

## CHAPTER-VII

### OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

#### *A.-Summons to produce*

Summons to  
produce  
document or  
other thing

**94.(1)** Whenever any Court, or any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order:

Provided that no such officer shall issue any such order requiring the production of any document or other thing which is in the custody of a bank or banker as defined in the Bankers' Books Evidence Act, 1891 (Act No. XVIII of 1891), and relates, or might disclose any information which relates, to the bank account of any person except,-

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

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

**95.**(1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, <sup>1</sup>[Chief Metropolitan Magistrate] High Court Division or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

Procedure as to letters and telegrams

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, <sup>2</sup>[Police Commissioner] or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, <sup>3</sup>[Chief Metropolitan Magistrate] or Court.

*B.—Search-warrants*

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

When search warrant may be issued

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

<sup>1</sup> The words "Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The words "Police Commissioner" were inserted by the Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

<sup>3</sup> The words "Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

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

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

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate <sup>1</sup>[or Chief Metropolitan Magistrate] to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to  
restrict warrant

**97.** The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of  
house  
suspected to  
contain stolen  
property,  
forged  
documents, etc.

**98.(1)** If a District Magistrate, Sub-divisional Magistrate, <sup>2</sup>[Metropolitan Magistrate] or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

<sup>1</sup> The words "or Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

<sup>2</sup> The words "Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

or, if a District Magistrate, <sup>1</sup>[Sub-divisional Magistrate or a Metropolitan Magistrate], upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Penal Code or that any such obscene objects are kept or deposited in any place; he may by his warrant authorize any police-officer above the rank of a constable—

- (a) to enter, with such assistance as may be required, such place, and
- (b) to search the same in manner specified in the warrant, and
- (c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials or of any such obscene objects as aforesaid, and
- (d) to convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
- (e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials or such obscene objects knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.

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<sup>1</sup> The words "Sub-divisional Magistrate or a Metropolitan Magistrate" were substituted, for the words "or a Sub-divisional Magistrate" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

(2) The provisions of this section with respect to—

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

- (a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into Bangladesh in contravention of any notification for the time being in force under <sup>1</sup>[section 16 of the Customs Act, 1969],
- (b) pieces of metal suspected to have been so made or to have been so brought into Bangladesh or to be intended to be issued in contravention of the former of those Acts, and
- (c) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction

**99.** When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

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<sup>1</sup> The words, figures and comma "section 16 of the Customs Act, 1969" were substituted, for the words, figures and comma "section 19 of the Sea Customs Act, 1878" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup><sup>2</sup>[99A.(1) Where any newspaper, or book or any document wherever printed, appears to the Government to contain—

Power to declare certain publication forfeited and to issue search warrants for the same

- (a) any matter the publication of which is punishable under section 123A or section 124A or section 153A or section 292 or section 295A or section 505 or section 505A of the Penal Code (Act XLV of 1860), or
- (b) any matter which is defamatory of the President of Bangladesh, the Vice-President of Bangladesh, the Prime Minister of the Government, the Speaker of Parliament or the Chief Justice of Bangladesh, or
- (c) any matter which is grossly in-docent or is scurrilous or obscene, or
- (d) any words or visible representations which incite, or which are likely to incite, any person or class of persons to commit any cognizable offence,

the Government may, by notification in the official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, words or visible representations, and every copy of such book or other document to be forfeited to Government, and thereupon any police-officer may seize the same wherever found in Bangladesh and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1), "newspaper", "book" and "document" have the same meaning as in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973).]

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<sup>1</sup> Sections 99A to 99G were inserted by Schedule III of the Press Law Repeal and Amending Act, 1922 (Act No. XIV of 1922).

<sup>2</sup> Section 99A was substituted, for the former section 99A by section 3 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

Application to High Court Division to set aside order of forfeiture

**99B.** Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court Division to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain <sup>1</sup>[any such matter, word or visible representation,] as is referred to in sub-section (1) of section 99A.

Hearing by Special Bench

**99C.** Every such application shall be heard and determined by a Special Bench of the High Court Division composed of three Judges.

Order of Special Bench setting aside forfeiture

**99D.**(1) On receipt of the application, the Special bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained <sup>2</sup>[any such matter, word or visible representation] as is referred to in sub-section (1) of section 99A, set aside the order of forfeiture.

(2) Where there is a difference of opinion among the judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

Evidence to prove nature or tendency of newspapers

**99E.** On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid or the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper in respect of which the order of forfeiture was made.

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<sup>1</sup> The words and commas "any such matter, word or visible representation," were substituted, for the words "any treasonable or seditious or other matter of such a nature" by section 4 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

<sup>2</sup> The words and commas "any such matter, word or visible representation" were substituted, for the words "treasonable or seditious or other matter of such a nature" by section 4 of the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991).

**99F.** <sup>1</sup>[The Supreme Court] shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Procedure in High Court Division

**99G.** No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B.]

Jurisdiction barred

*C.—Discovery of Persons wrongfully confined*

**100.** If any <sup>2</sup>[Metropolitan Magistrate], Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined

*D.—General Provisions relating to Searches*

**101.** The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply, to all search-warrants issued under section 96, section 98, section 99A or section 100.

Direction, etc., of search warrants

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

Persons in charge of closed place to allow search

<sup>1</sup> The words "The Supreme Court" were substituted, for the words "Every High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words "Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).



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

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

Search to be made in presence of witnesses

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

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

Occupant of place searched may attend

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

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

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

*E.—Miscellaneous*

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

Power to impound document, etc., produced

**105.** Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

Magistrate may direct search in his presence

**PART IV****PREVENTION OF OFFENCES****CHAPTER VIII****OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR***A.—Security for keeping the Peace on conviction.*

**106.**(1) Whenever any person accused of any offence punishable under Chapter VIII of the Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before High Court Division, a Court of Session, or the Court of <sup>1</sup>[a Metropolitan Magistrate], a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

Security for keeping the peace on conviction

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

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<sup>1</sup> The letter and words "a Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).