

¹[(3) Nothing in this section applies to persons detained under any law for the time being in force providing for preventive detention.]

491A. [Omitted by Schedule of the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).]

PART IX

SUPPLEMENTARY PROVISIONS

CHAPTER XXXVIII

OF THE PUBLIC PROSECUTOR

Power to
appoint Public
Prosecutors

492.(1) The Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) ²[The Chief Metropolitan Magistrate or the] District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence or the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below such ranks as the Government may prescribe in this behalf to be Public Prosecutor for the purpose of any case.

Public
Prosecutors may
plead in all
Courts in cases
under his
charge. Pleaders
privately
instructed to be
under his
direction

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

¹ Sub-section (3) was substituted for sub-section (3) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "The Chief Metropolitan Magistrate or the" were substituted for the comma and word ", the" by the Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

494. Any Public Prosecutor may, with the consent of the Court, ¹[* * *] before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal,—

Effect of withdrawal from prosecution

- (a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;
- (b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

495.(1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the Government in this behalf but no person, other than the ²[Attorney-General], Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Government in this behalf, shall be entitled to do so without such permission.

Permission to conduct prosecution

(2) Any such officer shall have the like power of withdrawing the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

¹ The words and comma "in cases tried by jury before the return of the verdict, and in other cases" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² The words "Attorney-General" were substituted, for the words and comma "Advocate-General, standing Counsel" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act 1973, (Act No. VIII of 1973).