted, the Judge-in-charge shall arrange, if possible, for a copy to be made thereof and compared with the original by such persons acquainted with the aforesaid language or character as

1. Substituted by C.S.No. 79, IX-3/96, dt. 28.5.1998.
 2. Added ibid.
 - * Substituted by IV-21/92, dt. 18.1.2014
 - * Substituted by IV-21/92, dt. 18.1.2014
 - * Substituted by IV-21/92, dt. 18.1.2014
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Are forthcoming and may in his opinion be relied upon for the purpose.

272. Comparing - When a copy required in respect of an application is completed, it will be made over by the Copyist/Typist concerned together with all unused folios and the original documents to the *Head Typist or the Head Comparing Clerk. The prepared copy shall, at the end bear the initial of the Copyist/Typist and the date of copying/typing. The *Head Typist or the Head Comparing Clerk will distribute the prepared copies among the comparers for comparing by the time and date fixed by the former. The prepared copies together with the documents, unused folios, etc. should be returned by the comparers concerned, after comparing to the *Head Typist or the Head Comparing Clerk. Every page of the compared copy will be initiated by the comparers in token of comparison. All cuttings and corrections made during comparison will initiated by the comparers. On the completion of comparison the comparers will put with signature and the date at the foot of the last page of the copy. On no account any alterations or erasure are to be made in any copy. A mistake must be scored through, initialled and the correct entry made above it. All movements of prepared copies to and from the comparers should be noted in a Register in Form No. (R) 34 to be maintained by the *Head Typist or the Head Comparing Clerk.

273. Preparation of ordinary copies should not suffer on account of urgent copies - Care should be taken to ensure that application for copies for which expedition fees have not been paid do not materially suffer on account of grant of urgent copies.

274. Delivery of copies - All copies ready for delivery shall be entered day by day between 2 and 3 P.M. or in the case of morning sitting between 9 and 10 - A.M. in a Register in Form No. (R) 35 which shall be placed outside for public inspection. The copies shall be made over in open Court in the presence of the Judge-in-charge, the appropriate entries in the Register being at the same time struck out and initiated by the officer in whose presence the copy is delivered.

Note - Loose forms of the above Register may also be used for the purpose and posted up on the Notice-board.

275. Return of receipt by applicant - When the copy is delivered to the applicant, his receipt therefor with the date will be taken on the counter-foil which should at the same time be given up. Unused folios and stamps returned with the copy should be noted by the applicant in the receipt taken as above from him. To counterfoil will be kept attached to the application. If the counterfoil is missing or lost, the Judge-in-charge after satisfying himself about the identity of the applicant, may take his receipt on the application and deliver the copy.

1. Substituted by C.S.No. 107, of dt. 18.1.2014.

* Substituted by IV-21/92,dt.18.1.2014

* Substituted by IV-21/92,dt.18.1.2014

* Substituted by IV-21/92,dt.18.1.2014

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276. **Undelivered copies and unused folios how to be dealt with** - Should the applicant, in any case, fail to appear to claim either the copy or the unused folios both must of necessity be retained temporarily but on the last day of each month all unclaimed copies ready for delivery before the close of the preceding month together with all unused folios attached thereto and copies, if any, which remained in complete on account of the failure of the applicant to furnish the extra folios required within the prescribed period shall be destroyed in the presence of the Judge-in-charge of the Copying Department.

277. **Return of unused folios and stamps** - In any case in which

copy cannot be granted the folios and stamps supplied by the applicant for the copy should be returned to him when he is so informed. This should be done also where the application is withdrawn and the folios and stamps have not been used. Such stamps would not include searching fee and expedition fee affixed to the application.

278. **Safe custody of undistributed, incomplete copies** - At the end of the working day all undistributed work and all incomplete copies with the originals, shall be locked up in an almirah/ chest, the key of which will be kept by the Head Comparing Clerk. Separate compartment in the almirah/ chest or separate boxes to be kept in the almirah or chest as the case may be, shall be allotted to each Copyist/Typist/Comparer in which to place the papers.

279. **Responsibility of the Head Comparing Clerk and comparer - in-charge relating to copying** - The Head Comparing Clerk shall be responsible to ensure that the copy prepared is a correct copy and has been prepared strictly according to the rules prescribed for the purpose. If he finds that a copy has not been written or typed legibly and with proper ink or has not been compared properly or has not been prepared strictly according to the requirements in the prescribed rules, he shall bring it to the notice of the Judge-in-charge who may require the Copyists z Typists /Comparers to prepare. fresh copies at their cost. In case it is noticed that a folio contains more words than the prescribed limit, (under Rule 275) additional copying charges in shape of Court-fee stamps should be realised from the applicant before making over the copy to him.

280. Disposed of copy applications - 1[(1) Applications for information and copies which have been disposed of shall be recorded in the copying section and filed in a separate bundle for each month. At the dose of each quarter they will be examined by the Chief Ministerial Officer, who will bring to notice any irregularity or unpunctuality that may bE apparent in the section. The Judge-in-charge after satisfying himself as to the working of the office by an inspection of the forms recorded will then direct their destruction.]

1. Renumbered by C.S.No. 37 -XLIXD-48/83, dt.16.6.1984.

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1{(2) All endeavors should be made to deliver copies of briefs prepared for use of public officers and free copies of documents, judgments and orders prepared for supply to public officers. If not claimed by and delivered to the persons concerned for whose use or at whose instance those are prepared, they should be destroyed after a period of six months from the date on which they are made ready, in presence of the Judge-in-charge of the Copying Departments.]

281. Transmission charge-in application for copy for records of

outlying Court deposited in record room - An application for copy of a document from the records of the outlying Courts deposited in the District Record Room may be made by the applicant to such outlying Court with a transmission fee of 2[Re.10.00] in the shape of Court-fee stamp affixed thereon. The outlying Court may thereafter send the application to the District Record Room for necessary compliance and return.

282. Proper custody of documents - The

Sessions Judge should make special arrangements for the proper custody of the documents removed from themselves for compliance with applications for copies until the document is sent to the Copying Department to be copied or until intimation is received of the rejection of the application.

283. **Copy of English documents** -Copies of English documents shall as far as possible be typewritten.

284. **Examination of copies** - All copies must be examined before issue by a responsible officer.

285. **Certificate to be appended to the copy** - A copy must be "certified to be a true copy" must bear the seal of the Court and must be signed, if not by the Judge-in-charge, then by the officer hereinafter named :

At the headquarters of a district - By such officer as may be appointed by the Registrar, Civil and Sessions Court with the approval of the Sessions Judge.

At outstations - By the Chief Ministerial Officer of the office of the Judge-in-charge.

In every case the certifying officer will

append to his signature the words “Authorised under Section 76, Act 1 of 1872”

The words :

“Certified to be a true copy”.

“Authorised under Section 76, Act 1 of 1972, may be impressed by means of a stamp.

Note 1 - The above certificate shall not be given on a blank sheet. If the last has been fully taken up by the copy, the certificate may be given on its reverse.

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1. Inserted by C.S.No. 37-XLIXD-48/83, dt. 16.6.1984.
 2. Substituted by C.S. No. 94-IX-4/2006, dt. 10.9.2009.
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Note 2 - In each sheet of the certified copy, the certifying officer shall sign an endorsement "True Copy".

286. In case of copies filed, exhibited, or recorded in any Court, the Court-fee chargeable under the Court-fees Act should be levied by of fixing the necessary stamps to the first folio of the copy.

287. Particulars to be noted on the copy -

The following particulars must invariably be recorded on the last sheet of the copy:

- (a) Date of application for copy.
- (b) Date fixed for notifying the requisite number of folios and stamps.
- (c) Date of delivery of the requisite folios and stamps.
- (d) Date on which the copy was ready for delivery.
- (e) Date of making over the copy to the applicant.

In the case of a copy of judgment, or order, the date excepting the date of making over copy to the applicant shall also be expressed in words.

Note 1 - Each date on which extra folios are to be

notified and each date on which they are delivered shall also be recorded.

Note 2 - In case of free copies only the particular noted in (a), (D) and (e) above should be given.

288. Particulars as to cost - On the back of the last sheet of the copy shall be recorded the costs paid by the parties applying for copies in the form given below:

Application for copy	....	Rs.	P.
Searching fee	....	
Extra fee for urgency	....	
Folios, if any	....	
Other items, if any	....	.....
Total	....	.....

The entries shall be made by the examiner of the copy. A rubber stamp may be used for the form of these particulars.

289. Full particulars of the names and address of all the parties to a case must be invariably stated in the certified copies of judgments and orders.

290. Incomplete copy to be made ready on fresh application with extra

stamps, folios - In any case in which the application is rejected on account of the failure of the applicant to furnish the extra stamps and folios within the prescribed period, the applicant may present a fresh application together with the extra stamps and folios, whereupon the

incomplete copy shall be made ready for delivery. Where the application relates to a number of documents from one record and from one record and copies of some of the

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Documents are complete, the applicant may at his choice take delivery of these documents after filing a memo to that effect.

291. Time for granting ordinary copies - In ordinary circumstances a copy shall be furnished not later than 4 P.M. or 10 A.M. as the case may be on the fifth open day after the application.

292. Time for granting urgent copies - Urgent copies should be furnished on the day of the application and where this is not possible on day following :-

Note - No application is complete stamps until the necessary and folios have been filed. When these are not filed, with the period referred to in this rule it will be reckoned from the date of their being filed.

293. Copy of running deposition - Every application for copies of depositions in a case which is being heard shall be laid before the Presiding Officers for such orders as he in his discretion may make. If such Officer so directs so much of the deposition shall each day be given to the *Head Typist or the Head Comparing Clerk as there is a reasonable hope or being copied in the course of the day. The *Head Typist or the Head

Comparing Clerk shall return the deposition to the Bench Clerk at the close of the day.

Subject always to (a) the precedence which must invariably be given to applications on which an expedition fee has been paid and (b) delay occurring as a consequence in respect of ordinary applications of an earlier date, such copies will ordinarily be issued on the same day or the following day .

294. Copy during summer vacation -

Application for copies both urgent and ordinary, should be entertained and complied with during the period of Summer Vacation. For this purpose, the Judge-in-charge of the copying section should make necessary arrangements to retain necessary staff during the Vacation.

1[295. Daily outturn - Daily outturn for Typists and Copyists working both on Civil and Criminal sides should at least be 2(50) folios in type and 2[30] folios in manuscript respectively. For Typists and Copyists engaged in preparation of briefs and copies of case diaries the daily outturn should be at least 3[35] pages of typed material and 3[20] pages manuscript respectively, each page containing 180 words.

When the whole-time of a Typist or Copyist is not covered according to the above standard outturn he may be employed in other office work.]

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1. Substituted by
C.S.No.14-XLIXO-7/81.
dt.9.6.1982.
 2. Substituted by
C:S.No.82-IX-2/98. dt.
7.10.1998.
 3. Substituted by
C.S.No.S9-IX-6/89.
Dt.11.2.1992.
 4. Substituted by
C.S.No.109 of
Dt.18.1.2014.
 - * Substituted by IV-
21/92,dt.18.1.2014

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Concerned Court to decide whether process fee is chargeable - Rules framed by the High Court of Judicature, Orissa under Clause (ii) of Section 20 of the Court-fees Act, chargeable for the service and execution of processes issued by the Criminal Courts.

Note 1 - These rules do not apply to the service and execution of processes in the case of cognizable offences and no fee can legally be charged for the issues of process in the case of a cognizable offence, whether the case be instituted on complaint or not.

The question whether fees are chargeable in any particular case should be determined by the Court with reference to the Section of the -Indian Penal Code or other law relating to the offence in respect of which it directs process to issue, whatever the Section of the Indian Penal Code or other law may be quoted in the complaint.

Note 2 - Under Clause XVIII of Section 19 of the Court-fees Act, VII of 1870, no Court-fee is liveable on a complaint

preferred by Municipal Officer. Court-fee should, however, be levied for processes issued in non-cognizable cases instituted by such officers.

296. Rates of process fee - The fee hereinafter mentioned shall be changeable for serving and executing the processes to which the fees are respectively attached ; viz. -

1.	Warrant of arrest - For the warrant in respect of each person named therein.	3
2.	Summons - For the summons in respect of the person, or of the first two persons residing in the same place. In respect of every additional person named therein	1 0.75
3.	Proclamations for absconding party under Section 82 of the Criminal Procedure Code.	4.50
4.	Proclamation for witness not attending (Section 12)-For the proclamation.	1.50
5.	Warrant of attachment-For the warrant. When it is necessary to place officers-in-charge of property attached for each officer so employed, per diem	3.00 0.75

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(6) Written order -	
For the order	3.00
(7) Injunction -	
For Injunction	3.00

Note - The provision of Section 359, Cr.P.C. and of Rules 299 and 301 below, apply also to injunctions. Criminal Officers are, however, reminded that injunctions in proceedings not connected with offences are not chargeable with any fee. An injunction under Section 143, Criminal Procedure Code would, for example, be chargeable with the above fee; whereas an injunction under Section 144 or 145 of the Code would not carry any fee.

(8) Notice -	
For the notice	3.00

297. Additional process fee - (1) In such part of the district, where the destination cannot be reached by a process server during the rainy season without hiring a boat or without payment of ferry toll, the area and duration of the year should be declared by the Sessions Judge for the purpose of levy of additional fees towards boat hire and ferry toll which shall be realised from the party in the shape of Court-fee stamps in addition to ordinary fee chargeable for the service of process as follows :

- (i) Boat hire charge per day per boat.....
- (ii) Ferry toll charge.....

Rs.
2.25
Rs.
0.18

(2) The boat hire and ferry toll charge shall be paid by the Court executing process from its special permanent advance to the process server entrusted with the service of process.

298. Costs of process fee to be realised from the accused when

convicted - No fee shall be chargeable in advance on any process of a Criminal Court in any case where the prosecution is on the part of Government, but it shall be competent to any Court in such case, if the accused is convicted, to order that such fee shall be paid up by the accused, or any of them, in like manner as if such fees had been paid by the prosecutor in the first instance.

299. Application for issue of process to be duly stamped - No process which comes within the operation of Rule 296 shall be drawn up for service or execution except upon an application made to the Court for that purpose in writing on a document bearing upon its face stamps not less in amount than the fee which is directed to be charged for serving and

executing the process so sought to be drawn up. This application may however, at the option of the party making it, be included in the petition by which he moved the Court to order the process to issue, but in that case the petition must bear the requisite stamps for the process fee, in addition to such stamps, if any, as are needed for its own validity ; and in

THE HIGH COURT OF ORISSA

either case the filing of the application, thus duly stamped. Shall constitute payment of the fee chargeable for the process.

300. No process fee chargeable for realisation of costs and

compensation - Cost awarded under Section 359, Criminal Procedure Code and compensation awarded under Section 250 and 255(1) and (2) of the Code of Criminal Procedure shall be realised by Courts of . their own motion, and without payment or recovery of process fee.

301. When witness to pay costs of proclamation - When a proclamation has been issued for an absent witness, if the Court shall be of opinion that such witness had absconded or concealed himself for the purpose of avoiding the service of warrant upon him, such Court may order the witness to pay the cost of proclamation.

302. No fees for process issued by the Court of its own motion - No fee shall be chargeable for service and executing any process, such as a

notice rule, summons or warrant of arrest, which may be issued by any Court of its own motion solely for the purpose of taking cognizance of, and punishing any act done or words spoken in contempt of its authority.

**REDUCTION
AND
REMISSION OF
COURT - FEES**

**Extracts from
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Gover
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of
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a
under
Sectio
n 35
of the
Court-
fees
Act**

303. In exercise of the powers conferred by Section 35 the Court-fees Act, 1870 (VII of 1870) as amended by the Orissa Court-fee (Amendment) Act, 1939 (Orissa Act V of 1939), and in supersession of all previous notifications on the subject, heretofore in force in any part of the

Province, the Governor of Orissa is pleased to make in the Province of Orissa the reduction and remission hereinbefore set forth in fees liveable under Schedules I and II to the said Act, Namely:-

X	X
X	X
X	X

(4) to remit the fees chargeable on-

(a) Copies of village settlement records furnished to land holders and cultivators during the currency or at the termination of settlement operations;

(b) Lists of fields extracted from village settlement

records for
the purpose
of being
filed with
petitions of
complaint in
Settlement
Courts:

Provided that nothing
in this clause 'shall apply to
copies of judicial
proceedings, or to copies of
village settlement records
(other than lists of fields)
extracted as aforesaid
which may be filed in any
Court or office ;

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X	X
X	X
X	X

(6) to remit the fees chargeable on security bonds for the keeping peace by, or good behaviour or persons other than the executants ;

(7) to remit the fees chargeable under Articles 6, 7 and 9 of Schedule I on copies furnished by Civil or Criminal Courts or Revenue Courts or offices for the private use of persons applying for them :

Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of Judicial or received by any public officer.

(8) to remit the fees chargeable under paragraph 4 of Clause

(a) and paragraph 2 of Clause (b) of Article I of Schedule II on applications for orders for the payments of deposits in cases in which the deposit does not exceed Rs. 25 in amount:

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application;

X	X
X	X

X X

(12) to remit the fees chargeable on the following documents,

namely :-

X X

X X

X X

(c) Copy or translation of judgment in a case other than a summons case when the copy of translation is given under Section 363 of the Criminal Procedure Code to an accused person

(d) Copy or translation of the judgment in a summons case when the accused person to whom the copy or translation is given under Section 363 of the said Code is in jail.

(e) Copy of an order of maintenance when the copy is given under Section 490 of the said Code to the person in whose favor the order is made, or to the person to whom the allowance is to be paid.

(f) Copy furnished to any person affected by a judgment or order passed by a Criminal Court, deposition or other part of the record when the copy is not a copy which may be granted under any of the preceding sub-clauses without the payment of a fee, but is a copy which on its being applied for under Section 363 of the said Code, the Judge or Magistrate for some special reason to be recorded by him

on the copy, thinks fit to furnish without any such payment.

(g) Copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court.

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(h) Copies of all document, which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation, for the use of any Court or Magistrate or is considered necessary for the purpose of advising the Government in connection with any Criminal Proceedings.

(I) Copies of Judgment or deposition required by officers of the Police Department in the course of their duties.

X X X X X X

(14) to remit the fees chargeable on an application presented by any person for the return of a document filed by him in any Court or public office ;

(17) to direct that no Court-fee shall be charged on an application for the repayment of a fine or any portion of a fine the refund of which has been ordered by competent authority.

(18) to remit the fee chargeable on applications for copies of documents detailed in Clauses (4) and (12) supra;

X X X X X X

(31) to remit the fees chargeable on copies of documents furnished by a Criminal Court to a Pleader of the Court to defend a pauper accused in a Sessions Case.

X X X X X X

(34) to remit the fees chargeable on copies of judgments or relevant extracts thereof furnished to the Registrar of the Council of Medical Registration, Orissa, by Courts exercising criminal jurisdiction in cases in which a Registered medical practitioner is convicted of a non-bailable offence or in which the Court pronouncing the judgment considers that the professional conduct of a Registered medical practitioner has been such that it is desirable to bring it to the notice of the Council.

304. Searching and copying fees shall be charged according to the scale shown in the table below except in the cases where the law requires copies to be given free of cost ;-

THE HIGH COURT OF ORISSA

Nature of fee or charge	Cash in which to be paid	Amount	How paid
(1)	(2)	(3)	(3)
		Rs. P.	
1. Searching fee.		On all applications	
(1) For Inform ation whether the record is deposited in the Record Room or not.	Note- No searchi ng fee to be charge d to Pleader s for look- ing at the record of pending cases.		
Note- This is the only fee to be paid on such a p p l i c a t i o n	(3) Forcopy (In a d d i t i o n to the prescribed fee of 1[fi fty-five paise] u n d e r		
(2) For inspect ion where the record is de p o s i t e d i n t h e R e c o r d R o o m .	t h e C o u r t F e e s A c t) where the record is deposit ed in the Record Room. Note		

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(1) By
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1. Substituted by C.S.No.9-
IX-8/81. Dt.9.2.1982

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Nature of fee or charge	Cash in which to be paid	Amount	How to paid
(1)	(2)	(3)	(4)
			Rs. P.
	Note- pt (2) copi Reco es. rds c alle d f o r i n conn ectio n with origi nal case or appe al will be treate d as a part of the recor d of such case or appe al.	For every 180 word s Engli sh or a n y f r a c t i o n there of in case of typed copie s or 180 word s partl y Engli sh or partl y	
2. C o p y i n g c h a r g e s .	(a)T yped copi es- (b) Man uscri	in an I n d i a	

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or	pais	India
w o r d	e	n
s	valu	langu
	e	age
Indian	cont	or
or any	ains	240
thereof	mor	word
of manuscripte		s in
c o	By	a n I
p i	mea	n d i
e s	ns	a n
,	of a	langu
f o	folio	age
u r	of	in
figures	of	case
e a	75	of
a b	pais	manu
b r	e to	script
e v	be	copies
i a t	prov	a
i o	ided	copyi
n	by	ng
orif	the	charg
icia	appl	e of
l	ican	75
cou	partl	paise
nti	y	be
ng	E n	shall paid in
one	g l i	s h a p
w o	s h	t h e e o f
rd.	a n d	adhes
	p a r	ive
	t l y	Court
	i n	.

Nature of fee or charge	Cash in which to be paid	Amount	How to paid
(1)	(2)	(3)	(4)
			Rs. P.
	n t a p p l i c a t i o n .		
(c)			
) E x p e d i t i o n			
	(i) For inspectron or information. (ii) For copies-		1.50
	(1) Not exceeding 720 words English or 960 words in any Indian language.		3.00
F e e o n u r g e			

fee stamps to be affixed across the perforated line on the top of the impressed stamp of the folio.

By means of Court fee stamp to be affixed to the application.

(2) Exceeding 720 words English or 960 words in an Indian language. 0.75 for every 180 words English or 240 words in an Indian language or part thereof.

By means of Court-fee stamp to be affixed to the application.

By means of Court-fee stamp to be affixed to the application.

This Note - s calculation is to be made on the aggregate number of folios covered by the same applic

ation.

THE HIGH COURT OF ORISSA

Note 1 - Complainants must pay copying fees whenever they want copies.

But an accused under Section 363 of the Code in all appealable cases is entitled to a copy of judgment absolutely free of cost. Similarly, under Section 128 of the same Code, copy of an order of maintenance, shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid.

Note 2 - The provisions of Sections 363 of the Code should also be referred to.

Note 3 - See also Rule 303 of this Chapter regarding remission of copying fees in certain cases.

Note 4 - Court-fee stamps for extra fee in respect of urgent copies should find entry in the Register of Court-fee stamps.

305. No fees for copy to public officers - No fees are to be required or paid fee searching or, copying papers wanted by public officers for public purposes.

Note - In their Resolution No. 1248-64, dated the 31st August 1899, the Government of India directed that the existing practice of supplying free of charge to the Head of the office concerned, copies of judgments convicting Government officers or criminal offences should be continued and that in future, copies of judgments of acquittal and orders of discharge should also be supplied free of charge on

the application of the Head of Department.

306. Charges for map and plans - In the case of maps and plans no general rule can be laid down. In each case the charges will have to be fixed with reference to the difficulty or intricacy of the work to be done. The charges shall be realised by means of adhesive stamps to be affixed to the map or plan.

In case of urgent copies of maps and plans the expedition fee will also be fixed by the Judge-in-charge to be paid by means of Court-fee stamps affixed to the application for copy.

**FEE
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**Fees for
administerin
g oaths on
affidavits.**

307. Fees on affidavits - The charge for administering the oath to the deponent in the case of any affidavit - one rupee.

(1) Except affidavits made by process-servers regarding the manner of service of processes.

(2) Affidavit made by any public officer in virtue of his office.

308. Mode of paying

fees - The above fee shall be paid by means of a Court-fee stamp.

Note - Fees for

affidavits are to be

entered in the Daily Register

Court-fees.

COST OF TRANSMISSION OF RECORDS

309. Cost of transmission of records - When a record is called for by a Civil Court from a Criminal Court, at the instance of party, the cost of postage should be borne by such party at an uniform rate of Rs. 1[30.00]

per record to be paid in Court-fee stamps for transmission of the record and its re-transmission.

CANCELLATION OF COURT-FEE STAMPS

310. Appointment of officers for cancellation of stamp - Each Judicial Officer should under Section 30 of the Court-Fees Act VII of 1870, formally appoint an officer for the purpose of cancelling stamps and should see that officer, and no other is allowed to do the work.

311. Triangular punching - The second or triangular punching of Court-fee stamps prescribed in Rule 313 post should be made on the day the records are received in the District Record Room or as soon after as possible, and should not await the inspection or examination of the records.

312. Duty of Record Keeper to examine stamps - The Record Keeper should on receiving records from a Muharrir or other, ascertain that all the papers in the record which require stamps

are properly stamped and that the rules regarding their cancellation have been properly carried out. Should any of the stamps show signs of having been properly tampered with or any suspicious circumstances he must at once submit a report to Presiding Officer of the Court. Record Keepers should be reminded that the appointment of a special peon or any other officer to punch stamps or records received into the Record Room in no way absolves them from the duty of seeing that the stamps are duly punched.

313. (a) Punching a Second hole in the Record Room - The Record Keeper of every Court or office shall, when a case is decided and the record consigned to his custody punch a second hole with a triangular punch in label distinct from the first and at the same time note upon the table of contents the date of his doing so. The second punching should not remove so much of the stamps as to render it impossible or difficult to ascertain its value or nature.

Note - In case tried summarily, the note referred to above should be entered in the forms of Summary trial, kept

under Section 263 or 264 of the Criminal Procedure Code.

(b) These directions apply only to adhesive labels used under the Court-fees Act. Impressed stamps used for denoting Court-fees need not be cancelled or punched otherwise than as required by Section 30 of the Court-fees Act.

314. Square punching of copies, certificates, etc. - 2[The Court or office receiving copies, certificates or other similar documents liable to

-
1. Substituted by C.S.No. 92-IX-4/2001, dt.6.11.2001.
 2. Substituted by C.S.No. 18-XIXD-19/81, dt.20.1.1983.
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liable to stamp duty shall, on receipt cancel the levels affixed to them by punching out the figure-head with a round punch. As an additional precaution the Clerk-in-charge of the Register of Petitions and Court-fees shall when entering the value of the Court-fee stamps in the said Register, put his signature with date across the label and upon the paper on either side of it, as is frequently done by persons signing stamped receipts.

Note - Stamps affixed to affidavits presented to a Commissioner for the purpose of administering an oath or affirmation to the deponent, shall be cancelled by punching out with a square punch, a portion of the stamp in such a manner as to remove neither the figure-head nor the part of the stamp upon which the value is expressed.]

315. Inspection of documents by Judicial Officers -

Each Presiding Officer should cause an occasional inspection to be made of documents that have been filed in order to ascertain that the stamps have been properly punched and defaced and have not been subsequently removed from the documents on which they have been used. The inspection should be made at least once a quarter. The check herein prescribed applies equally to all papers which require adhesive label, and they should be subjected to similar scrutiny.

EXPENSES TO ACQUITTED PRISONERS

316. Expenses to acquitted prisoners - ¹[Sessions Judges and Magistrates may grant travelling and subsistence allowances to prisoners who have been acquitted or discharged and released from custody by them and to prisoners who having been arrested under Section 340 of the Code of Criminal Procedure are subsequently released at the following rate to enable them to return to their villages:

Provided, that such prisoners reside at a distance of more than “eight kilometer” from the place where they are released from custody and are not possessed of sufficient means to return to their village.

T.A. By rail	T.A. By Public motor bus	T.A. by road otherwise than by public motor service	T.A. by sea or canal	Subsistence allowance
Second Class fare	Actual bus fare	0.05 per K.M.	Actual expenses of passage	As admissible to a witness in the lowest grade with chances from

time to time]

1. Substituted by C.S.No. 16-IX-10/81 dt. 20.05.1982

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317. **Determination of distance** - The distance for which fare or mileage and the number of days for which subsistence allowance should be allowed for the journey shall be determined by the Judge or Magistrate ordering the payment in each case.

INSPECTION OF RECORDS BY REGISTRATION OFFICER

318. Inspection of records by registration officer - Government having directed the Inspector-General and Inspectors of Registration. to examine the Record Room of various Courts in the mufassil in order to see how far the rules and instructions on the subject of the punching, custody and sale of stamps are carried out, every assistance should be afforded by Presiding Officers to those officers in the discharge of their duty.

319. Duties of Registration Officer - Government having ordered that on the discovery of any irregularity in respect of punching or otherwise defacing Court-fee stamps the Inspecting Registration Officer should at once bring the matter to the notice of the Presiding Officer of the Court, such officer should go into the matter at once and then trace the person who is responsible for the omission pointed out by the Inspecting Officer.

PART - V

REGISTERS, PERIODICAL RETURNS

STATEMENTS AND ANNUAL REPORTS

CHAPTER - I

Registers

320. List of Registers - While the Court do not positively forbid the maintenance of other Subsidiary Registers in the various Criminal Courts subordinate to it, the list of Registers given in Volume II specifies all the Registers which, it is believed, are absolutely necessary for judicial, administrative or statistical purposes.

321. All Registers shall be kept in English.

322. Registers to be kept in English - Preservation and destruction of Registers - The list of Registers given in Volume II shows the period for which each is to be preserved. Registers of Magistrate's Courts which are to be preserved for three years or less should not be consigned to the Record Room, but should be retained in the office in which they were written and should be destroyed by that office in With the Magistrate's sanction on the expiry of the prescribed period. All other Registers of such Courts are to be consigned to the Record Room along with the consignment of records. Those that are to be preserved permanently will be entered by the Record-Keeper In a Register in Form No. (R) 37 and those that are to be preserved for more than three years, but not permanently, in another Register in Form No. (R) 38. The Registers in Form Nos.(R) 37 and

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38 are to be preserved permanently.

¹[**322-A.-** Registers (R) 1 and (R) 2 which are required to be preserved for 7 years are to be consigned to the District Record Room after 3 years from the date of last entry in the Registers.]

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323. **Forms** - The forms of periodical statements entered under the heading of " Appendix A" in the list at the beginning of

Volume II, are prescribed for adoption by the Criminal Courts shown against each. On the forms themselves some instructions or observance will be found, and the following general instructions are also issued in order to secure the correct and uniform preparation of the statements.

324. **Returns have references to judicial work** - Apart from certain miscellaneous proceedings under the Criminal Procedure Code, the returns have reference to judicial work alone.

325. **Persons who have not appeared not to be shown in returns** - No person who has not appeared personally or by urgent in Court is to be included in the returns; but all persons who have appeared, whether in obedience to summons, warrant or other process or voluntarily to answer a criminal charge, should be shown as under trial. Persons discharged from bail taken under Section 169, without appearing before a Magistrate should not be entered in the returns.

Note 1 - Witnesses examined during enquiry not to be included -

Witnesses examined by Magistrates in Court in Preliminary inquiries under

Sections 202 and 340, Criminal Procedure Code, need not be included in the periodical returns.

Note 2 - Cases of Lunatics not be shown as pending - Cases of lunatics. dealt with under Section 330 of the Code of Criminal Procedure should not be shown as pending on the files. When such lunatics are subsequently brought before the Court and found to be capable of making defence. their cases should be entered as new cases.

Note 3 - Cases remanded to be treated as new cases - Cases finally remanded should be treated as new cases.

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326. Dormant file - Records of the following categories of cases shall be transferred to the “Dormant File” and from the date of such transfer they shall not be shown in any periodical returns.

1. Inserted by C.S.No. 42-IX-13/83, dt.5.9.1985.

(a) 1[All cases where action has been taken under Sections 82 and 83

Criminal Procedure Code and evidence of witnesses, if any, for the prosecution has been recorded under Section 299 of the Code of Criminal Procedure.]

(b) In cases where during a period of one year from the first date of issue of process, repeated attempts to serve summons and warrants have failed on account of the fact that the whereabouts of the accused is not known and the prosecution is unable to furnish any further particulars about the whereabouts of the accused.

(c) In police cases where action under Sections 82 and 83, Criminal Procedure Code has been taken, but the proclamation and attachment have not been affected by the police during a period of three months from the date of issue of such proclamation and attachment.

2[(d) Where the address of the accused is not furnished by the prosecution within a period of three months from the date of institution of the case.]

327. After the appearance or the production of the accused, the concerned 3[Court of Session or] Magistrate would call for the record from the Dormant file and shall proceed with the case according to law in its original number and thereafter show the case in the periodical returns.

328. 4[The Sessions Judge shall maintain a Common Register of cases transferred to the Dormant file in Form No.(R) 26 and in the Register, the cases transferred by him to the Dormant file and also the cases transferred by Additional Sessions Judges and Assistant Sessions Judges in his jurisdiction shall be entered date wise. It shall be the duty of Additional Sessions Judges and Assistant Sessions Judges in the Sessions Division to supply necessary information to the Sessions Judge on the very date they transfer any case to the Dormant file.

The Sub divisional Judicial Magistrate shall similarly maintain a common Register of cases transferred to the Dormant file in Form No.(R) 26 and the cases transferred by him and also the cases transferred by other Judicial Magistrates of the Station to be entered in the Dormant file date wise. It shall be the duty of other Magistrates to supply necessary information on the very date they transfer any case to the Dormant file.]

329. 5[At the time of transferring a record to the Dormant file necessary entries with the date shall be made in the remarks column in the Register of

Sessions Cases when the records relate to a case on the file of the

1. Substituted by C.S.No. 19-XIIX-D 46/82, dt. 13.1.1983.
2. Added by C.S. No.41-IX-2/85, dt. 26.6.1985.
3. Added by C.S. No.20-XIIX-D-46/82, dl.13.1.1983.
4. Substituted by C.S.No.21-XLIX-D-46/82, dl.13.1.1983.
5. Substituted by C.S.No. 22-XLIX-D 46/82, dt. 13.1.1983.

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Sessions Court and in the primary and trial Registers if the records relate to a case on the file of the Magistrate for facilitating the tracing out of the record when necessary.]

330. Cases received or disposed of by transfer -

It is not intended that any case should be entered in the returns as received or disposed of by transfer unless the transfer was from one district to another, or from one kind of Court to another, as for example from a Civil or Revenue Court under Section 346 of the Criminal Procedure Code. A note should always be made in the column of remarks of the number, in any, of cases and persons transferred to, received from places outside the jurisdiction of the High Court as this information is required in order to the compilation of the returns for the whole State. Cases received or disposed of by transfer should not be shown under Column 3, 'brought to trial' or Columns 5 and 6. 'Disposed of' of the criminal statement in Form No. (S) 3 but same should be included or excluded from Column 4 under the heading "Total for disposal" with a note in the "Remarks" column against each Court indicating the number of cases received by transfer or transferred to the Courts.

331. Cases referred and received in reference - The columns headed 'Referred' "and" Received on reference" are meant to exhibit cases in which an enquiry or trial has been held, and the proceedings of the Court are submitted for confirmation, or the orders of, a higher Tribunal; for example cases submitted by Subordinate Magistrates under Sections 323 and 325, by District Magistrate, etc., under Section 122 and by Sessions Judges under Section 366 of the Criminal Procedure Code. Mere reference for trial under Section 192 are not to be entered in these columns, nor in the columns exhibiting transfers; they are to be entered against the Court which decided them, and not against the Court which may have merely received the complaint.

332. Cases submitted for confirmation or orders - Cases of the kind alluded to above, in which the proceeding of one Court are submitted for the confirmation or orders of another, will, like cases committed to the Sessions, find entry in the returns of both Courts. The persons concerned will appear in the returns of the referring Courts not as convicted but as 'referred'. In the returns of the Court receiving the references, they

will be shown as convicted, acquitted, etc. according to the result of the reference in each case, or as

‘pending’ if orders have not been passed on it.

333. Duration of cases - In calculating the duration of cases before Magistrate, time is to be counted in police cases from the date of supply of police papers to all the accused and in complaint cases from the date of appearance of all the accused.

334. **Counting of duration in the receiving Court** - A case is regarded as coming on the file of the receiving Court from the date of commitment, reference or order of transfer.

SUBMISSION OF PERIODICAL RETURNS

General

335. Monthly Statement - ¹[Monthly and quarterly statements of pending cases should be despatched by subordinate Courts to the Chief Judicial Magistrates or the District Magistrates as the case may be on or before the 5th and 10th of the month next succeeding the period to which they relate respectively and Annual statements on or before the 28th February of the new year. Monthly consolidated statements of pending criminal cases relating to the Courts of the Chief Judicial Magistrates and other subordinate Criminal Courts should be despatched by the Chief Judicial Magistrates to the Sessions / Judges on or before the 15th and quarterly statements by the 20th of the month respectively next succeeding the period to which they relate.]

336. Quarterly Statement - Quarterly statements should be submitted by District Magistrates and Sessions Judges to the High Court ²[by the last day of the succeeding month] and annual statements, along with the annual report on the Administration of Criminal Justice, on or before the 10th March of each year. The punctual despatch of correct statements is an important duty, the neglect of which will not be overlooked by the Court.

337. Punctuality in the submission of statements - Punctuality in the submission of annual statements and annual reports must be insisted upon and the Chief Judicial Magistrates and District Magistrates should be careful to take necessary steps to ensure the accurate compilation and prompt despatch of the same. The Court will be compelled to take a serious view of the conduct of any officer who neglects to give due attention to these rules.

338. Statement to be prepared correctly - Both Magistrates and Judges are required to see that the statements are prepared neatly as well as correctly, in respect of the entries made, and that they are not disfigured by slovenly or bad writing. When Such defect are noticed, the statements will be liable to be returned.

339. Explanation for figures differing - Where the figures given in any return differ from those given for the same period in the returns previously submitted, explanation should always be offered to avoid the necessity for a reference in the matter.

1. Substituted by C.S. No.50-IX-20/87, dt. 21.1.1988.

2. Substituted by C.S. No.51-IX-20/87, dt. 21.1.1988.

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340. **Particulars which cannot be shown in other columns to be shown in remarks column** - The column of remarks should contain the mention of any cases or particulars which do not appear to be fairly provided for in other columns and should also contain brief explanation of any noticeable results appearing on the face of the returns, especially of such which, if unexplained might lead to erroneous conclusions; in short, any comments which will tend to throw light upon the figures.

341. **Prescribed statements not be discontinued** - No statement in use by authority of the High Court may be discontinued without an express order of such Court.

B. Monthly and quarterly and half-yearly statement by Magistrates

342. **Monthly statements by Magistrates** - Judicial and Executive Magistrates shall submit monthly to the Chief Judicial Magistrate and District Magistrate respectively a statement *at* pending files. They are required to submit along with monthly statements explanations of the cause of delay in the disposal of cases pending more than 1[one year].

343. **Quarterly statement by Magistrates** - Judicial and Executive Magistrate shall also submit to the Chief Judicial Magistrates and District Magistrates respectively quarterly a general statement of the business coming before their Courts.

344. Compilation of statements - 2[With the figures submitted by their Subordinates, the Chief Judicial Magistrate and District Magistrates shall compile a General Statement for the whole District and submit it to the High Court in every quarter. However, the explanation of the delay, where any case has been pending for more than one year shall be submitted to the High Court half-yearly. The Chief Judicial Magistrate shall submit such statement through the Sessions Judge.]

Note 1 - Explanation of delay in disposal of cases should indicate briefly the time consumed in securing the apprehension of or appearance of the accused, attendance of the witnesses, in adjourning the case for want of Court's time or other such reason as may appear relevant.

The explanation furnished by the Judicial Magistrate and Executive Magistrate with the remarks of the Chief Judicial Magistrate and the District Magistrate should be forwarded to the High Court. Copies of order sheets not be submitted to the High Court

unless called for.

1. Substituted by C.S. No.50-IX-20/87, dt. 21.1.1988.

2. Substituted by C.S. No.51-IX-20/87, dt. 21.1.1988.

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statement a certificate under his signature to the effect that cases shown as disposed of on contest were all of real contest and that regular judgments were delivered in those cases. The Chief Judicial Magistrate should after verification of these certificates personally make a note in the consolidated statement that the same has been duly furnished by the Subordinate Magistrates under him.

345. Balance sheet of fines - A quarterly balance sheet of fines in Form No. (S) 3-E shall be prepared in book kept for the purpose. The balance sheet of fine should contain a certificate signed both by the Judicial Officer and Treasury Officer concerned to the effect that the total of the realised fines, plus the balance in hand of the preceding quarter minus the amount, credited as criminal deposit and the balance in hand, has been brought to the credit in the Treasury Account. It shall be the duty of the Treasury Officer to scrutinise the balance sheet of criminal fines prepared by the Judicial Magistrates immediately after its receipt by him and to return the same within a week from the date of its receipt. A copy of each subdivisional balance sheet of criminal fines must be sent to the Chief Judicial Magistrate within 10th of the month succeeding the quarter to which it relates and the balance sheet of the Sadar Station ought to be ready within the same time. A

general district balance sheet in the form prescribed (S) 3-E shall be sent to the Sessions Judge by the 15th of the month succeeding the quarter. Along with the quarterly balance sheet of fines, the Judicial Magistrates, shall furnish a list of cases in which retaliation of fine has been stayed indicating therein the number and year of the appeal or revision in which orders for stay of retaliation of fine has been made. The Chief Judicial Magistrate shall prepare a consolidated list of such cases for the entire district and submit the same to the Sessions Judge along with the general district balance sheet. The Sessions Judge shall examine the correctness of the balance sheet of fines and the list of cases in which retaliation of fine has been stayed and after making necessary correction, if any, shall transmit the same to the High Court by the 25th of the month with his comments.

346. Half-yearly statement of irrecoverable fines -

The Judicial Magistrates shall submit a half-yearly statement of irrecoverable fines written off by Chief Judicial Magistrate to him (the Chief Judicial Magistrates) in Form No. (S) 3-H who shall submit the same to the High Court through the Sessions Judge. Such statements should be submitted by the

Judicial Magistrates to the Chief Judicial Magistrates by the 10th of the month succeeding the half-year to which it relates to. The Chief Judicial Magistrate shall submit the same to the Sessions Judge by the 5th of that month and the Sessions Judge shall forward the same to the Court with his comments, if any, by the 25th of that month.

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347. **Half-yearly statement regarding the steps taken for**

realisation of fines and recommitment of accused - The Chief Judicial Magistrate shall submit to the High Court through the Sessions Judge a half-yearly statement showing the effective measures taken for recommitment of convicts to jail and for realisation of fine amounts. Along with such statement the Chief Judicial Magistrate shall append a certificate that in all cases where fines have been imposed, necessary action has been taken in time by the Courts concerned for realisation of the same and that whenever necessary, the defaulter has been committed to jail to undergo the default sentence.

348. The Chief Judicial Magistrate and District Magistrate are expected to examine carefully the statement, monthly and quarterly half-yearly submitted by the Courts subordinate to them and to satisfy themselves that the business in these Courts is transacted with due despatch. They may, if consider necessary, call for full explanation from a Subordinate Court in regard to any case on its file. A case which calls for special attention may be brought to the notice of the High Court. They will submit with the quarterly returns a concise statement in Form No. (S) 3-A, regarding the outturn of work done by each of the Subordinate Magistrates and an expression of their opinion on any deficiency apparent in this respect.

349. Sessions statement - The Sessions Judge maintain a Register of Sessions cases in Form No. (R) 23. At the end of each 1[quarter] a statement in Form No. (S) 2 shall be submitted to the High Court, showing all cases pending for trial at the commencement of the 1[quarter] or brought before the Court during the 1[quarter]. He shall also submit along with the sessions statement a memorandum indicating the number of the sessions cases fixed for trial during the next 1[quarter] and the date fixed therefor.

350. Adjourned Sessions statement - Along with the 2[quarterly] statement in Form No. (S) 2 every Sessions Judge, Additional and Assistant Sessions Judge shall submit a special statement of adjourned Sessions cases in Form No. (S) 2-A with particulars therein mentioned duly filled in.

Note - 1 - A blank special statement should always be submitted if no Sessions case was adjourned in the 1[quarter].

351. Explanation of delay in capital sentence cases - In all capita sentence cases where there has been an interval of 9 months or more between the apprehension of the accused and the

conclusion of the trial in the Court of Sessions, a full explanation of such delay should be sent to the High Court along with the proceeding submitted under the provisions of Section 366 of the Code of Criminal Procedure.

1. Substituted by C.S.No.45-IX-11 /86, dt.12.12.1986.
 2. Substituted by C.S.No.46-IX-11 /86, dt.12.12.1986.
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The period of 9 months here allowed should not however, be taken as the normal period which should intervene between the apprehension of the accused and the conclusion of the trial in the Court of Sessions. Every efforts should be made to dispose of capital sentence cases as expeditiously as possible.

352. Quarterly Sessions statement -
1[(i) Sessions Judges shall also submit quarterly to the High Court a statement showing the result of commitments to the Court of Sessions and of appeals and applications for revision made to them. The Additional or Assistant Sessions Judge, if any, will furnish similar return for his own Court and the Chief Judicial Magistrates in respect of appeals only to the Sessions Judge, who will exhibit the figures separately in his return. However, the Sessions Judges shall submit explanation half-yearly, regarding causes of delay in disposal of sessions cases pending over six months from the date of commitment and of appeals and revision pending over six months and three

months respectively from the date of their filing.]

2[(2) The Special Courts shall submit their respective statements showing the number of pending cases under Special Acts to the High Court, in the prescribed Form No. (S) 2-AA of the G.R. & CO. (CrI.) Volume-II in each quarter of the year.]

353. What cases are to be included in the quarterly statements - In the quarterly statements, columns headed 'Brought to Trial' or "Preferred" unlike those headed "Under Trial" or "Total dealt with" are intended to show only cases brought to trial, or appeals or applications filed during the period to which the return relates, and are not intended to include cases pending at the commencement of such period.

354.

Memorandum regarding outturn of work - Sessions Judges shall submit to the High Court along with the quarterly statement a memorandum showing separately the outturn of criminal work of each officer exercising the powers of a Sessions Judge or of an Assistant Sessions Judge in Form No.(S) 4-A. In the case of each such officer, the number of days

devoted to criminal work, the number of criminal cases disposed of, and the number of witnesses examined should be shown.

355. Explanation for delay undelivery of judgment - Sessions Judges, Chief Judicial Magistrates and District Magistrates should in the remarks column of the quarterly returns note the Criminal cases, appeals and revisions heard during the period in question whether decided or otherwise in which judgment or order was delayed for one month or over together with a full explanations of delay. When there is no such delay a positive certificate

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1. Substituted by C.S. No. 97 (XLVA-13/2006, Dt. 21.9.2010).
 2. Inserted by C.S. No. 91-XLV-1/2000, dt. 5.10.2001.
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To that effect must be given by them under their signature in the remarks column of the return.

356. Annual Statement - Most of the annual statements can be readily compiled from the statistical and other Registers. In the case of others it is essential that the requisite information should be collected from time to time so as to be available without delay at the close of the year. In the latter case, the Chief Judicial Magistrates and District Magistrates must take care that the proper officers of their own Court and of the Courts subordinates to them collect the information at convenient intervals.

357. Channel of submission of annual statement - District Magistrates shall submit their annual statement direct to the High Court. The Chief Judicial Magistrate shall submit such statements to the High Court through the Sessions Judge.

358. Annual reports - Sessions Judges and District Magistrates shall submit to the High Court along with the annual statements, a Report for the year to which they refer upon the Administration of Criminal Justice. The Form No.(S) 11 shall be incorporated in their reports by Sessions Judges and District Magistrates. Sessions Judges and District Magistrates should be careful to secure a correspondence between the figures given in the Table in the body of their reports and those contained in the annual statements submitted by them, and they are expected to see that no discrepancies occur in this regard.

359. Contents of report - The Court do not consider it necessary to

prescribe the use of any particular form of Report; but that in whatever form, should contain such remarks as they fit on a consideration of the figures entered in the statement. Any great variation between the result exhibited for the year under report and for the previous year should receive notice and be explained, if possible.

360. Additional information - Amongst other matters, the following must be noticed in the report :

(a) The condition of the Record Room which must be ascertained by careful personal enquiry and not from the mere report of the Record Keeper.

Note - The Court will not be satisfied with a mere cursory mention but require clear description of the statement of the Record Room and the date up to which the records have been stored or destroyed so that it may appear without doubt that this duty has not been neglected.

- (b) The extent to which effect has been given to the rule regarding arrangement of the records in the course of the trial and rules regarding the destruction of useless records.
- (c) The working of the rules under the Court-fees Act.
- (d) The effect of recent Legislation on the working of the Criminal

PART - VI

CHAPTER - I

Inspection of Courts & Officers

361. **Inspection by Sessions Judge** - 1[Sessions Judge shall inspect once in two years each of the Courts of Judicial Magistrates and also inspect the Courts of the Chief Judicial Magistrate once in a year in his Sessions Division and submit the report of his inspection to the High Court. Ordinarily, such inspection in the outlying stations should be made at the time of inspection of the Court of Civil Judge (Jr. Division)] or Civil Judge (Sr. Division)] of such station.]
362. **Inspection of the Courts of Executive Magistrates** - When convenient, as for instance during any vacation, not availed of, or at the time of inspecting the Courts of Judicial Magistrates of 2[Civil Judge (Junior Division)], the Sessions Judge should visit the Courts of Executive Magistrates (Excluding District Magistrates). His inspection of these Courts should be of a general character and directed rather to judicial than executive matters.
363. **Inspection by Chief Judicial Magistrates** - The Chief Judicial Magistrates shall inspect the Courts of the Judicial Magistrates subordinate to them quarterly, half-yearly or annually as may be specified by the Court from time to time. These inspections should be detailed and should amongst other matters, be directed to the Following:
- (1) Proper maintenance of all important Registers.
 - (2) Proper arrangement of records.
 - (3) Punctual submission of periodical statements.
 - (4) Examination of records of pending cases specially the year old ones.
 - (5) Rash issue of process to the accused.
 - (6) Undue detention of witnesses.
 - (7) Adequacy of examination of accused.
 - (8) Framing of charges.

1. Substituted by C.S.No. 93 - (XLIX-D-7/2004. Dt. 17.5.2005).

2. Substituted by C.S.No. 93 - IX-1/95, dt. 31.10.1995

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(9) Delay in delivery of judgment.

(10) Quick disposal of cases.

(11) Adequacy or otherwise of the sentences passed.

(12) Compliance of the provisions of the Probation of Offenders' Act and Rules.

(13) Observance of Rules and Procedure.

(14) Due execution of sentences.

364. Sitting inspection by Chief Judicial Magistrate

- Whenever

a Chief Judicial Magistrate inspects any particular Court, on the first day, he would sit with the Magistrate on the dias during Court hours. In his presence the Magistrate would do the entire work for the day and the Chief Judicial Magistrate would not interfere with the work of the Magistrate. He would note all the defects committed by the Magistrate in a Register maintained for the purpose separately for each Magistrate. After the Magistrate rises for the day, the Chief Judicial Magistrate would have full discussion with him and make an endorsement to that effect and obtain the signature of the Magistrate thereto. A verbatim copy of this inspection note should be sent to the High Court through the Sessions Judge. From the next day, he would inspect the office of that particular officers.

Note - This rule does not apply to the Inspection of the Courts of Magistrates who have rendered service for five years or more. But the Chief Judicial Magistrates may sit on the dias of Magistrates of such experience for such number of hours exercising his best discretion in the matter.

365. Notes of Inspection to be forwarded through Sessions

Judge - 1[2[(i) The Chief Judicial Magistrate, after inspection of Magisterial Courts will send a copy of the inspection report to the concerned Magistrate within one month from the date of his inspection. The concerned Magistrate will submit his views/compliance report within a period of six weeks from the date of receipt of the copy of the inspection report.]

(ii) The Chief Judicial Magistrate will forward a copy of his inspection report along with the views/ compliance report of the concerned Magistrate to the District and Sessions Judge within a period of four weeks from the date of receipt of the Magistrate's views. In case no views/compliance report are received from the concerned Magistrate within the aforesaid period of six weeks, the Chief Judicial Magistrate will send his inspection report to the District and Sessions Judge without waiting for the views/compliance from the concerned Magistrate.

(iii) The District and Sessions Judge shall examine the inspection report of the Chief Judicial Magistrate along with the views/compliance

2. Substituted by C.S. No. 98 (IX-3/2006, Dt. 26.11.2010).

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reports of the concerned

Magistrate

and thereafter

he shall pass

appropriate orders/ directions to the Chief Judicial Magistrate

the concerned Magistrate for taking appropriate action. He

in cases where orders / directions of the High Court are not

it shall be referred to the Registry of the Court.

(iv) A copy of the order/direction issued by the District

Sessions Judge along with

a copy of the inspection

report of the Chief

Judicial Magistrate shall

be sent to the Registry of

this Court for record.]

366. Inspection of

Mobile Courts - The Chief

Judicial Magistrates may hold

inspections of Mobile Courts

while engaged on duty.

367. Control of

Subdivisional

Judicial

Magistrates over

Judicial

Magistrates - The

Subdivisional

Judicial Magistrates

may, subject

to the control of the Chief

Judicial Magistrate, so as to

satisfy himself that the

business of the office is

transacted with regularity,

punctuality

and efficiency. He may

also call for

information relating

to office

of such Judicial Magistrates

and give directions in the

matter of clearance of

arrears.

368. Inspection by

officers of their own offices - The Chief Judicial Magistrates, Subdivisional Judicial Magistrates and Judicial

Magistrates should make thorough inspection of their offices a year and submit to the Sessions Judge for his information of their inspection notes by the 15th February of each year. The Subdivisional Judicial Magistrates and Judicial Magistrates will submit their annual inspection reports through the Chief Judicial Magistrate.

The Sessions Judge may pass such orders on such inspections as he considers necessary. It is not necessary to forward Court either a copy of such notes of inspection or the orders passed by the Sessions Judge. It should, however, be noted in the annual administration report whether all the Criminal Courts have been inspected by the Presiding Officers. Where an office has not been inspected the name of the officer who has failed to make the inspection should be reported and his explanation obtained and forwarded to the Court.

369. Inspection by Registrar, Civil and Sessions Court - The Registrar, Civil & Sessions Courts, who is also the Officer-in-charge of the different Criminal Sessions in the headquarters should inspect the work of those sections in cyclic order and place notes of their inspection before the Sessions Judge who shall pass necessary orders on those inspection notes. These inspections should be in accordance with the programmes drawn up by the Sessions Judge in the month

of January every year.

370. Information sheet - Subordinate Courts, after receipt of intimation of inspection should prepare an information sheet in the

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pro forma given in
Appendix VIII and
place
the
same
before
the
Inspecting Officer.

**371. Sessions
Judge's authorisation
to Chief Judicial
Magistrate**

**for inspection of some
branches** - The Sessions
Judge may authorise Chief
Judicial Magistrates at
headquarters station to
inspect the Nizarat, Record
Room, Accounts and
Copying Department once
a quarter so far as they
relate to criminal side. The
Chief Judicial Magistrates
posted at stations other
than the headquarters of
the Sessions division may
likewise be authorised to
inspect the aforesaid
departments of those
stations. The Chief Judicial
Magistrate would forward
the notes of inspection
prepared by him to the
Sessions Judge who would
pass necessary orders
thereon.

Note - These inspections
would be in addition to
the inspection required

to be done by the Registrar,
Civil and Sessions Courts and
Sheristadars.

¹[**371-A.** The
Sessions Judge should

himself examine at least half-yearly a certain proportion of the records to the criminal cases consigned to the Record Room for the purpose of satisfying himself that the business in the Subordinate Criminal Courts is transacted with due despatch and that there is proper conduct of cases in accordance with law and rules of procedure.]

372. Chief Judicial Magistrate's inspection of Magisterial work

of Sub-Judge and 2[Civil Judge (Junior Division)]

- The Chief Judicial Magistrates shall inspect the records and Registers maintained by 2[Civil Judge (Senior Division)] and 2[Civil Judge (Junior Division)] in their capacity as Judicial Magistrates.

373. Inspection by the Chief Ministerial Officer

- The Chief Ministerial Officer of every Criminal Court shall inspect once in every quarter the work of each member of the staff 3[of the said Court as well as the Court of the Judicial Magistrate of that station] and submit his inspection report to the Presiding Officer who shall pass necessary orders thereon.

374. Summary of defects - Every inspection note shall contain a

summary of major defects noticed.

375. **Inspection defect Register** - Every Criminal Court shall maintain an inspection defect Register in Form No. (R) 39. The Presiding Officer should take particular care to see that all the defects pointed out in the inspection report are noted in this Register and they are promptly rectified.

1. Inserted by C.S.No. 31-XLLX-D-50/81, dt.5.1.1984.

 2. Substituted by C.S. No. 33, IX-1/95, dt. 31.10.1995.
 3. Added by C.S.No. 35-XLIX-D-33/83, dt.8.5.1984.
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376. Checking of rectification of previous defects - It shall be duty of the Inspecting Officer to check the inspection defect Register to find out if all the defects noticed during previous inspection have been rectified and noted therein.

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377. Rules regarding dress - Rules prescribing the dress of the District Judges, Additional District Judges and '[Civil Judge (Senior Division)] while presiding on the Bench contained in Chapter III, Part IX of the G.R. and C.O. (Civil), Vol. I would apply to the Sessions Judges, Additional Sessions Judges and Assistant Sessions Judges and Chief Judicial Magistrates and those prescribed for the 1[Civil Judge (Junior Division)] in the said Chapter would apply to the Judicial Magistrates.

378. Dress of Military officer while attending Court - The attention of all Criminal Courts is invited to the following rules which have been approved by the Government of India, relating to the dress of Military officers and soldiers appearing before Civil or Criminal Courts (other than Courts established under Military Law)

(1) An officer or soldier required to attend a Court in his official capacity should appear in uniform with sword or side arms. Attendance in an official capacity includes attendance:

1. _____ Substituted by C.S. No.

33, IX-1/95. dt. 31.10.1995.

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- (a) As witness when evidence has to be given of matters which come under the cognizance of officer or soldier in his Military capacity.
- (b) by an officer for the purpose of watching a case on behalf of a soldier or soldiers under his command.
- (2) An officer or soldier required to attend a Court otherwise than in his official capacity, may appear either in plain clothes or in uniform.
- (3) An officer or soldier shall not wear his sword or side arms if he appears in the character of an accused or under Military arrest or if the Presiding Officer of the Court thinks it necessary to require the surrender of his arms, in which case a statement of the reasons for making the order shall be recorded by the Presiding Officer and if the Military authorities so request forwarded for the information of the Commander-in-Chief.
- (4) Fire-arms shall, under no circumstances be taken into Court.

CHAPTER - VI

Registration of Pleader's and Mukhtar's Registered Clerks

379. Registered Clerk; Definition - The expression 'Registered Clerk' means a Clerk who is employed by a Pleader or a Mukhtar in connection with his legal business and who is Registered under these rules.

380. Limit of the number of Registered Clerk - A Pleader or Mukhtar may have at a time not more than two Registered Clerks employed by him unless the District Judge by general or special order otherwise directs.

381. Qualification - No persons shall be Registered as a Legal Practitioner's Clerk unless he : -

- (a) has passed the Middle School Examination ;
- (b) has worked for one year in the office of a Legal Practitioner under a Registered Clerk ;
- (c) has obtained (1) a certificate from the Registered Clerk under whom he has worked countersigned by the Legal Practitioner concerned that he has working knowledge about the rules and practice of the Courts and can maintain accounts, and (2) a certificate of honesty and good character from the Legal Practitioner in whose office he has worked :

Provided that a person who is Registered as a Clerk of a

Legal Practitioner before the commencement of these rules and was acting as such on the date of the commencement, may notwithstanding the fact that

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the fact that he does not possess the qualification mentioned in Clauses (a), (b) and (c) (1) above, be re-Registered as such Clerk.

382. Disqualification - A person suffering from any infectious, contagious disease or who has been convicted of any offences involving moral turpitude or is an undischarged insolvent or has ever been declared a tout shall not be Registered as a Legal Practitioner's Clerk.

383. Registering authority - At Sadar Stations, the Registering authority shall be the Chief Magistrate in the case of Judicial Clerks of Mukhtars, ordinarily practising in the Magisterial Courts, and the District Judge in all other cases. In the outlying stations, such authority shall be the principal Civil Court. When there is more than one Civil Court of the same grade at any such station, the power shall be exercised by the senior officer unless the District Judge otherwise directs.

384. Contents of the application Every application - (a) for of a Clerk shall be to the Registering authority made to e authority by the Pleader or Mukhtar desiring to employ him. It shall also be signed by the Clerk proposed to be employed.

(b) Such application shall be on plain paper and shall contain:-

- (i) A certificate from the Pleader or Mukhtar that the person proposed is to the best of his belief fit to be so employed and would be employed *bona fide* for his own service and for the purpose of the legal business ;
- (ii) The name or names of the Registered Clerks, if any, under him ;
- (iii) A statement declaring that he has no un Registered Clerk and an undertaking not to employ any such Clerk during the year ;
- (iv) A written undertaking from the proposed Clerk to the effect that during the continuance of his serving as such Registered Clerk he shall not write any deed or document for any person other than the clients of his master.

385. **Manner of disposal of the application** - The Registering

authority on receiving the application may (1) dispose of it at once when the person proposed is known to it; or (2) refer it to the Bar Association or the Mukhtars' Association, as the case may be, for their opinion; or (3) make such other enquiry as it thinks necessary.

386. **Manner of registration** - When the Registering authority is of the opinion that the person proposed is fit and proper person to be employed as a Registered Clerk he shall enter his name in the register of

Clerks Form No. (R) 22 and issue to him a 1 [Laminated Photo Identity] card in Form No. (R) 98. These cards shall be strictly non-transferable and shall be returned 2[after 3 years] when Clerks must be re-Registered

387. Copy of the Register to the District Judge - Each Registering authority shall at the beginning of the year send a copy of its Register and of all subsequent alterations and additions therein immediately after they are made to the District Judge who shall maintain a Register of all Registered Clerks within his jurisdiction containing the name, father's name and residential address of each Registered Clerk and the name of the Pleader under whom he is employed. Such Register shall be maintained in Form No. (R) 22.

388. Renewal of the application - 3[Application for renewal of licence shall be made to the concerned Registering authority 4[after 3 years]. The said application shall be accompanied by the old licence and a written consent of the Legal Practitioner who has already engaged or proposed to engage the applicant as his Clerk 5[One pass-port size photograph

and a copy of challan receipt bearing Rs. 50 duly deposited in the concerned Court]. The application shall also contain the particulars as laid down in Rule 384. The renewal shall not ordinarily be refused. If refused, the reasons, therefor shall be recorded in writing by the Registering authority. The renewed licence, if not received by the concerned Clerk, shall be destroyed by the end of the following March.

Note - No card which has been lost can be renewed without payment of fee of Re. 1 to the credit to the Government the same fee shall also be levied while a Pleader or Mukhtar applied for registration of a Clerk in place of another unless he gives up the card of such other Clerk.]

389. Cancellation of the card - Whenever a Pleader or Mukhtar ceases to employ a Registered Clerk he shall notify the fact to the Registering authority. Registering authority shall thereupon the removal of such Registered Clerk's name from the F and cancel the card and notify the same. On such notification of cancellation, the Clerk shall surrender the card to the Registering authority. He shall, however, have the liberty of applying for ce or renewal of the card, if he secures employment und Legal Practitioner. In such an event, he should produc consent of the said other Legal Practitioner to employ him.

XLIX-7/97, dt. 30.4.1999.

2. Substituted *ibid*.
3. Substituted by C.S. No. 47 -IX-9/87, dt.25.9.1987.
4. Substituted by C.S.No. 89, XLIX-O-7/97, dt. 30.4.1999.
5. Added *ibid*.

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390. Suspension or cancellation of card -
The Registering

Authority in the case of a Clerk Registered by it shall have the power to enquire into any misconduct or default on the part of the Registered Clerk and if after giving an opportunity to the Clerk of being heard, the Registering Authority is satisfied that the Clerk is guilty of misconduct or default in the course of his duties as Registered Clerk, he may, by an order, suspend for a specified period. or cancel the card issued

to him. The period of suspension shall be noted in the Register as well as in the card. If the card is cancelled, the Registered Clerk shall surrender it to the Registering authority and his name shall be struck off from the Register.

391. Appeal - Proceeding taken against the Registered Clerk under the preceding rule are administrative and not judicial proceedings. The Registered Clerks may appeal against the orders passed by the Registering Authority other than the District Judge to the District Judge whose orders in the matters shall be final. In case of Clerks whose Registering Authority is the District Judge, no appeal would lie against the order of the District Judge which shall be final.

392. Acts which may be performed by a Registered Clerk - A

Registered Clerk shall not make any motion or advance any argument in Court. He may act in matters of routine nature and may do the following acts, viz. :

- (1) receiving notices on behalf of his master;
- (2) taking back an appeal or application filed, in any Court if found defective or return for presentation in another Court ;
- (3) presenting an application signed by his master in any Court of office for copy of document, inspection of a record; and
- (4) filing necessary stamps and Court-fees in Courts, depositing money, filing Vakalatnama and identifying persons known to him.

393. Prohibition for recommendation - No person whose name has been struck off the Register shall be recommended for registration by any Pleader or Mukhtar at the same or any other station.

394. Registered Clerk not to work for other Legal Practitioners - No Clerk Registered as the Clerk of one Pleader or Mukhtar shall work or do business on behalf of any other Pleader or Mukhtar or in any case in which his employer is not engaged.

395. Restriction on the filing of papers in Court by a

Registered Clerk - No Clerk Registered as the Clerk of a particular Pleader or Mukhtar shall except in the absence of his employer pass or hand over to another Pleader or Mukhtar any paper written by him to be

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396. **Restriction on the writing deed or document by a Registered Clerk** - No person Registered as the Clerk of a Pleader or Mukhtar shall write out any deed or document for any client of his master unless an endorsement is made on the document itself by the Pleader or Mukhtar as the case may be, to the effect that it has been written at his direction.
397. **Applicability of the rules to Advocate's Clerk** - The Rules regarding registration of Pleader's Clerks shall also apply to the Clerks of the Advocate ordinarily practising in Subordinate Courts

CHAPTER - VII

Rules Regarding Vakalatnama and Mukhtarnama

398. Vakalatnama and Mukhtarnama - No Pleader shall be entitled to make or do any appearance, application or act in any criminal case or proceeding for any person unless he presents an appointment in writing duly signed by such persons or his recognised agent or by some other agent duly authorised by power-of-attorney to act in his behalf, or unless he is instructed by an attorney or Pleader duly authorised to act on behalf of the person:

Provided that no such appointment in writing shall be necessary in the case of Pleader appointed by the Government or the Court to act, appear or plead on behalf of an accused or convicted person.

Note - The term 'Pleader' in the rule is to be understood as defined in Section 2(q) of the Code of Criminal procedure, 1973.

399. Stage up to which the appointment continues - Notwithstanding the termination of all proceedings in the trial or inquiry, the appointment of a Pleader in a criminal case, shall, unless otherwise provides therein or determined by the death of the party engaging him or of the Pleader or by revocation in due course, be deemed to authorise him to appear or to make any application or to do any act in connection with getting copies of judgments or other documents and obtaining return of document or exhibits produced or filed in the case.

400. Fresh appointment when permissible - An Advocate or a Pleader proposing to file a Vakalatnama or an appearance in any criminal case or proceeding in which there is already an Advocate or a Pleader on record, shall not do so, unless such Advocate or Pleader is dead or has retired from the case, or unless a written consent of such Advocate or Pleader is produced, which consent will not be refused when his dues according to the written terms of the agreement signed by the client or duly authorised agent have been paid to him subject, however, to the discretion of the Court to pass orders to the contrary, or when the consent of such Advocate or Pleader is refused, unless he obtains the permission of the Court.

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401. **Legal Practitioner when cannot stand as a bailor** - An Advocate or Pleader holding a power to conduct any case or proceeding for the accused shall not stand as a bailor or a surety for him in the said case.

CHAPTER - VIII

Miscellaneous Instructions

GENERAL

402. **Channel of correspondence for Judicial Officers** - Every communication made to the High Court by a Judicial Officer under the Administrative control of the District Judge whether it be an application regarding leave, transfer, promotion or any matter, shall be made through the Sessions Judge and not otherwise.
403. **Mode of communication to the High Court** - All communications intended for the High Court should be addressed to the Registrar, unless they relate to case work in its appellate or revisional jurisdiction in which case they should be addressed to the Deputy Registrar. For telegrams sent to the Registrar, the State Code Address "High Court" will be sufficient.
404. **Numbering pages and paragraphs** - The pages and paragraphs of annual and inspection reports and similar lengthy communications submitted to the High Court should invariably be numbered.

405. **Prohibition of issue of general order** - Sessions Judges, Chief Judicial Magistrates and District Magistrates are prohibited from issuing general orders in the form of circulars on judicial matters to the officers subordinate to them. If there be any matter connected with the administration of criminal justice which, in their opinion, require the issue of a general order for the information and guidance of Courts subordinate to them, they should submit such orders for the confirmation and approval of the High Court without which it should, in no case, be issued. While submitting such orders relating to law and procedure, they should give an analysis of relevant provisions of law with reference to all authorities for and against the proposal.

Note - This rule is not to be avoided or defeated by the issue of such orders under the guise of 'Standing Orders'.

406. **Prohibition of issue of general instructions** - Sessions Judges, Chief Judicial Magistrates and District Magistrates, should not without permission previously obtained from the High Court issue general instruction or circular orders of any kind for the guidance of officers subordinate to them.

407. **Administrative Control of Sessions Judge** - Subject to the superintendence of the High Court, the Sessions Judge shall have administrative control over all Criminal Court within his jurisdiction.

408. **Channel of returns and correspondence** - The Chief Judicial Magistrate should submit returns and make correspondence with the High Court and the Government through the Sessions Judge except in cases of exceptional urgency when he may correspond direct with the High Court after sending a copy to the Sessions Judge.

409. **Advance tour programme of the Chief Judicial**

Magistrate - The Chief Judicial Magistrate should submit tour programme in advance and tour diaries subsequently to the Sessions Judge for the latter's scrutiny.

PART VII

RULES UNDER SPECIAL ACTS

CHAPTER - I

I[The Oaths Act, 1969 (Act No.44 of 1969)

410. The forms of oath or affirmation prescribed under Section 6 of the Oaths Act, 1969 (Act No.44 of 1969) shall be used].

FOR WITNESSES

Oath

I swear that the evidence which I shall give in this case shall be true that I will conceal nothing, and that no part of my evidence shall be false.

So help me God.

Affirmation

I solemnly declare that the evidence which I shall give in, this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

FOR INTERPRETERS

Oath

I swear that I will well and truly interpret, translate and explain all questions and answers, and all such matters as .the Court may require me to interpret, translate and explain

So help me God.

Affirmation

I solemnly declare that I will well and truly interpret, translate, and explain all questions and answers, and all such matters as the Court may require me to interpret, translate, or explain.

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2. Christian witnesses and interpreters, to whom oaths are administered are to be sworn upon the New Testament.
3. In other cases the oaths are to be administered upon such symbol or accompanied by such act, as may be usual or as. Such witness or interpreter, may acknowledge to be binding on his conscience.

CHAPTER - II
**Trial of Persons subject to Military,
Naval or Air Force Law**

411. Following rules by the Central Government are reproduced:

- (1) (i) These rules may be called the Criminal Courts and Court Martial (Adjustment of Jurisdiction) Rules, 1952.
- (ii) The extend to the whole of India except the States of Jammu and Kashmir and Manipur.
- (2) In these Rules unless the context otherwise requires -
 - (i) 'Commanding Officer';
 - (a) In relation to a person subject to Military law means the officer commanding the unit or detachment to which such person belongs or is attached;
 - (b) In relation to a person subject to Naval law means the Commanding Officer of the ship to which such person for the time being belongs; and
 - (c) In relation to a person subject to Air Force law means the officer for the time being in command of the unit or detachment to which such person belongs or is attached.
- (ii) 'Competent Military authority' means the officer commanding the army, army corps, division, area, corps or independent brigade or sub-area in which the accused person is serving and [except in cases falling under Section 70 of the Army Act, 1950 (LVI of 1950)] where death has resulted, the officer commanding the brigade or sub-area or station in which the accused person is serving.
- (iii) 'Competent Naval authority' means the Chief of the Naval Staff or Flag Officer (Flotilla) Indian Fleet or Commodore-in-charge, Bombay, Commodore-in-charge, Cochin, or Naval Officer-in-charge, or Senior Naval Officer present; and
- (iv) 'Competent Air Force Authority' means the officer commanding the command, wing or station in which the accused person is serving, and when death has resulted [except in cases falling under Section 72 of the Air Force Act, 1950 (XLV of 1950)] Chief of the Air Staff.
- (3) Where a person subject to Military, Naval or Air Force law is brought before a Magistrate and charged with an offence for which he is liable to be tried by a Court Martial, such

Magistrate shall not proceed to try such person or to inquire with a view to his commitment for trial by the Court of Session or the High Court for any offence triable by such Court, unless -

- (a) he is of opinion, for reasons to be recorded, that he should so proceed without being moved thereto by competent Military, Naval, or Air Force Authority, or
 - (b) he is moved thereto by such authority.
- (4) Before proceeding under Clause (a) of Rule 3, the Magistrate shall give written notice to the Commanding Officer of the accused and until the expiry of a period of seven days from the date of the service of such notice, he shall not-
- (b) convict or acquit the accused under Sections 243, 245, 247 or 248 of the Code of Criminal Procedure, 1898 (V of 1898), or hear him in his defence under Section 244 of the said Code; or
 - (c) frame in writing a charge against accused under Section 254 of the said Code; or
 - (d) make an order committing the accused for trial by the High Court or the Court of Session under Section 213 of the said Code; or
 - (e) transfer the case for inquiry or trial under Section 192 of the said Code.
- (5) Wherewithin the period of seven days mentioned in Rule (4), or at any time thereafter before the Magistrate has done any act or made any order referred to in that rule, the Commanding Officer of the accused or competent Military Naval or Air Force authority, as the case may be, gives notice to the Magistrate that in the opinion of such authority the accused should be tried by a Court-Martial, the Magistrate shall stay proceedings and if the accused in his power or under his control, shall deliver him, with the statement prescribed in Sub-section (1) of Section 549 of the said Code to the authority specified in the said Sub-section.
- (6) Where a Magistrate has been moved by competent Military, Naval or Air Force authority, as the case may be, under Clause (b) of Rule (3), and the Commanding Officer of the accused or competent Military, Naval or Air Force authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a Court material, such Magistrate, if he has not before receiving such notice done any act or made any order referred to in Rule (4), shall stay proceedings and, if the accused is in his power or under his control shall in the like manner deliver him, with the statement prescribed in Sub-section (1)

of Section 549 of the said Code to the authority specified in the said Sub-section.

(7) (i) When an accused person has been delivered by the Magistrate under Rules (5) and (6), the Commanding Officer of the accused or the competent Military, Naval or Air Force authority, as the case may be, shall, as soon as may be, inform the Magistrate whether the accused has been tried by a Court martial or the effectual proceedings have been taken or ordered to be taken against him.

(ii) When the Magistrate has been informed under Sub-rule

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

(8) Notwithstanding anything in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to Military, Naval, or Air Force law has committed an offence, proceedings in respect of which ought to

be instituted before him and that the presence of such person cannot be procured except through Military, Naval or Air Force authorities, the Magistrate may be a written notice required the Commanding Officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Court martial, if since instituted, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted.

- (9) Where a person subject to Military, Naval or Air Force law has committed an offence which, in the opinion of competent Military, Naval or Air Force authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has, on a reference mentioned in Rule (8), decided that proceedings against such person should be instituted before a Magistrate, the Commanding Officer of such person shall after giving a written notice to the Magistrate concerned deliver such person under proper escort to that Magistrate.

**Probati
on of
Offende
rs Act**

**412. Register of
probation of offenders**

- All Criminal Courts except the Court of Executive Magistrate shall maintain a Register of probation of offenders in Form No. (R) 40 in which cases of all, persons dealt with under the provisions of Probation of Offenders Act shall be entered.

1[413. Probation meeting - District Level Probation Meetings may be convened at least once in three months at every district headquarters. The District Probation Officer shall be convener of such meetings and it shall be presided over by the Sessions Judge at the headquarters of the Sessions Division. Such meetings should be arranged on a Saturday in the afternoon, if not on a holiday ..]

CHAPTER -IV

The Indian Stamps Act, II of 1899

414. Action to be taken when there is doubt as to genuineness of stamp - When a Judicial Officer sees reason to doubt the genuineness of a stamp filed before him, the stamp should be forwarded to the Collector of the district, who will examine it and satisfy himself, if possible as to its character, reporting the result to the officer sending it.

415. Retention of a copy of the document - Care should be taken to retain an examined copy of any document bearing a stamp which may be forwarded the Collector under the above orders.

PART VIII

ACCOUNTS

CHAPTER - I

General

Application of the Rules

416. **Account rules** - The following rules prescribe the procedure for the receipt and payment of money and for keeping accounts to be observed by officers exercising judicial powers and dealing with money in that capacity. They apply to all Criminal Courts of the State.

417. **(a) Definitions - In these rules -**

- (i) "*Sessions Judge*" means the officer who renders accounts to the Accountant-General in respect of his own Court and the Court subordinate to him.
- (ii) "*District Magistrate*" means the officer who is liable to render accounts to the Accountant-General in respect of his own Court and the Courts of Executive Magistrates subordinate to him.
- (iii) "*Chief Judicial Magistrate*" means the officer who, in the district where there is no Sessions Judge, renders accounts to the Accountant-General in respect of his own Court and Courts of Judicial Magistrates of the District subordinate to him.

- (Iv) "*Judge-in-charge*" means, in the headquarter station of the Sessions division, the Registrar, Civil and Sessions Court who supervises the single set of accounts maintained for all the Judicial Courts in the station. In the other district headquarters any Judicial Officer of the station authorised to be in charge of accounts with the approval of the Sessions Judge, by the Chief Judicial Magistrate and in the outlying station the Subdivisional Judicial Magistrate or any other Judicial Magistrate (as the case may be) authorised with the approval of Sessions Judge by the Chief Judicial Magistrate to be in charge of account.
- (v) "*Magistrnte-in-ciwrge*" in regard to the Courts of Executive Magistrate at the district headquarters is the officer who supervises the single set of accounts for all the Courts of Executive Magistrates of the station. In the outlying Subdivision the Subdivisional Magistrate would function as the Magistrate-in-charge of accounts for all the Courts of Executive Magistrates of the station. In the outlying station any Executive Magistrate authorised by the District Magistrate to be in charge of accounts shall be the Magistrate-in-charge of accounts.
- (vi) "*Day*" shall be taken to close at 1 P.M. on week days and 11-30 A.M. on Saturdays, and the "next day" to extend from that hour to 1 P.M. of the following calendar day, if it is a week day and to 11-30 A.M. if it is Saturday : "Provided that in case of morning sittings of the Court Day shall be taken to close at 9 A.M., on all days and the next day to extend from that hour to 9 A.M. of the following calendar day".
- (vii) "*Month*" shall be taken to close in Courts at district headquarters at the end of the last account day of the month.
- (v iii) "*Year*" shall be taken to being on the 1st April and to close on the 31st March.

**(b) of Powers - A Sessions Judicia
Delegation Judge, a Chief l**

Magistrate or a District Magistrate cannot delegate powers as regards accounts to any of his subordinates. What he can do, when necessary is to authorise any other officer to be in charge of accounts without In any way relieving himself of the responsibility for the due accounting of all

payments. When this is done, the Sessions Judge's receipts and or Chief Magistrate's or District Magistrate's establishment Judicial will do all the work in connection with the accounts and the officer - in-

charge of accounts will sign the papers as if he ere placed in

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Charge of the current duties of the Sessions Judge, Chief Judicial Magistrate or the District Magistrate as the case may be.

418. Heads of account - The following are the heads of accounts in the public accounts under which the money received and paid by Criminal Courts or under their orders, is classified :-

- (A) Criminal deposits including compensation, fines and costs in criminal cases not paid at the spot in open Court.
- (B) Fines (Judicial) - refunds of the same.
- (c) Stamp duty and penalties realised in Court.
- (D) Value of the unclaimed property credited to Government.
- (e) Other general fees, fines and forfeiture, i.e., General forfeitures and forfeitures of earnest money by defaulting bidders.
- (f) Miscellaneous receipts, that is, other items.

Note 1 - Details of accounts credited as "other items" should invariably be furnished to the Treasury Officer

Note 2 - Service books are sold direct from the Treasury to parties requiring them. There can, therefore, be no cash receipts on this account.

Note 3 - The Collectorate Nazir sells saleable forms and keeps an account in the form prescribed by the Board of Revenue. The Nazir of other Courts who also sell saleable forms keep an account in Form No. (A) 17-B.

- (g) Sale proceeds of old stores and materials.

Note - The Treasury Officer should invariably be informed of the nature of the items, i.e., whether furniture or. stores, etc.

- (h) Peremptory receipts, i.e., Witnesses, expenses, prisoners, diet money, boat-hire and other peremptory receipts

Note - Peremptory cash-book is not required to be maintained by

Executive Magistrates, such receipts must be entered in the general cash-book.

419. Manner of showing different heads of accounts - The receipts and payments under head (a) must appear in the Court's account in detail but in the treasury account in which a personal ledger account only is maintained for this head, the daily totals of receipts and payments at the Court and the individual items of receipts and payments at the treasury will appear. All receipts and payments under heads(b) and (d) to (f) must appear in the Court's accounts and in the treasury account in detail. An account in detail of all receipts under heads (c) and (g) must be kept in Court, but only the daily totals of each kind of receipts will appear in the treasury books. All receipts and payments under head (h) will be made on the responsibility of the cashier whose security must be sufficient to cover any amount in his hand and the balance in the hand of the cashier must be included in

hand of the cashier must be included in the cash-book. They will not appear in the treasury accounts, but a statement in Form No. (A) 6-A showing the gross amount of receipts and disbursements during the month must be sent to the treasury on the last working day of each month of incorporation in the treasury accounts for the same month.

1[Note - Fractions of a rupee shall be brought into accounts by rounding off to the nearest rupee, i.e. fractions of 50 paise and *above* to be rounded off to the next higher rupee and the fractions of less than 50 paise to be ignored.]

Direct payment by one person to another not to appear in

Court's account - Provided that where money has to be paid by one person to another and both are present in Court, the money should be passed direct from the one to the other under the sanction of the Court, the fact being noted in the record of the case. No officer of the Court shall, however, receive or become in any way responsible for the money. These transactions will not appear in the Court's account at all.

Note - Advantage of this proviso may be taken in cases where compensation is awarded to accused persons or costs to complainants by the Criminal Courts in non-appealable cases or when sums in excess of those paid into Court are to be paid to witness. Compensation to accused persons or costs to complainants in criminal cases, whether paid on the spot in open Court or not shall be entered in red ink in the Register of criminal fines as laid down in Rule (18) (b) of Appendix IV.

420. **Direct receipts and payments when to be avoided** - Judges and Magistrates will as far as possible in their transaction with public avoid direct receipt and payment of money under head (a) of Rule 418 :

Cash receipts - Provided that the cash must be received in the following cases -

When any sum is tendered in payment of criminal fines including compensation under Section 250, Criminal Procedure Code or Section 357, Criminal Procedure Code, or Section 22 of the Cattle Trespass Act and costs awarded in non-cognizable cases under Section 359 of the Criminal Procedure Code.

421. Receipts and repayments - (a) Money under heads (b) and

(h) of Rule 418 may ordinarily be received in cash in the Criminal Courts.

(b) The repayment under any of the heads of the Rule 418 except (h) should be made only through the treasury.

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(c) Under head (h) payments will ordinarily be made in cash by the cashier on his own responsibility.

(d) No refund should be made on account of head (g).

CHAPTER - II

Receipt of Money

422. Chalans to accompany payments - Payment of sum falling under heads (a) to (g) of Rule 418 cannot be accepted at the treasury unless the payment is made by the Nazir, with the pass book and a chalan in duplicate.

Note - No chalan is necessary for paying into Court criminal fines including compensation and costs.

423. Chalans to be supplied free of cost - Any person desirous of paying money into the treasury or in the case of collections made by any officer, the officer who has realised the money, shall be furnished free of cost with three forms of chalan (A-I) in each of which he must enter in English the particulars required from him.

Note - In the case of deposit chalan, care must be taken to enter fully the nature of the deposit, the number of the case (if any), the name of the person on whose behalf the money is paid or the person to whom it is to be paid over to, etc.

424. No chalans for peremptory cash payment - Peremptory receipt under head (h) of Rule 418 shall be tendered to the cashier direct without the intervention of the Accountant. A chalan is not required in respect of such payments.

425. Receipt of money by cashier - The cashier of the Court of Executive Magistrate on receiving money under Rule 424 shall accept it and enter the amounts as a receipt in the cash book in Form No. (A) 16. The cashier of all other Courts shall on receipt of such amounts shall enter therein detail in the peremptory cash book in Form No. (A) 16 and carryover the daily totals to the general cash book in Form No. (A) 16.

426. Acknowledgement of payment by means of Chalan - On presentation of the chalan (in triplicate) at the treasury and on payment of the money, the payer shall receive, as an acknowledgement, one of the three chalans signed, by the Treasury Officer if the amount be Rs. 500 or more by the Accountant and Treasurer if less than that sum. Of the two copies of the chalans retained by the Treasury Officer, one copy shall be forwarded to the Judge-in-charge or Magistrate-in-charge, as the case may be, together with the advice lists referred to in Rule 446 ..

427. Grant of receipt by cashier - When money is tendered under Rule 424 the cashier shall enter the amount in the foil and counterfoil of a bound book of receipts numbered in serial order

[Form No. (A) 24]. He shall then tear off the counterfoil, sign it and give it to the payer as his voucher.

428. **General cash book to exhibit details** - The Cashier's general cash book shall be maintained in Form No.(A) 16 and shall exhibit in detail all receipts, repayments and remittances to the treasury.

429. **General cash book to show balance of all accounts** - The cashier shall then strike a balance in words as well as in figures in his general cash book. He should be required also to enter here a note of the moneys held by him upon any other accounts, such as for contingent expenditure. These forms no substantive part of the judicial accounts, but the Sessions Judge, Chief Judicial Magistrate or District Magistrate, as the case may be, ought to have in a single view a statement of all the money in the cashier's possession. This statement may be made as follows :-

Balance of general cash-book as above :-	Rs. P.
General balance	.....
Balance of permanent advance as per Contingent Register.	.....
Other amounts (which should be Explained)	.....

Total money in cashier's possession	-----

CHAPTER - III

Payment of Money

430. Application for payment - Persons desiring to draw money deposit in Court, and payable to them shall submit to the Chief Ministerial Officer of the Court under whose order the money was tendered, an application in Form No. (A) 2 Criminal. One copy of such form shall be supplied free of charge. In this form the applicant shall enter all particulars necessary for the identification of the credit. If it is intended to withdraw more than a single item of deposit made in the same case by one application, the number or date and amount of each deposit must be distinctly stated. Separate applications are necessary when cases are different.

Note 1 - If the party entitled to the money does not appear in person, the applicant must satisfy the Court that he is duly authorised, by an instrument in writing, to draw the money for the person so entitled.

2. The applicant must comply strictly with the terms of the order under which the money is claimed.

431. **Audit of application** - (a) The Chief Ministerial Officer shall compare the application with the record of the case and carefully test the validity of the claim. If he finds that the name of the payee has been correctly given, and that there is no objection to the payment of the money on the ground of attachment or otherwise, he shall sign the certificate at the foot of Part I of the application. The application will then be laid before the Presiding Officer along with the record of the case. The Presiding Officer after any enquiry that may be necessary about the identify of the claimant, shall sign the certificate in Part I in open Court and hand over the certified application then and there to the claimant or his Pleader for presentation to the Accountant. At the same time a note of the issue of the payment order shall be made (in red ink) in the order sheet of the original case and installed by the Presiding Officer, and an endorsement shall be made on the back of the application and signed by the Presiding Officer to the following effect -

Certified by me and issued to the applicant, who is identified by Mr. Pleader, or to Mr. the applicant, a Pleader who acknowledged his signature on the face thereof. The issue of this payment order has been noted on the order sheet of Case No. of

(Signed) X. Y.

Name and designation

(b) The Accountant shall compare the contents of the application with the Register of Deposits receipts and shall satisfy himself that the amount as shown has been received and is still unpaid and that the name of the claimant corresponds with the name of the payee entered in the Register, and that no order for the attachment of the money is in force. If deposit has been transferred to the Clearance Register, such Clearance Register shall be deemed to be the Register of Deposit receipts within the meaning of this rule and Rules 434 to 437.

Note - The Chief Ministerial Officer will note in the order sheet of the record of the case that the application for payment order has been passed so that a second claim for the amount may be checked. This note should be signed by the Chief Ministerial Officer and also by the Presiding Officer.

432. Audit of application in the Record Room - If the record of the case has been despatched to the Record Room of the Sessions Judge or the District Magistrate under the orders of the High Court relating to the periodical despatch of records, the Presiding Officer of the Court, to which the application is made, shall forward it to the Sessions Judge or District Magistrate, as ,the case may be, whose record keeper will certify, under countersignature of the Judge-in-charge or Magistrate-in-charge of the Record Room as the case

may be that a specified sum of money is due to the applicant. On receipt of such certificate the Chief Ministerial Officer of the Subordinate Court, if he finds that there is no objection to the payment of the money, shall sign the certificate at the foot of Part I of the application and then lay it before the Presiding Officer who shall deal with it in the manner prescribed by Rule 431.

Note - The Record-Keeper will enter in the order sheet of the record of the case a note that an application for payment order has been countersigned, so that a second claim for that amount may not be passed. This note shall be signed by that officer and also by the Judge-in-charge or Magistrate-in-charge of the Record Room, as the case may be. A similar note shall also be endorsed at the same time on the back of the application for the information of the Presiding Officer.

433. Return of defective application - If the application for payment is found to be incorrect or defective the Accountant shall note the error or defect, and return it to the applicant for correction by him, or for reference by the applicant to the Court.

**Payme
nt
Order
and
Regist
ry**

434. Registry of payment order - If the application is found to be correct, and the deposit has not lapsed, the Accountant shall fill up the of payment order [*Form Na.(A) 9*], numbered with its proper index number and make the requisite entry in the Register of Deposit Receipts. Finally the application, with the Register of payment orders and the Register of deposit receipts shall be laid before the Judge-in-charge or Magistrate-in-charge as the case may be.

**Approv
al by
Judge-
in-
charge**

435. Passing of payment order - Before passing the application for payment the Judge-in-charge or the Magistrate-in-charge as the case may be, is required to satisfy himself, in the first instance that the requirements of Rule 431 have been complied with. He shall further satisfy himself by personal inspection of his Register of Deposits, that the balance of credit of the particular Deposit is sufficient to meet the payment, and that no order for the attachment of the money has been noted. If the result of his scrutiny is satisfactory, he may sign the order for payment of the amount from the local

treasury as prescribed in Rule 421 and shall attest with his initials the note of the order of repayment made in the Register of Deposit Receipts. He shall also initial the entries in the Register of Payment Orders [*Form Na.(A) 9*]. The payment order shall then be made Over to the applicant for presentation to the Treasury Officer.

Note - A list of all payment orders made ready during the day should be sent to the Bar Association before 3 P.M. in case of day sitting and 10 A.M. in case of morning sittings.

THE HIGH COURT OF ORISSA

436. **Passing of payment order application relating to one Court filed in another Court** - When the money sought to be drawn, out of Court is in deposit, not in the Court to which the application is made but in an other Court, as for example, where two or more Courts at one station are combined for the purposes of accounts in every such case, the duty of the Court to which the application is made shall be merely to receive such application and forward it to the Judge-in-charge or Magistrate-in-charge, as the case may be, with a certificate, made after examination of the record, as provided in Rule 431, that the applicant is the proper party to receive payment of the amount claimed. In any case in which the amount has been transferred from the credit of the original payee to that of the claimant this fact should be stated. This certificate shall be compared with the deposit Register in the office of the Judge-in-charge or Magistrate-in-charge, as the case may be. Such Register, if the sum is shown therein to be in deposit, will inform the concerned Magistrate whether there is any bar to payment. If there is no such bar, the payment order may be issued by the Judge-in-charge or the Magistrate-in-charge, as the case may be and the fact of its issue shall be communicated to the Court upon whose certificate the application was passed in order to enable it to enter satisfaction for the amount upon the record of the case.

Note - The certificate should be given on the payment order, that is to say in the triplicate Form No.(A) 2 Criminal at foot of Part I in the place intended for it; and in recording the payments in the Register of Payments, particulars may be entered as to the Court under whose orders the payments have been made.

Lapse of Order

437. Time for encasement of payment - (a) An order for payment from the local treasury is valid for ten days only, and may not be cashed after the expiry of ten clear days subsequent to the date thereof. An order which has not been paid within ten days, as aforesaid, may be presented to the Court which issued it, and such Court may re-enface thereupon a new payment order, which shall remain valid for ten clear days immediately after the date thereof. When the last day of any such period of ten days is a day on which the treasury is closed, the order may be cashed on the day on which such treasury reopens.

(b) When such orders as aforesaid, is for a sum exceeding Rs.100 it should be included in a 'Daily Advice List in Form No. (A) 5, Criminal, to be issued by the Court making the order to the local treasury where the cheque is to be paid.

(c) When the treasury accounts are closed on the 31st day of March in each year, every order for payment issued on or before

that date shall lapse absolutely, and Treasury Officers are forbidden to cash after the 31st March, orders issued on or before that date. An order which has lapsed under this clause cannot be renewed but a new order may be obtained upon delivering up the old order and making a fresh application under Rule 430

Note - Judges and Magistrates should warn persons who apply for orders at the end of March to be effect of this rule, and tell them to wait till April 1st unless they mean to cash immediately any order that they may obtain.

(d) Immediately after 31st day of March in each year, the Judge-in-charge and Magistrate-in-charge shall ascertain that payment orders issued on or before that date are still uncashed, and shall mark them off under their initial in the Registers (1) of payment order and (2) of deposit receipts, as “cancelled under Rule 437 (c)”.

Lapsed Deposits

438. Lapsed deposits - (1) When an application is made to draw money at credit under a deposit which has lapsed under Rule 463 but the payment of which is otherwise unobjectionable, the application shall be made in Form No. (A) 2 and the procedure prescribed in Rule 431 above shall be followed after which the Accountant shall prepare a special form of application in Form No.(A) 3 Criminal, which, when passed by the Judge-in-charge, after the examination prescribed by Rule 435, shall be dealt with under Rule 466.

(2) At the time of passing the application in Form No.(A) 3, the Judge-in-charge or Magistrate-in-charge as the case may be shall have an endorsement written on the back of the application in Form No.(A) 2 to the following effect : -

“Certified that an application to the Accountant-General in Form no. (A) 3 has been prepared and passed by me on (date).

(Signed) X.Y.

Judge-in-charge / Magistrate-in-charge”

Refunds under heads (c) to (9) of Rule 418

439. (a) Refund under heads (b) to (g) - When an application is made for the refund)of fine or a miscellaneous receipt under heads (b) and (d) to (f) of Rule 418 the payment order shall be prepared by the Accountant in Form No. (A) 4 after checking the application by a reference to the Find Register or Miscellaneous Receipt Register and the Judge-in-charge or Magistrate-in-charge as the case may be at the time of passing the Refund Order, shall note the repayment against the entry of the receipt in such Register. The Payment Order shall also be noted in the Register of Payment Order Form NO.(A) 9 and installed by the Judge-in-charge or the Magistrate-i-charge as the case may be.

(b) **Refund of fines on orders by the Appellate Courts -**

When an Appellate Court orders a fine to be refunded, it shall be the duty of the Court which imposed the fine immediately on receipt of the Appellate Court's order for the refund, to prepare a payment order on the treasury, if the fine has been levied, attaching a copy of the Appellate Courts order thereto and to deliver it to the payee whether he applies for it or not with instructions to duly receive the bill and present it for payment at the treasury. In such case, no written application shall be required from the payee and should such an application be made, it shall be exempted from stamp duty.

(c) **Refund of fines on order of the revisional Courts**

- The

same procedure shall also be followed in respect of cases dealt with on revision.

(d) **Procedure when the Court sets aside the sentence of fine-**

In case in which a sentence of fine passed by a Magistrate is on firmed by Court of Sessions, but set aside by the High Court on revision, it shall be the duty of the Sessions Judge to whom the order of the High Court is certified immediately to apprise the Magistrate concerned of the order of the High Court by sending him a certified copy of such order.

Refunds of criminal deposit when the amount does not exceed Rs.100

440. Refund of criminal deposits not exceeding Rs.100 -

Notwithstanding anything contained in the rules in this Chapter refunds of criminal deposits or amounts deposited in excess where the amount involved does not exceed Rs.100 may be paid by postal money order subject to the following rules:-

- (1) On receipt of a refund order passed by the Sessions Judge, Chief Judicial Magistrate, District Magistrate or other officer concerned, the Treasury Officer may, at his discretion, issue a notice: (a) inviting the person to whom the refund is to be made, to receive payment at the treasury; and (b) intimating that the failure to comply with the invitation within one month (or such longer period as may appear necessary), the amount of the refund will be remitted to the payee by postal money order at his expense.
- (2) When the payee appears in person at the treasury, the Treasury Officer should see that no avoidable delay occurs in getting the voucher for the refund signed by the payee who may then receive the payment personally or by a duly authorised agent, or by money order at his own expense.

- (3) When a money order is issued under Clause (b) of the notice referred to in Sub-rule (1), the purpose of the remittance should be stated briefly by the Treasury Officer on the acknowledgment portion of the money order in continuation of the printed entry there "Received the sum specified above on" sufficient space being left below the manuscript entry thus made for the signature or thumb impression of the payee. The amount of the money order should not be remitted in cash to the Post Office but the Treasury Officer should send a money order form duly filled in together with a certificate that the amount of the order and the money order fee thereon have been credited to the Post Office in the treasury account by *per contra* transfer. The Post Office will accept the money order on the authority of the Treasury Officer's certificate.
- (4) On receipt of the money order acknowledgment duly signed by the payee, it should be attached to the usual receipt in Form 13 or 31 as the case may be, in which the full amount of the refund and the deduction made here from on account of the money order fee should be shown clearly; the receipt will then be disposed of in the usual way. The Accounts Department will accept such voucher with the money order acknowledgment as a valid receipt for the full amount of the refund entered therein.

441. **Each item of payment order to be connected with Courts debit in the treasury** - In so far as concerns the accounts system, it is invariably necessary to trace each item of payment under the Court's orders back, to its corresponding item of receipt; in other words to connect each item of a Court's debit in the treasury with the corresponding item of credit however far in time the two may be separated from each other. Accordingly, the Court must take care to furnish itself and the treasury with the necessary particulars for this purpose.

CHAPTER - IV

Account Keeping and Remittance to Treasury

Courts near Treasuries

442. **Details of cash receipts to be shown in treasury pass book**

- The Nazir shall, after the close of business each day make the proper entries in the treasury pass book Form No, (A) 10 showing in Detail the sum received from the public in cash.

443. **Receipts in different heads of accounts** - Every chalan or money received under heads (a) to (g) shall be shown in detail in the pass book, and the head of account shall be noted against each, so as to enable the Treasury Officer to bring the transactions in detail upon his books and classify them correctly.

Note - It is necessary to show in the pass book the totals only of each chalan. Each chalan may contain any number of items provided they belong to the same head of account. .

Daily Remittance

444. Balance of peremptory receipts to be within the limit - The balance of the cashier's account in respect of diet money and other peremptory receipts should be observed every day by the Judge-in-charge or Magistrate-in-charge as the case may be. He shall fix the amount which the balance in the hands of the cashier shall not be permitted to exceed. He shall for this purpose regularly transfer to deposit such amount as will keep down the balance within the limit prescribed. Should the money be subsequently required it shall be withdrawn from deposit in the manner prescribed before and credited in the General cash book. If such sums remain in deposit for three years, they must be carried to credit of Government under Rule 463 relating to lapsed deposits.

Note - Chalans for such deposits should be kept in a guard file.

445. Remittance to appear in cash book - (a) Having installed the accounts of the day and signed the cash book, the Judge-in-charge or the Magistrate-in-charge as the case may be, shall send the pass book to the treasury or to a branch Bank together with the net amount in cash and the chalans. This remittance must be entered in the cash book as a payment for the day on which it is made.

(b) Cashier to keep only certain balance - It is important that this be done before the business of the new day commences, and the cashier should have in hand after each such remittance, only the balance of the peremptory cash transactions and the other balances referred to in Rule 429.

Treasury Advice List

446. Treasury Advice List - At the close of business each day, the Treasury Officer shall prepare Advice list, in Form (A) 6 of all such chalans and payment orders of the Judge-in-charge or Magistrate-in-charge, as the case may be, as have been brought upon the treasury accounts in the course of the day and shall forward them to such Judge-in-charge or Magistrate-in-charge, as the case may be together with the chalans referred to in Rule 426. In these lists shall be entitled in detail such chalans and payment orders as have been received or paid at the treasury or sub-treasury in cash.

447. **Advice list of sub-treasury** - The list prepared at the Sadar Treasury for the Sessions Judge, Chief Judicial Magistrate or District Magistrate shall include, besides the moneys received and paid on account of their Courts, those transactions also which belong to their respective subordinate Courts.

Comparison by Magistrate

448. Comparison of advice list with Court's Register - On receipt of this Advice List, the Judge-in-charge or Magistrate-in-charge, as the case may be, shall cause the particulars of the payment orders shown in it to be compared with the details recorded in his Register of payment orders Form No. (A) 9 and shall further cause the date of actual payment as certified by the Treasury Officer, to be entered in the column prescribed for that purpose.

449. Checking to be followed by initial - These entries must be installed by the Judge-in-charge or Magistrate-in-charge, as the case may be, when he checks the posting in the deposit Register, as prescribed in Rule 451 below.

CHAPTER - V

Deposit and Repayment Registers, Separation of Petty Deposits

450. Deposit and repayment Registers - Two Registers of Deposit Receipts shall be kept in Form No. (A) 11 and two Deposit Repayments in Form No. (A) 12. One of these shall be termed as Register of A deposits, and there shall be entered all deposits originally exceeding 1[Rs.25]. The other shall be termed as Register of B Deposit, and there shall be entered all deposits not originally exceeding Rs. 25. Both Registers shall be kept in the same Form and shall be posted in the same manner but with separate series of number distinguished by the initial letter A and B, respectively.

Posting

451. Posting - As Soon as the treasury Advice List is received (Rule 446), the Deposit Register will be posted for the date to which it refers. The transactions shall be written up from the Advice List chalans and Register of payment orders.

Note - The date of granting the payment order should be entered in the repayment column in the Register of deposit receipts and the date of actual payment in Column 4 of the Register of Deposits repaid.

452. Register of receipts - All items of deposit in these Registers must, as directed above, be numbered in an annual consecutive series of numbers commencing on 1st April and ending with the

last day of March in each official year. Only the first eight columns shall be filled in at first, the other column being intended for the record of subsequent repayments.

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453. Notes of claim - As it is important that the Deposit Registers in the Accounts Section should set forth in respect of each item all information necessary in order to deal at once with applications to draw money, all attachment processes and all orders as to the substitution of parties which affect money in deposit, shall be noted at the time in the Deposit Register. The Chief Ministerial Officer of the Court concerned or some other specified under his supervision, shall be made responsible for this duty.

Note - Whether the Chief Ministerial Officer's responsibility is or is not to end with the communication to the Accountant is a matter left to the discretion of each Court but some specific order should be recorded.

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454. **Posting in the Deposit Repayment Register** - The Register of deposit repayment Form No. (A) 12 shall be posted from the Treasury Advice List and the payment order Register as directed above.

455. **Monthly closing of deposit and repayment Register -**

- (a) The Registers of deposit receipts and deposit repayments in Courts at a Sadar station, shall be totaled and closed on the last day of each month upon which the Sadar Treasury remains open, in such a way that the period and the transactions included in the Court's books and returns may correspond exactly with those included in the Treasury book and returns.
- (b) **Final remittance to be in time** - Care must be taken to make the final remittance to the treasury in such time that it may be entered in the accounts of the treasury for the month to which it belongs.
- (c) **Plus and minus memorandum** - In each of the Registers of Deposit Receipts prescribed by Rule 450, a plus and minus memorandum must be drawn up at the end of the

months entries in the following terms :-

Balance of deposits from last month

.....

Received during the month, as per Register

.....

Total

Repayment, as per Register

.....

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**Control
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Subordin
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456.

Responsibility of the Judge-in-charge - Every Judge or Magistrate is responsible for all payments of deposits made on his certificate or under his orders. In the case of receipts and payments of petty or B deposits, no detailed check is exercised over his proceedings, the accounts which he is required to render of these showing

totals only. In the case of A deposits, however, all sums received, and not paid out during the month in which they have been received, and the balance of such of case deposits as have been partly paid out, must be reported to the Sessions Judge or Chief Judicial Magistrate or the District Magistrate, as the case may be. It must be included in that officer's accounts and in his return to the Accountant-General.

**Daily
return of
subordin
ate
Courts**

457. Daily return of the Subordinate Courts - Every day, after the Treasury Advice List has been received, and the deposit and other Registers have been written up and checked with it, two statements, showing the transactions of the date to which it refers shall be prepared by the Judge-in-charge and forwarded to the Sessions Judge, Chief Judicial Magistrate or District Magistrate, as the case may be. The First of these statements Form No. (A) 22 shall show the total amount of the entries in the deposit Registers and the totals of other transactions brought on the Registers. The second shall be an extract from Part I of the Register of deposit repaid Form No. (A) 12 giving the particulars of repayments on

account of deposits received during previous months. At the foot of the first statement the Judge-in-charge or Magistrate-in-charge, as the case may be, shall certify that his Registers of B deposits are written up-to-date and are in order.

Note 1 - It will be observed that these returns are intended to exhibit actual receipts and payments, and that they are therefore to be compiled from the deposit Register, and not from the Register of payment orders.

2. - The Subordinate Courts referred to in Rule 456 and in Rule 457

are those which keep their own accounts and the accounts of other Courts as well.

458 - At out-stations some delay in submitting the daily returns is unavoidable, but this delay should not exceed the time necessary for the Treasury Advice List to reach the Court. The date on which the returns are actually signed should be noted on them by the Judge-in-charge or Magistrate-in-charge, as the case may be.

**Verification by
Judge-in-charge
or Magistrate-in-
charge**

**459. Verification
by the Judge-in-charge
or Magistrate-in-charge**

- At the time of signing the returns the Judge-in-charge or Magistrate-in-charge, as the case may be, should have before them the Registers of receipts and payment of deposits and-the Treasury Advice List.

**Examination
by
Sessions
Judge**

**460. Examination
by Sessions Judge**

- The statements furnished by the Subordinate Courts shall, when received in the Session Judge's/ Chief Judicial Magistrate's or District Magistrate's office, be compared with the corresponding Advice List supplied to him by the Treasury Officers, under Rule 451. In the case of out-stations, the totals for the whole month supplied by the Judge-in-charge or Magistrate-in-charge, as the case may be, must agree with the totals for the whole month supplied by the Treasury Officer, if only attention has been paid to the rules regarding periodical remittance. In the course of the month the former totals will ordinarily exceed the

latter, and the difference must be taken to represent cash transactions advised by the Court, but not yet brought on the treasury books. In the case of Courts near treasuries, no such discrepancies should occur if the rules are properly observed. When any such are noticed, immediate steps must be taken, under Sessions Judge's orders, to reconcile them.

**Judge's
Register of
Totals**

461. Judge's Register of totals - After examination, the totals of deposits received and paid shall be posted into a Register to be kept by the Sessions Judge or Chief Judicial Magistrate/District Magistrate in Form No. (A) 22. This Register contains two sets of columns, one set relating to A deposits and the other to B deposits. Separate portions of the Register for the month must be allotted to each Subordinate Court, that is, for each Subordinate Court a number of pages, according to the probable work, must be assigned in the leaves devoted to that particular month. The entries in respect of each Subordinate Court will thus come continuously and in order of date, and they must be totalled at the end of the month.

462. Daily balance - In the portion of the Register which relates to B deposits, a column has been

provided for a daily balance which must be struck by adding together the preceding day's balance and receipts, and deducting the payments. The object of the daily balance is to afford the Sessions Judge/Chief Judicial Magistrate/District Magistrate a ready means of controlling Subordinate Courts in the receipt and payment of small deposits as any excess of payments over receipts will be at once detected.

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**Posting of
Repayment
s of A
deposit**

463. Posting of repayment of A Deposit - (a) Taking up next the detailed daily Register of deposits repaid Form No. (A) 12 the repayments must be posted against the corresponding entries in the judge's daily Register of deposits received [*Form No. (A) 11*] and must be installed by the Sessions Judge Chief Judicial Magistrate/District Magistrate in the same manner as repayments authorised by himself. They must also, at the same time, be copied into his Register of deposit repayments [*Form Na. (A) 12*].

(b) As each payment is noted in the Session Judge's/Chief Judicial Magistrate's/District Magistrate's Register and district number (Rule 467) against which the payment is charged must be noted in the Subordinate Court's return.

Note - In noting the repayments, care should be taken to see that the amounts thus reported as repaid are actually repayable, and that amounts which should be credited to Government are not repaid to individuals.

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464. Monthly return - (a) At the end of the month there shall be furnished by the Subordinate Courts to the Sessions Judge/ Chief Judicial Magistrate/District Magistrate a statement of all deposits received. but not wholly repaid during the month. This statement will be an extract from the Register of Deposit Receipts [*Form No.(A) 11*] omitting the items which have been wholly repaid during the same month of deposits received and partially repaid in the same month, the unpaid balance only is to be shown in this statement. The dates of despatch from the Subordinate Court and of receipt by the Sessions Judge/Chief Judicial Magistrate/District Magistrate shall be noted on this statement.

Explanation - An A deposit, the balance of which has been reduced below, Rs. 5 by a payment made in the same month, is to be included among the ' A' and not among the ' B' deposits.

(b) On the 31st March of each year the Subordinate Courts shall, in addition, submit to the Sessions Judge/Chief Judicial Magistrate/ District

Magistrate a certificate that all uncashed orders to be cancelled under Rule 437 (c) have been marked off in their Registers.

465. There shall be appended to the monthly statement of deposits receipts a plus and minus memorandum in Form given below in Rule 468.

Examination by Sessions Judge

466. Examination by Sessions Judge - On receipt of the monthly statement and the plus and minus memorandum, the Register Form

No.(A) 22 shall be compared therewith. First as regards 'A' deposits the total of the column headed "Repaid on account of current month" should agree with the amount shown in the plus and minus memorandum; and when this amount is deducted from the total of the column headed "Total Amount Received" the balance ought to agree exactly with the total of the statement of outstanding 'A' deposits received from the Court to which the figures relate. Second, as regards 'B' deposits the balance itself can be tested in detail only once a year, when the yearly statement under Rule 472 is received but every month the difference between the opening and the closing balance should be equal to the difference between the receipts and payments reported in the plus and minus memorandum.

**Posting
Receipts
of A
Deposits**

467. The Subordinate Court's monthly detailed statement of 'A' Deposits received shall be attached by the Sessions Judge/Chief Judicial Magistrate/District Magistrate to his own Register of deposits received after he has closed the accounts of the

Criminal Courts at the Sadar Station. The Sessions Judge/Chief Judicial Magistrate/District Magistrate will also number the deposits in the Subordinate Court's return in continuation of his own series.

Note - The Sessions Judge/Chief Judicial Magistrate/District Magistrate should examine the receipts so as to see that no item has been improperly held in deposit; and if he finds amounts so held which should be credited to Government, he should direct the Subordinate Court accordingly.

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468. Plus and minus Memorandum -
(a) A plus and minus memorandum in the Form given below including the figures of the Subordinate Courts as well as of their own Courts shall be prepared by the Sessions Judge/Chief Judicial Magistrate or District

Magistrate and forwarded to the Treasury Officer for transmission after comparison with his accounts to the Accountant-General.

Balance of last month Rs.

Amounting P.

of 'A' deposits received during the month. } Repaid during the month. Not paid during the month. Repaid during the month.

Amount of 'B' deposits received during the month. } Not paid during the month. Received during the month.

Amount of 'A' deposits repaid during the month. } Received during the month.

Amount of 'A' deposits repaid during the month. } Received during the month.

Amount of 'A' deposits repaid during the month. } Received during the month.

	Received	during
	Previous	
	the	current
	month	year
		Current
		month
Amount of 'B' deposits repaid } during the month	Received during 20 Received during 20	

	Total	

Balance of deposits outstanding.

Certificate

Certified that on a comparison with the Treasury Advice with postings therefrom in the guard file of chalans and Registers of payment Order of Deposit Receipt and of Repayments, the amounts entered above as received and paid are correct.

The 20

Judge-in-charge / Magistrate-in-

charge

Notes - 1. The opening balance in the plus and minus memorandum for the month of April each year should be classified year wise and the totals of the statement of the Lapsed Deposits must be reduced by a separate entry from the plus and minus memorandum drawn up at the end of April, so that the plus and minus memorandum upon the Register of the Court concerned .

2. The repayments of '8' deposits received in the year of account and in the year next preceding should be shown separately.

3. - As the lapsed statement is divided into four parts, the amount under each part be indicated separately in the plus and minus memo.

(b) This plus and minus memorandum is to show as repayment the actual repayments at the treasury, and is further to show the treasury balance outstanding.

Notes - 1. It will be found convenient to keep in a separate Register a copy of this plus and minus memorandum, with further memoranda of the details from the figures have been arrived at. It is important that there should be no difficulty at any time in reconciling the figures of the Court with those of the treasury.

2. The repayments of all 'A' deposits for the previous years, other than the current year, shall be reflected in the plus and minus memo, year wise, and in

the plus and minus memo for the month of April, the opening balance shall be shown with year wise balances.

THE HIGH COURT OF ORISSA

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**Annual
Clearance
Register of
Deposits**

469. Clearance Register - (a) At the end of each year Registers of 'A' Deposits received in the next preceding year shall be closed by transcribing into the last column, headed as 'Transferred to Clearance Register' every balance which exceeds 1[Rs. 25]. An Annual Clearance Register shall then be drawn up in form No.(A) 13 showing all these balances against their original numbers showing in other words, all the unpaid balances of 'A' Deposits of the preceding account year next but one. For example, the Clearance Register of April 1973, will show all unpaid balances of Deposits in 1971-72.

(b) Of balances which do not exceed 1[Rs. 25] a separate list shall made out under Rule 474 below.

470. Future

**repayments in
Clearance Register -**

The items in this account been carefully compared with the corresponding balances in the Original Register of Deposits Received [Form Na.(A) 11], the last named document shall be laid aside and future repayments recorded only on the Clearance Register.

Notes - 1. If against any of the items transferred to Clearance Register a repayment order has been issued and cancelled under Rule 437 (c) a note to that effect must be made in the clearance Register, so that if application for repayment is again made, an order may not be issued without recalling the original cancelled one.

2. The total repayments made out of the Deposits during the years as well as the total amount

lapsed to

Government shall be indicated separately

in order to arrived at the outstanding balance at the close of the year.

471. Items to be included in Clearance Register -

The Clearance Register of the Sessions Judge or Chief Judicial Magistrate or District Magistrate necessarily includes the items of the Subordinate Courts.

**Verificatio
n of Petty
Deposit**

Balance

472. Verification of

'B' Deposits - In order to verify the balance of 'B' Deposits each Court shall make a list of the unpaid balance of receipts of the past twelve months, and by actual summation of these balances, find the total amount outstanding on account of the year's Deposits. Each Court is required to submit along with the Clearance Register of 'A' Deposits a certificate that the balance of 'B' Deposits of the past year has been found by actual summation to be Rs.

473. Verification of

'B' Deposits with *plus* and *minus* memorandum - The balance found under the last rule, together

1. C.S. No. 66 (IX-8-A/92,
dated 3.5.1995).

THE HIGH COURT OF ORISSA

with the total of the list prepared under Rule 474 (2), must equal the total balance of petty Deposits on March 31, and must be so verified by each Court with the forward balance in the plus and minus memorandum.

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474. Which Deposits to lapse - On the 31st March of each year, the following unpaid balances of Deposits lapse to Government, and are to be written off in the Clearance Register and Registers of receipts respectively.

(1) Of 'A' Deposits, first, all balances which do not exceed 1[Ra.S] in respect of Deposits made during the last three years including the year then closing; Secondly, all balances of Deposits outstanding over three complete years that is all balances in the Clearance Register prepared

two years before.

These balances should be marked 'lapsed' in the column of the Register of Receipts or the Clearance Register, as the case may be.

(2) Of 'S' Deposits, first, all Deposits outstanding over one complete year; secondly, all balances of Deposits which are remaining after part payment during the year. These balances are to be marked 'lapsed' in the columns of the Register of Receipt.

Example - The balances which lapse on the 31st March, 1973 are -

- (a) All balances of 'A' Deposits received in 1969-70;
- (b) All balances of 'A' Deposits received in 1970-71, 1971-72, 1972-73 which do not exceed 1[Rs.25] after repayments made during 1972-73.
- (c) All outstanding 'B' Deposits received in 1971-72.
- (d) All balances of 'B' Dep

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**Stateme
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Lapsed
Deposit**

**475. Statement of
lapsed Deposits** - (a)
Four statements of the
balances to be written off
shall be prepared in Form
No. (A) 7. One for each of
the four classes (a), (b), (c)
and (d) specified in the
example under Rule 474.
These statements shall be
submitted by the
Subordinate Courts along
with the Clearance Register.
The Sessions Judge's, Chief
Judicial Magistrate's and
District Magistrate's,
District Magistrate's
numbers, the lapsed
balances of 'A' Deposits of
the Subordinate Courts.

Note - The note under
Rule 470 applies to

these statements of
lapsed
Deposits also.

1. Substituted by C.S. No.
65. IX-8 A/92, Dt.
3.5.1995.

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**Corre
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of
Balan
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476. Correction of balance - These statements must all be submitted during April and the totals thereof must be deducted by a separate entry from the plus and minus memorandum drawn up at the end of April, so that the plus and minus memorandum may show only the balance actually outstanding upon the Registers of the Court concerned.

**Refun
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Depo
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477. Refunded of lapsed Deposits - In the case of payment of Deposit lapsed under Rule 463 the application prepared by the Accountant in Form No. (A) 3 under Rule 438 shall after examination by the Sessions Judge, Chief Judicial Magistrate or District Magistrate, as the case may be, forwarded to the Accountant-General. Several Deposit numbers may be included in a single application, if they are payable to the same person. The Accountant-General's letter of authority, when received, shall be noted

against the items in the Clearance Register or Original Register in case of Deposits not transferred to the Clearance Register, so as to prevent a second application. This letter shall then be passed for payment at the treasury, as prescribed in the Form no other record of these refunds is necessary; and such payments are not be shown in the plus and minus memorandum.

478. Return of the letter of authority of A.G. - If the letter of authority received from the Accountant-General is not claimed by the payee within twelve months from the date thereof, it shall be returned to the officer.

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**Supplement
ary Rules as
to Receipts
under**

**head
(b) to
(9) of
Rule
418**

479. Realisation and refund of fines. - The procedure for Criminal Courts in respect of the realisation and refund of

finer is given in Appendices IV to VI annexed to these rules. The rules of the Account Code, which prescribe a monthly statement to be sent by Subordinate Magistrate to Sessions Judge, Chief Judicial Magistrate and District Magistrate to the Accountant-General are reproduced in Appendix VII.

Note - The monthly statement should continue to be sent in the form

now in use (Accountant-General's No.122-A, dated the 22nd April, 1881).

480. Register of Miscellaneous Receipts

- Every Judge-in-charge and Magistrate-in-charge shall maintain a Register of Miscellaneous Receipts 'in Form No. (A) 14. In this Register, all receipts are to be posted which do not come under head (a) (Deposits) or head (h) (peremptory receipts) of Rule 418. The entries shall be made and checked in the same way as the entries in the Register of Deposit

receipts of the Subordinate Courts, the amounts of petty receipts under (f) to (g) are to be shown only in a single total for each day.

Note - No Register of stamp duty and penalties need be kept by the District Magistrate, There is no refund of Court-fee stamps in the District Magistrate's Court.

Credits to Government

481. Credits to Government - It is the duty of every Judge and Magistrate to see that sums which are in Deposit, but which under any rule or law are forfeited or become the property of Government are duly credited to Government. In every such case there shall be prepared simultaneously: (1) a payment order addressed to the Treasury Officer and directing payment of the Deposit "by transfer as per chalan No of this date", and (2) a chalan crediting it to the proper head. Such payment order shall be Registered.

482. Register of Unclaimed property - With regard to unclaimed property it will be seen that Register No. (A) 14 deals only with receipts under this head which have remained in Deposit for the

prescribed period. A Register showing the property in detail must be kept in Criminal Courts in the Form No. (R) 27.

483. What head (e) to include - Under head (e) (other general fees, fines and forfeitures) of Rules 418 shall be comprised all receipts not falling within any of the other principal heads of receipt, e.g. forfeiture of earnest money, etc.

484. Previous receipts under head (e) to be immediately credited to Treasury - Receipts under the head of account, mentioned in Rule 483 are at once credited at the treasury to Government. They are not to be retained intermediately in Deposit either at the Court or at the Treasury.

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485. Monthly returns - At the close of the month every Judge-in-charge and Magistrate-in-charge shall prepare a list in

Form No.(A) 14 of all the miscellaneous receipts paid by him into the Treasury. Subordinate Courts shall forward their lists in duplicate to the Sessions Judge, Chief Judicial Magistrate or District Magistrate, as the case may be, and the latter officers shall add the totals of these lists at the foot of their own list, and appending one of the copies received by them from each subordinate Court, shall forward the whole to the Accountant-General for check against treasury accounts.

Note - As regards fine in Magistrate's Courts this is done under a separate set of rules.

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CHAPTER - XI

Miscellaneous

486. Accountant and cashier to be distinct persons - In carrying out these rules, care just be taken by all officers, that, in respect of each transaction in Court, distinct officers are employed as Accountant and Cashier. In other words, the same officer shall not keep the Registers of Payment Orders, Deposit Registers, etc. and also receive the money.

487. Order regarding responsibility of Chief Ministerial Officer - Every officer shall keep his accounts in English and it must be distinctly recorded by him whether the Chief Ministerial Officer is or is not responsible for a general control and supervision over the accounts.

488. Prohibition of manuscript forms - Manuscript account forms are prohibited. All account books should be paged before they are brought into use.

489. Daily examination of Accounts - The Accounts and Registers of which a list is given in Appendices I and II annexed to these Rules, must be compared daily by the Judge-in-charge or Magistrate-in-charge, as the case may be, and this rule is on no account to be neglected, as its observance is essential to the integrity of the transaction and the correctness of the books. The notes at foot of the Forms indicate how the verification is to made.

APPENDICES

APPENDIX I

List of Registers to be compared daily by Judge-in-charge/

Magistrate-in-charge

Officers For Judicial	(Kept by the Accountant)	(1) Register of payment order Form No.(A) 9.	
		Register of judicial deposits received, Part I, Part II.	
		Register of repayments Part I, Part II.	
		(4) Register of miscellaneous receipt.	
		(5) Clearance register of A' deposits	

Form No.(A) 11
(i) and (ii)
Form No.(A) 12

(i) and (i i)
Form No.(A) 14
Form No.(A) 13

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[(Kept by the	(1)	General cash book	
	Cashier)	(2)	Counterfoils of receipts granted by cashier for peremptory cash receipts.	Form N Form N Form N
		(4)	Treasury pass book	

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Comparison of Treasury Advice with posting therefrom in the Registers of Payment Orders or Deposit Receipts and Miscellaneous Receipts

Comparison of Treasury Advice with treasury pass book.

**Sessions
Judge/Chief
Judicial
Magistrate/**

**District Magistrate's
Monthly
Examination of
Accounts**

1. The proper closing and totalling of all Registers.
2. Comparison of outgoing statements with office Registers.
3. Comparison of *plus* and *minus* memorandum with totals of Registers.
4. Ascertainment and verification of outstanding Payment Orders.

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*From the Sessions
Judge/Chief Judicial*

Magistrate/District

Magistrate through the Treasury Officer

Plus and minus memorandum (Rule 468)

From the Sessions Judge/Chief Judicial Magistrate

Magistrates to the Accountant-General direct

Statements lapsed Deposits of their Courts and of
subordinate to them with
certificates of the
examination of 'B' Deposits
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**Rule
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“A Register of
criminal fines in Form No.
(A) 17 and another in Form
No. (A) 17-A shall be
maintained in the office of
every Chief Judicial
Magistrate and District
Magistrate and
Subdivisional Judicial
Magistrate and
Subdivisional Magistrate or
the Judicial Magistrate in
the outlying areas for the
purpose of keeping an

account of all Judicil

THE HIGH COURT OF ORISSA

finer, and all sums which under any law are realisable as fines. Only one Register in each of these forms shall be maintained at each office. The Registers will ordinarily be kept by the Magistrate's Peshkar, who for the purpose of these rules, is hereinafter described as "The Clerk-in-charge of the Fine Register."

Note 1 - Penalty imposed under Section 446, Criminal Procedure Code are to be noted in the Register (A) 17.

(a) At the Register of criminal fines (A) 17 shall be entered in consecutive quarterly series all fines imposed by any of the Magistrate of the station within the jurisdiction of the station.

(b) In the end of each quarter the outstanding balance in each case shall be shown in Column 14 of the Register and all the outstanding entries, i.e., those in respect of which there is a balance in Column 14 brought forward in red ink before the entries for the current quarter are made. The balance in Column 14 will be entered in Column 6 for the current quarter. The original quarterly serial No. shall be shown below the new quarterly serial number of the

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3. Realisation during the same quarter in which the Fine was imposed shall be entered in the proper column of the Register of Criminal Fines opposite the original entry. Realisation of outstanding Fines shall be entered against their red ink entries for the quarter in which the realisations are made. When more than one realisation is made within a quarter in respect of any Fine; a total should be struck in the body of the page. The Clerk-in-charge of the Fine Register after the amount is realised in the Register of Criminal Fines shall submit it to the Magistrate, who will initial the entry of realisation.
4. When any Fine or part of a Fine is remitted in any quarter subsequent to that in which it may have been imposed, whether on appeal or otherwise, or becomes irrecoverable in consequence either of the lapse of six years from the date of sentence or of imprisonment having been suffered in lieu of Fine in the cases mentioned in Rule 5, the amount remitted or lapsing shall be entered in Column 18 under the quarter in which it is so remitted or

lapses. When a Fine is remitted in the same quarter in which it may have been imposed, the entry will be made in the appropriate column (Column 18) of the Register of Fines.

**IMPRISONMENT
IN LIEU
OF FINE**

5. In any case when under any special or local law, imprisonment in lieu of Fine is to be taken as a full satisfaction of the penalty, if

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the convicted person is sentenced to undergo the imprisonment, the Clerk-in-charge of the Fine Register shall at once obtain a certificate from the Court imposing the sentence that the Fine is not to be realised, and the amount of Fine shall, if entered, be struck out of the Register or Criminal Fines. Nothing here laid down shall interfere with any special directions of law for the attempted realisation of Fine by distress, or otherwise before carrying out any sentence of imprisonment upon the offender.

6. (a) All Fines or part of Fines received by the Nazir must be paid in by him daily to the Treasury (or to the local branch of the "State Bank" where there is no District Treasury). The chalan sent with them should be in detail and accompanied by the Register of Criminal Fines and at the district headquarters also by the pass book and the Treasury Muharrir receiving them will check each entry with the chalan by the Register putting his initial to each in the proper column thereof.

Notes - 1. At the headquarters of district where it is found inconvenient, owing to the Treasury work being done in a Branch Bank or for other reasons, to send the Fine Register with the chalan, the chalan should be in duplicate and accompanied by the pass book as usual. The duplicate chalan duly receipted by the Treasury is to be given to the

Clerk-in-charge of the Fine Register, the Nazir keeping the pass book as his acquittance. In subdivisions, the chalans may be in duplicate, and the duplicate chalan will be the Nazir's acquittance as no pass book is kept there.

2. - In subdivisions having not Treasury, however, the remittance will be made at convenient intervals.

7. Fines imposed before and tendered during the Dasahara holidays should, both at district and subdivisional headquarters or in the outlying stations be paid to the Nazir, who will receive any Fine that may be paid during the holidays, and will, if necessary, get a release warrant signed by the Subdivisional Judicial Magistrate or by the Magistrate-in-charge for him if the Fine is paid in a subdivision, or if is paid at district headquarters, by any Magistrate who may be available at the Sadar. The Treasury need not be kept open for the sole purpose of receiving such Fines, which may remain in the custody of the Nazir unless the amount is exceptionally large, in which case the orders of the Judge-in-charge or Magistrate-in-charge, as the case may be, should be taken.

8. The chalan, receipted by the Treasury, will be kept filed by the Clerk-in-charge of the Fine Register as his authority for making necessary entries in the Fine Register, where the Fine Register is not sent to the Treasury with the money.

9. In no case any disbursement is to be made from realised Fines in the hands of the Nazir to meet contingent or other expenses

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of the Court. Any refund of Fines will be made by the Treasury Officer on the order of the Magistrate.

Checking of the Fine Registers

10. In each Court, one of the Muharrirs, to be known as 'the Fine Muharrir', shall be specially charged with the duty of looking after the Fines or other sentences passed by the Court. It shall be the duty of the Fine Muharrir of each Court to examine daily the Fine Register and to ascertain that each necessary entry is made and made correctly. He will certify this by his initials in the proper column. He is also responsible for the speedy preparation of warrants.
11. Each Magistrate should examine the Fine Register daily and check his own Fines, signing his initials to each entry. He should see that warrants are issued and remittance paid in and acknowledged without delay.
12. The Judge-in-charge or the Magistrate-in-charge, as the case may be, shall once a week compare the entries in the Registers of Criminal Fines and the Fine cheque counterfoils with the trial Register in all Courts in which this Register is maintained and with the Register of complaints, General Register of cognizable cases, Register of unimportant cases and Register of Miscellaneous cases in all other Courts. He should satisfy himself that the entries of the amount of balance outstanding have been correctly brought forward from the preceding quarter and check the totals of the Fine Register.

At the time of the weekly checking of the entries in the Fine Register the Judge-in-charge or Magistrate-in-charge entrusted with his duty should carefully ascertain that all Fines purporting to have been remitted or written off under the orders of competent authority, have been accounted for and should certify that he has done so.

Compensation Fees

13. (a) Compensation awarded under Section 250 of the Criminal Procedure Code and under Section 22 of the Cattle Trespass Act, cost of processes, etc., recoverable under Section 359 of the Criminal Procedure Code, and such amount of a Fine as is awarded as compensation under Section 357 of the Criminal Procedure Code shall be entered in red ink in the Register of Criminal Fines. The balance, if any, of the Fine imposed after compensation has been awarded under Section 357, Criminal Procedure Code, should be credited to Government, the entry in the Register being made in black ink.

(b) On realisation, in whole or in part these compensation Fines and costs, whether paid on the spot in open Court or not, shall be entered in red ink in the Register of Criminal Fines. Such sums shall be credited as Criminal Deposits, and the fact of their having been so credited shall be noted in red ink in the remarks column of the

Register. All other entries which it may be necessary to make in the Registers relating to such Fines and costs shall likewise be in red ink.

14. After realisation of the Fine, the disbursement of the compensation will in every case be made from the Treasury on the Magistrate's order.

15. (a) In non-appealable cases, however, should the Nazir report that the Fine or amount of award has been paid to him before the parties leave the Court, the Magistrate may direct payment to be made to the person entitled to compensation from his permanent advance, such payment being afterwards adjusted at the Treasury against the Fine account as though originally disbursed there.

(b) When costs of process under Section 359 of the Criminal Procedure Code are realised from accused persons at once, they should then and there be paid over in open Court to the complainant, a note being made in the records to show that this has been done.

(c) In all other cases, the Magistrate will give an order on the Treasury for the amount as prescribed in

Rule 14.

16. In Subdivisions where there is no Subdivisional Treasury and the Fine collections remain in the hands of the Nazir till the close of the month, payment of compensation, where this 'can legally be given, may be made by the Nazir on the Magistrate's order in any case in which the Fine has not formed an item in the chalan to the District Treasury. W h e r e t h e F i n e h a s b e e n c h a l a n n e d t h e M a g i s t r a t e may order payment of the compensation from his permanent advance, adjusting it afterwards as prescribed in Rule 15. In these Subdivisions, however, Column 15 of Register No. (A) 17 should be subdivided so as to show separately amounts paid by the Nazir and compensation out of realised Fines, and amounts remitted to the Treasury.

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17. All officers

receiving and remitting money from the officer who actually realises the Fine to the officer who finally remits the same to the Treasury, are in all cases bound to remand receipts from the payees. The responsibilities of officers remitting money will not cease until acknowledgement of receipts have been duly received.

18. All Fines, under whatsoever law they may be imposed, are payable to the Court imposing the Fine, to the Magistrate of the District in which the prisoner is confined, or to the officer entrusted with the warrant for its realisation. The receipt of Fines by the Jailer in unauthorised and Jailers are, therefore, prohibited from receiving payments on account of Fines under any circumstances Whatever.

19. When a Fine or a portion of a Fine, which has been entered or should, according to these rules, be entered in the Register of Criminal Fines maintained at the headquarters of a subdivision of a district, is received by the District Magistrate, the amount so received will be shown in the District Magistrate's Cash Book, but not in his Fine Register, and a copy of a chalan of payment and of the Fine realisation statement sent to the Jail will be forwarded to the Subdivisional Judicial Magistrate or Subdivisional Magistrate, as the case may be, in order that the amount may be written off as paid in this Register of Criminal Fines.

APPENDIX V

List of Army Reserve Centres referred to in Sub-rule (b) of Rule 112 of Part I, Chapter X

The following are the Reserve Centres -

Skinner's House, 2nd Lancers 3rd Cavalry	Indian Cavalry regiment station at Lucknow at the time.
Hudson's Horse Probyn's House 6th Lancers	Indian Cavalry regiment stationed at Lahore at the time.
7th Lt. Cavalry, 8th K.G.O., Lt.'Cy. The R. Decan Horse	Indian cavalry regiment stationed at Poona at the time.
The Guides, Cary, P.A.V.O.	Indian cavalry regiment stationed at Rawalpindi at the time.
Cavy Sam Browner's Cy. 13th D.C.O. Lancers, the Scinde Horse 15th Lancers.	Indian cavalry regiment stationed at Jubbulpore at the time.
16th Lt. Cavalry, The Poona Horse 18th K.E.O. Cavy.	Indian cavalry regiment stationed at Jhansi at the time.
19th K.G.O. Lancers, 20th Lancers, The C.I. House	Indian cavalry regiment stationed at Delhi at the time
Artillery	
Horse Field Medium.....	Royal Artillery Training Centre, Muttra.
Mountain and Light Centre,	Mountain Artillery Training Ambala.

Sappers and Miners

Q.V.O. Madras Sappers and...
Miners.

Corps. Headquartets, Q.Y.O. Madras
Sappers and Miners, Bangalore.

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K.G.O. Bengal Sappers and Miners.	Corps. Headquarters Bombay Sappers and Miners, R Corps. Headquarters
Royal Bombay Sappers and Miners.	....	Sappers and Miners, Kirkee.

Indian Signal Corps

Signal Centre, Jubbulpur Pioneers
Training Indian

Madras Pioneers	....	Corps. Headquarters, Pioneers, Bangalore.
Bombay Pioneers	....	Corps. Headquarters, Pioneers, Kirkee.
Sikh Pioneers	....	Corps. Headquarters, Sikh Pioneers, Sialkote.
Hazara Pioneers	....	Office Commanding Hazara Pioneers, Quetta

Indian Infantry

1st Punjab Regiment	....	10th Bn. 1st Punjab Regiment, Jhelum.
2nd Punjab Regiment	....	10th Bn. 2nd Punjab Regiment,
5th Maharatta L.I.	....	10th Bn. 5th Maharashtra L.I., E
7th Rajput Regiment	....	10th Bn. 7th Rajput Regiment,
8th.... Punjab Regiment	....	10th Bn. 8th Punjab Regiment,
9th Jat Regiment	....	10th Bn.-4th-9th Regiments, B
4th Bombay Grenadiers,	....	...
. 10th Baluch Regiment, Karachi.	....	10th Bn. 10th Baluch Regiment, Karachi.
10th Baluch Regiment	....	10th Bn. 10th Baluch Regiment, Karachi.
11th Sikh Regiment	....	10th Bn. 11th Sikh Regiment, N

12th F.F. Regiment	....	10th Bn. F.F. Regiment, Sialk
13th F.F. Rifles	....	10th Bn. 13th F.F. Rifles Abbo 10th Bn 14th Punjab
14th Punjab Regiment	....	Ferozepore.
15th Punjab Regiment	....	10th Bn. 15th Punjab Regime 10th Bn. 16th Punjab
16th Punjab Regiment	....	Multan.
17th Dorga Regiment	....	10thBn.17thDorgaRegiment,
18th R.Garhwal Rifles	....	19th Bn. 18th R. Garhwal Rif Lansdowne.
19th Hyderabad Regiment	10th Bn. 19th Hyderabad Reg
1st Kumaon Rifles	Benaras.

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G. R. C. O. (Criminal) Vol. I

20th Burma Rifles	10th Bn. 20th.Burma Rifles,
Gurkha Regiments	Gurkha Reserve Centre, Gor

Indian Army Service Corps

Animal Transport	Headquarters of Animal Tra Training Company (Mule) o Transport Company (Camel which the reservists belong.
Mechanical Transport	Headquarters of Mechanical Transport Companies to whi reservists belong.

Indian Supplementary Reservists (I.A.S.C.)

Supply	'G' 'K' 'M' and 'N' Supply De Companies; Officer-in-charge Lahore, Karachi and Bombay.
Animal Transport	Animal Transport Training C (Mule), Lahore and Meerut.
Mechanical Transport	Heavy Repairs shops, M.T., and ClassIIand the Mobile R

Indian Army Veterinary Corps

All personnel Indian Army Veterinary C
Depots, Ambala.

Indian Hospital Corps

No. 1 Company Headquarters, Peshwar.
No. 2 Company Headquarters, Rawalpindi.
No. 3 Company Headquarters, Lahore.
No. 4 Company Headquarters, quetta.
No. 5 Company Headquarters, Rangoon (a) Reservatio
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No.6 Company Headquarters Poona
No. 2 (E.C.) Ditto Lucknow
No. 9 Ditto Bolarum Engineer Depot

Personnel of the
Corps of Indian Engineers
found from the Indian
Supplementary Reserve.

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**APP
ENDI
X VI**

**List of Regimental
Centres
Referred
to in Sub-
rule (B) of
Rule 123,
Part I,
CHAPTER
- X**

The following are the
Regimental Centres :-

1. Punjab Regimental
Centre, MEERUT
2. The Madras
Regimental Centre,
WELLINGTON
3. The Grenadiers
Regimental Centre,
NASIRBAD
4. The Marhattas
Regimental Centre,
BELGAUM
5. The Rajputtana
Rifles Regimental
Centre, DELHI
CANTONMENT
6. The Rajput
Regimental Centre,
FATEGARH
7. The Jat Regimental
Centre, BARELLY
8. The Sikh
Regimental Centre,
AMBALA
9. The Dorga
Regimental Centre,
JULLUNDAR
10. The Garhwal Rifles

- Regimental Centre,
LANSDOWNE
11. The Kumaon
Regimental Centre,
RANIKHET
 12. The Assam
Regimental Centre,
SHILLONG
 13. The Bihar
Regimental Centre,
DINAPORE
 14. The Mahar
Regimental Centre,
SAUGOR
 15. The Sikh Light
Infantry Regimental
Centre, FEROZEPURE
 16. 1st Gorkha Rifles
Regimental Centre,
DHARAMASALA
CANTONMENT
 17. 3rd Gorkha Rifles
Regimental Centre,
DEHRADUN
 18. 4th Gorkha Rifles
Regimental Centre,
BAKLOH
 19. 5th Gorkha Rifles
Regimental Centre,
DEHRADUN
 20. 8th Gorkha Rifles
Regimental Centre,
DEHRADUN
 21. 9th Gorkha Rifles
Regimental Centre,
DEHRADUN
 22. 11 th Gorkha Rifles
Regimental Centre, P
ALAMPUR
 23. Armoured Corps
Centre and School,
AHEMDNAGAR
 24. Artillery Centre,

DEOLALI

25. Madras Engineer
Centre, BANGALORE
26. Bengal Engineer
Centre, ROORKE
27. Bombay Engineer
Centre, KIRKEE
28. Signal Training
Centre, JUBBALPORE
29. Army Service Corps
Centre (South),
BANGALORE
30. Army Service Corps
Centre (North),
MEERUT

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31. Remount Veterinary and Farma Corps Centre and School, MEERUT
32. Army Medical Corps Centre (South), POONA
33. Army medical Corps Centre (North), LUCKNOW
34. Electrical and Mechanical Engineering Centre, JALAHALLI
35. Army Ordinance Corps Centre, POONA
36. Intelligence Training School Depot, MHOW
37. Pioneer Corps Centre, MATHURA
38. Army Educational Corps Centre and School, PANCHMARHI
39. Army Physical Training Corps Centre, POONa
40. General Service Corps Depot, BELGAUN
41. Army Postal Service Centre, KAMPTEE
42. Corps of Military Police Centre and School, FAIZABAD

APPENDIX VII

Commission for the Examination of Witnesses

Country (1)	Courts, Judges or Magistrates (2)
1. United Kingdom	(a) The Supreme Court of Judicature at the Royal Courts of Justice, London, in case the witnesses resides in England;
	(b) The Supreme Court of Northern Ireland, in case the witness resides in Northern Ireland ; or
	(c) The Court of Sessions, Scotland in case the witness resides in Scotland.

2. Federation of Malaya The Chief Justice of the
Federation of Malaya.

(Government of India Notification, Ministry of Home Affairs,
No.20 (3) / 55-Judl. II (A), dated the 5th May 1955)

THE HIGH COURT OF ORISSA

3. Union of Burma

- (a) A Sessions Judge, an Additional Sessions Judge and a Social Investigation Administrative Board and Bureau of Special Investigation Act, 1951 (Burma' Act No. 50 of 1951); and
- (b) Any Magistrate to through the District Magistrate whom he is subordinate.
- (c) The Special Criminal Courts exercising jurisdiction in the Union of Burma having authority under the law in force in that Country.

(Government of India Ministry of Home Affairs, Notification, No.F-II/6/65-Judl.II, dated 10th May 1966).

4. Dominion of Canada Any Superior Court in the Dominion of Canada within the local limits of whose Jurisdiction the witness resides.

(Government of India Notification, Ministry of Home Affairs, No.20 (3)/55-Judl.II (D), dated the 5th May, 1955)

5. Colony of Singapore The High Court in Singapore

(Government of India Notification, Ministry of Home Affairs, No.20/4/55-Judl. II, dated the 6th September 1955

6. Pakistan The Court of the District Magistrate or Magistrate of the First Class within the local limits of whose jurisdiction the witness resides.

7. Australia (a) The Chief Justice of the Supreme Court of the State in which the witness resides,

or,

- (b) The Judge of the Supreme Court of the Australian Capital Territory, Canberra, in case the witness resides in that territory, or

(C) The Judge of the Supreme Court of the Northern Territory, Darwin in case the witness resides in that territory.

(Government of India Notification, Ministry of Home Affairs, No.13/1/58-Judl. II (ii), dated the 20th August 1958)

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|----|-----------|------|--------------------------------|
| 8. | Ceylons | | The Supreme Court of Ceylon. |
| 9. | Mauritius | | The Supreme Court of Mauritius |

(Government of India Notification, Ministry of Home Affairs, No.F-11/6/62-Judl. II, dated the 17th July 1962)

APPENDIX VIII
Information Sheet
Pro forma

1. Names of the Presiding Judges since the last inspection till now showing the periods of occupation of office.
2. State of Court building.
3. Information about the pending building projects.
4. List of the staff of the Court's establishment since the last inspection giving the following particulars : -
 - (a) Name.
 - (b) Date of first appointment.
 - (c) Educational qualification.
 - (d) Date since which serving in the Court under inspection.
 - (e) The branch of the office to which he is attached.
5. Number of Advocates, Pleaders and Mukhtars practicing at the station (for outlying Courts only).
6. Number of licensed typists/petition writers showing their names and the dates since which they hold the licence.
7.
 - (a) Dates of last inspection by the Presiding Officer of the Court under inspection and by higher authorities.
 - (b) The dates of sending compliance reports.
 - (c) If the compliance report of any of the items has not been submitted, the reason for not doing so.
 - (d) Whether any of the instructions issued at the time of previous inspections have not been carried out and if so, the reason therefor.

- (e) If the Presiding Officer checked the entries made in the Inspection Defects Removal Register before submitting reports of compliance.
8. Furniture:
- (a) Has the Stock Register of Furniture been maintained up-to-date.
- (b) Date of last verification of the furniture by the Presiding Officer.
9. Stationery and forms :-
- (a) Are the stationery articles and forms required by the Court being indented from the Government Press on due dates ?
- (b) The last dates on which indents for forms and stationery articles were submitted since the last inspection.
- (c) Are the Stock Register of stationery and forms maintained up-to-date ?
- (d) Are receipts and issues of forms and stationery articles duly entered in the Register ?
- (e) Are the forms neatly arranged and kept ?
- (F) Dates of verification of forms and stationery articles by the Presiding Officer since the last inspection.
10. Library:-
- (a) Is the catalogue up-to-date ?
- (b) Are all the books and periodicals received in the library correctly labelled and properly arraed ?
- (c) Are all correction slips pasted at proper place ?
- (d) Are loss of books and periodicals reported to the appropriate authority and steps taken for replacement ?
- (e) Date of verification of the library by the Presiding Officer and the date of submission of the certificate.
11. State of file ?-
- (a) Number of different types of cases on the file on the last date of the previous month preceding inspection to years of institution.
- (b) Number of different types of cases on the corresponding day of the previous year.
- (c) Number of different types of cases disposed of 1[during the year] 2[by] the corresponding day of the previous year.

1. Inserted by C.S.No.55-IX-15/87, dt.23.5.1988.

2. Substituted by C.S.No.11-IX-1/80, dt.9.2.1982.

THE HIGH COURT OF ORISSA

- (d) Number of different types of cases disposed of ¹ [during the year] ²[by] the corresponding day of the previous month preceding Inspection.
 - (e) Reason for increase or decrease of pendency.
 - (f) Number of year-old cases and the reason of such pendency.
 - ³[(g) Number of under trial prisoners detained for one year or more by the date of inspection and reasons for detention in brief.]
 - (a) Total Number of working days during each calendar year since the last inspection.
 - (b) Number of days devoted to Civil work.
 - (c) Number of days devoted to Criminal work.
 - (d) Contested disposal during each calendar year ¹ after the last inspection.
 - (e) Whether the disposal is according to the yardstick and if not the number of days by which the outturn falls short.
13. Are the records of the Court properly arranged ? If not, the reason therefor.
14. (a) Are the judgments delivered with due promptitude according to Court's instructions?
(b) List of cases, the judgment whereof were delivered:
- (i) After expiry of 30 days from the date of conclusion of hearing, and
 - (ii) after expiry of ⁴[21] days from the date of conclusion of hearing.
15. Are the arguments being heard soon after evidence is closed and is continued from day to day ? If there is any departure, the reason therefor.
16. (a) Number of cases stayed by the appellate or revisional Courts.
(b) Have any attempts been made to know the stages and results of the appeals and revisions ? If so, the list be prepared and appended.
17. Have all the decrees been drawn up-to-date of inspection ? If not, the list of cases in which decrees have not been drawn up be prepared and appended
Assigning reason therefor.

1. Inserted by C.S.No.55-IX-15/87, dt.23.5.1988.
2. Substituted by C.S.No.11-IX-1/80, dt.9.2.1982.
3. Inserted by C. S.No.54-IX-24/87, dt.1 0.3.1988.

4. Substituted by C.S.No.60-IX-8/90, dt.11.2.1992.

THE HIGH COURT OF ORISSA

18. Court diary ;-
- (a) Is the diary legibly written and neatly maintained?
 - (b) Are the adjournments correctly posted ?
 - (c) Does not Presiding Officer note the time of arrival and departure from the Court and the time he transacts judicial business?
19. Copying Department
;-
- (a) Number of copy applications filed during each calendar' year since the last inspection.
 - (b) Number of copy applications pending on the date of inspection.
 - (c) Number of urgent and ordinary

copies
prepared
and
delivered
beyond
the
prescribed
period. In
case
of delay, reasons
therefor.

20. Have
the
disposed
of
records
been co
signed
up-to-
date ? If
not, the
reasons
therefor.
21. Number of kept
back records
according to year of
disposal.
22. Are
all the
records
due for
destruct
ion
destroye
d ? If
not, the
reasons
therefor.
23. Has the
Sheristada
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inspected
the
different
branches
on
clearance
days? If
so, a list
be
furnished
showing
the dates and the
sections inspected
since the last
inspection.

24. Has the
Presiding
Officer
inspected
different
branches of
his office on
Clearance
Days? If so,
a list
showing
the dates and
branches
inspected since
the last
inspection be
furnished.

25. The
date of
the nual
inspecti
on of the
office by
the
Presidin
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Officer. .

The information sheet
has to be signed both
by the Sheristadar /

Chief Ministerial Officer
and the Presiding Officer.

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**The Orissa
Professional Typists
for the Civil and
Criminal**

**Courts
(Registrati
on) Rules,
1981**

In exercise of the
powers conferred by Clauses
(2) and (3) of Article 227 of
the Constitution of India, the
High Court with the prior
approval of the Governor,
hereby makes the following
rules, namely-

-
1. Inserted by C.S.No.7 -
IV-27/76, Dt. 12.8.1981.
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THE HIGH COURT OF ORISSA

1. Short title and commencement - (1) These rules may be called the Orissa Professional Typists for the Civil and Criminal Courts (Registration) Rules, 1981.

(2) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. Definition - In these Rules, unless the context otherwise requires -

(A) "*Civil Court*" means the Civil Court established under the provisions of the Bengal, Agra and Assam Civil Courts Act, 1887;

(b) "*Criminal Court*" means the Criminal Court established under the provisions of the Code of Criminal Procedure, 1973;

(c) "*Form*" means a form appended to these rules;

(d) "*Professional Typist*" means a Typist who engages himself, in general, to carry on Court business in the premises of Civil or Criminal Courts for typing out complaints, written statements, petitions, affidavits and such other matters as may be filed in the said courts;

(e) "*Registering Authority*" means the District and Sessions Judge of the Judgeship and Sessions Division within whose jurisdiction the Professional Typist desires to work.

3. Qualification - No person shall be Registered as a professional typist unless he-

(i) possesses a certificate from a recognised institute that he is a qualified typist;

(ii) is of respectable character and produces certificates of good character from at least two legal practitioners of the Civil and Criminal Court where he proposes to work as a Professional Typist;

(iii) has a clear working knowledge in English so as to type out correctly and legibly; and

(iv) has knowledge of the Court language of the Civil or Criminal Court, as the case may be.

4. A Professional Typist shall not be below eighteen and over sixty years of age.

5. Certificate of typing - No Civil and Criminal Court shall accept a complaint, written statement, petition, affidavit or such other matters unless it bears a certificate of having been typed by a -

- (i) Registered typist;
- (ii) Registered Clerk of a legal practitioner engaged by the party in the suit, case or legal proceedings;
- (iii) Legal practitioner engaged by the party in the suit, case or Legal proceedings :

Provided that any certificate, licence or order granted to a Professional Typist by a District and Sessions Judge having jurisdiction and in force immediately before the commencement of these rules shall be deemed to continue in force for the period allowed under the provisions of these rules.

6. Disqualifications - A person shall be disqualified for being a Registered Professional Typist and for continuance as such if he,-

- (i) has been convicted by a Criminal Court of any offence involving moral turpitude; or
- (ii) has been adjudged by a competent Court to be of unsound mind or is a deaf mute, a leprosy or tuberculosis patient; or
- (iii) is an undischarged insolvent; or
- (iv) is a paid employee in any office, institution or under any person either whole time or part time; or
- (v) has been found guilty of misconduct.

7. **Application for registration and registration fee** - (1) Every application for registration as a Professional Typist shall be made to the Registering Authority in Form I.

(2) Every such application shall be accompanied with certificates of character of at least two legal practitioners and a Treasury chalan showing Deposit of registration fee as may be fixed by the High Court from time to time by notification in the *Orissa Gazette*.

8. Registration - On receipt of the application referred to the Sub-rule (1) of Rule 7, the Registering Authority may-

- (i) dispose of the application at once if he is satisfied that the applicant is fit to be Registered as a Professional Typist ; or
- (ii) refer the application to the President of the local Bar Association for his opinion as to the fitness of the applicant for being Registered as a Professional Typist; or
- (iii) make such other enquiry as he deems necessary for disposing of the application.

9. **Registration and licence** - (1) When the Registering Authority is satisfied that the applicant is a fit person to be Registered as a

Professional Typist, he shall enter his name in the Register to be maintained in Form II and grant a licence to the Professional Typist in Form III.

(2) The licence granted to a Professional Typist shall be non-transferable and shall remain valid till the end of the year in which it is granted, and may be renewed thereafter time to time.

10. Application for renewal and payment of fee - (1) Application for renewal of licence shall be made to the Registering Authority thirty days prior to the close of the calendar year.

(2) Every such application for renewal of licence shall be accompanied with a Treasury chalan showing Deposit of the renewal fee as may be fixed by the High Court from time to time by notification in the *Orissa Gazette*.

(3) Renewal of licence shall not ordinarily be refused. If renewal is refused on any ground the reason therefor shall be recorded by the Registering Authority and communicated to the Professional Typist.

11. Duplicate licence on payment of fee - If the licence is lost, destroyed or defaced, a duplicate thereof may be granted from the Registering Authority on application

made therefor, accompanied with a Treasury challan showing Deposit of the required fee as may, by notification, be fixed by the High Court, from time to time, for that purpose.

12. Suspension or cancellation of licence - (1) The Registering Authority, may on an application presented before him by any aggrieved person or on any information coming to his notice otherwise as to any misconduct on the part of a Professional Typist, suspend or cancel the licence of the Professional Typist:

Provided that no such suspension or cancellation of the licence shall be made unless an enquiry by the Registering Authority into the alleged misconduct is made and the Professional Typist is given a reasonable opportunity of being heard in the matter.

(2) The punishment imposed on a Professional Typist shall be recorded in the Register maintained under Sub-rule 9.

13. Surrender of licence - (1) On cancellation or suspension of the licence, the Professional Typist shall surrender the licence to the Registering Authority.

(2) On expiry of the period of suspension the licence shall be returned to him with an endorsement of the period of suspension.

(3) In the case of a cancellation of the licence an endorsement to that effect shall be made on it and the name of the Professional Typist shall be struck off the Register

14. **Misconduct** - The following acts and omissions shall be deemed to be misconducts on the part of a Professional Typist, namely :-

- (i) violation of any of the conditions of these rules.
- (ii) violation of the conditions of licence;
- (iii) acceptance of paid employment otherwise;
- (iv) persistent absence from the Court premises during Court hours ;
- (v) participation in any illegal transaction or unfair dealing ;
- (vi) disobedience of order passed by the Registering Authority or the Presiding Officer of a Court ;
- (vii) working for any litigant in a suit, case or other proceedings ;
- (viii) such other grounds as the Registering Authority or the Presiding Officer of the Court considers sufficient misconduct.

15. Bar for fresh registration on cancellation of licence - If a licence is cancelled on the ground of misconduct, the Professional Typist shall not be eligible to make an application for registration as a Professional Typist for a period of two years from the date of removal of his name from the Register:

Provided that the Registering Authority may in his discretion refuse to grant a licence in consideration of the gravity of the misconduct after recording reasons therefor.

16. (1) A Professional Typist, against whom an order refusing renewal, suspension or cancellation of licence has been passed by the Registering Authority may file an appeal against such order to the Registrar of the High Court within a period of thirty days from the date of communication thereof.

(2) The Registrar may call for the records from the Registering Authority and may after hearing the party, either confirm or modify or set aside the order passed by the Registering Authority or may pass such other order as he deemed proper.

17. Typing charges - The scale of typing charges to which a Professional Typist is entitled shall be such as the High Court may, by notification, fix from time to time in that behalf.

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**[See
Rule
7 (1)]**

Application for Registration
as a Professional typist
before

the District and
Sessions
Judge

1. Name and address of
the applicant in block
letters
2. Father's name of the
applicant
3. Permanent address
4. Present address
5. Educational
qualification
6. Description of
certificate of
knowledge in
typewriting
7. Particulars as to the
knowledge of
languages including
Court language.
8. Date of birth and
age on the date of
application with
certificate of age.
9. Past experience as
Typist, if any.
10. Name of the station

and Court within the premises of which he intends to work as a Professional Typist.

11. Number' and date of Treasury chalan showing the D towards registration fee.
12. Particulars of registration as a Professional Typist any other Judgeship or Sessions Division and reason making fresh application.
13. Certificate to the effect that he will abide by the professional conduct as may be prescribed regulating work as a Professional Typist in the Court premises.
14. Names of the two legal practitioners as referees.
15. Particulars of documents enclosed to the application.

Signature ..

.....

.....

Date

Register of Professional Typists

[Rule 9 (1)] FORM - II

Licence
 .No and
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 Remarks .

Cancellation or
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 .licence

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Father
's
Name
.

.Name

Date of .birth

Serial .No

(1) (2) (3) (4) (5) (6) (7)

THE HIGH COURT OF ORISSA

G.R.C.O. (Criminal) Vol. I

FORM III

[See Rule 9 (1)]

Licence for Professional Typist

Licence No.

..... Date of issue .

Shri/Smt. son/daughter of

is hereby authorised to sit in the premises of Civil or Criminal Court

atin the Judgeship and Sessions Division of

to type out plaints, written statements, petitions, affidavits and such

other matters as are required to be filed in suits, cases and proceedings, subject to the following conditions, namely:

1. He shall attend the Court regularly and be available within

Court hours.

2. He shall charge remuneration at the prescribed scale, a copy of which he shall keep exhibited in a conspicuous place near the place where he sits.
3. He shall sign on each page of the paper typed out by him.
4. He shall type legibly in double space keeping margin of 1½" on the left side, 1" on the right side, 1½" at the top, as well as, at the bottom.
5. At the bottom he should clearly mention his name and licence number.
6. He shall initial on each cutting or erasure on the typed paper.
7. He shall not keep any copy of the plaint, written statements, petition, affidavit and other such materials.

8. He shall not work directly or indirectly for any legal practitioner or any person involved in a suit, case or other proceedings in a Court.
9. He shall not solicit work for himself.
10. He shall not make over copies of complaints, written statement, petitions, affidavits or other typed materials to any person other than the person for whom he has typed the same.
11. He shall not engage any other typist for typing out the complaints, written statements, affidavits and other materials for which he has been entrusted.
12. Any other conditions as the Registering Authority deems fit to impose.

Sign

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the
Reg
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(Seal)
/Date.....
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