

Power to order sufficient bail when that first taken is insufficient

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties

502.(1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES

When attendance of witness may be dispensed with

503.(1) Whenever in the course of an inquiry, a trial or any other proceeding under this Code, it appears to ¹[a Metropolitan Magistrate], a District Magistrate, a Court of Session or the High Court Division that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission and procedure thereunder

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

(2) and (2A) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

(2B) When the witness resides in the United Kingdom or any other country of the Commonwealth other than Bangladesh, or in the Union of Burma, or any other country in which reciprocal arrangement in this behalf exists, the commission may be issued to such Court or Judge having authority in this behalf in that country as may be specified by the Government by notification in the official Gazette.

(3) The Magistrate or officer to whom the commission is issued, or if he is the District Magistrate, he, or such Magistrate, of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(4) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

¹[504.(1) If the witness is within the local limits of the jurisdiction of any Metropolitan Magistrate, or Court issuing the commission may direct the same to such Metropolitan Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

Commission in case of witness being within ²[a] Metropolitan Area

(2) When a commission is issued under this section to the Chief Metropolitan Magistrate, he may delegate his powers and duties under the commission to any Metropolitan Magistrate subordinate to him.]

¹ Section 504 was inserted by the Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The letter "a" was substituted, for the word "Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No IV of 1980).

Parties may
examine witness

505.(1) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue and when the commission is directed to a Magistrate or officer mentioned in section 503, such Magistrate or the Officer to whom the duty of executing such commission has been delegated shall examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of
Subordinate
Magistrate to
apply for issue
of commission

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a ¹[Metropolitan Magistrate or] District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

507.(1) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court.

¹ The words "Metropolitan Magistrate or" were inserted by the Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Adjournment of inquiry or trial

¹[**508A.** The provisions of sub-section (3) of section 503, ²[section 504] and so much of sections 505 and 507 as relates to the execution of a commission and its return by the Magistrate or officer to whom the commission is directed shall apply in respect of commissions issued by any Court or Judge having authority in this behalf in the United Kingdom or in any other country of the commonwealth other than Bangladesh or in the Union of Burma or any other country in which reciprocal arrangement in this behalf exists under the law in force in that country relating to commissions for the examination of witnesses, as they apply to commissions issued under section 503 or section 506.]

Application of this Chapter to commissions issued in Burma

CHAPTER XLI

SPECIAL RULES OF EVIDENCE

509.(1) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Deposition if medical witness

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness

³[**509A.** Where in any inquiry, trial or other proceeding under this Code the report of a post-mortem examination is required to be used as evidence, and the Civil Surgeon or other medical officer who made the report is dead or is incapable of giving evidence or is beyond the limits of Bangladesh and his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such report may be used as evidence.]

Report of post-mortem, examination

¹ Section 508A was inserted by section 3 of the Code of Criminal Procedure (Amendment) Act, 1940 (Act No. XXXV of 1940).

² The word and figure "section 504" were inserted by the Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

³ Section 509A was inserted by section 31 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).