

complainant and the result of the investigation or inquiry (if any) under section 202; there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

CHAPTER XVII

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204.(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

Issue of
process

¹[(1A) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(1B) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.]

(2) Nothing in this section shall be deemed to affect the provisions of section 90.

(3) When by any law for the time being in force any process fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

205.(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

Magistrate may
dispense with
personal
attendance of
accused

¹ Sub-sections (1A) and (1B) were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

¹[**205A** and **205B**. [Omitted by section 13 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).]

Transfer of case of Court of Session when offence is triable exclusively by it

205C. When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

- (a) send the case to the Court of Session;
- (b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;
- (c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;
- (d) notify the Public Prosecutor of the transfer of the case to the Court of Session.

Transfer of case to District Magistrate, etc.

²[**205CC**.(1) When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the ³[Chief Metropolitan Magistrate,] District Magistrate or the Additional District Magistrates, he shall—

- (a) send the case to the ⁴[Chief Metropolitan Magistrate or, as the case may be, District Magistrate];

¹ Sections 205A, 205B, 205C and 205D were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIV of 1978).

² Section 205CC was inserted by section 6 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

³ The words and comma "Chief Metropolitan Magistrate," were inserted by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

⁴ The words and commas "Chief Metropolitan Magistrate or, as the case may be, District Magistrate" were substituted, for the words "District Magistrate" by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

- (b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;
- (c) send to the ¹[Chief Metropolitan Magistrate or, as the case may be, District Magistrate] the record of the case and the documents and articles, if any, which are to be produced in evidence.

(2) The District Magistrate may direct that any case received by him under sub-section (1) or any class of such cases shall be heard by any Additional District Magistrate subordinate to him.]

205D.(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police-officer conducting the investigation.

Procedure to be followed when there is a complaint case and police investigation in respect of the same offence

(2) If a report is made by the investigating police-officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code].

CHAPTER XVIII. [Omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).]

¹ The words and commas "Chief Metropolitan Magistrate or, as the case may be, District Magistrate" were substituted, for the words "District Magistrate" by section 4 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).