

CHAPTER XVI

OF COMPLAINTS TO MAGISTRATES

Examination of complainant

200. A Magistrate taking cognizance of an offence on complaint shall at once examine ¹[upon oath the complainant and such of the witnesses present, if any, as he may consider necessary,] and the substance of the examination shall be reduced to writing and shall be signed ²[by the complainant or witness so examined], and also by the Magistrate:

Provided as follows:—

- (a) when the complaint is made in writing, nothing herein contained shall be deemed to require ³[such examination] before transferring the case under section 192;
- (aa) when the complaint is made in writing nothing herein contained shall be deemed to require ⁴[such examination] in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;
- ⁵[* * *]
- (c) when the case has been transferred under section 192 and the Magistrate so transferring it has already

¹ The words and commas "upon oath the complainant and such of the witnesses present, if any, as he may consider necessary," were substituted for the words and commas "the complainant and the witnesses present, if any, upon oath," by section 11 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

² The words "by the complainant or witness so examined" were substituted, for the words "by section 2 and Schedule of the complainant" by the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

³ The words "such examination" were substituted, for the letter and words "a Magistrate to examine the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

⁴ The words "such examination" were substituted, for the words and letter "the examination of a complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

⁵ Clause (b) was omitted by the Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.

¹[examined the complainant and witness if any,]
the Magistrate to whom it is so transferred shall
not be bound to ²[re-examine them].

201.(1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

Procedure by
Magistrate not
competent to
take
cognizance of
the case

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

202.(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorized to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint:

Postponement
for issue of
process

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the ³[provisions of section 200 have been complied with] ⁴:

¹ The words and commas "examined the complainant and witness, if any," were substituted, for the words "examined the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² The words "re-examine them" were substituted, for the words "re-examine the complainant" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

³ The words and figure "provisions of section 200 have been complied with" were substituted, for the words and figures "complainant has been examined on oath under the provisions of section 200" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

⁴ A colon was substituted, for the full-stop at the end of the first proviso and thereafter a new proviso was added by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

¹[* * *]]

²[Provided further that where it appears to the Magistrate that the offence complained of is triable exclusively by a Court of Session, the Magistrate may postpone the issue of process for compelling the attendance of the person complained against and may make or cause to be made an inquiry or investigation as mentioned in this sub-section for the purpose of ascertaining the truth or falsehood of the complaint.]

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(2A) Any Magistrate inquiring into a case under this section may, if he thinks, fit, take evidence of witnesses on oath ³[:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.]

⁴[(2B) Where the police submits the final report, the Magistrate shall be competent to accept such report and discharge the accused.]

Dismissal of
complaint

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if after considering the statement on oath (if any) of the

¹ Second proviso was omitted by section 4 of the Code of Criminal Procedure (Second Amendment) Act, 1980 (Act No. XXX of 1980).

² Proviso was added by section 12 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

³ A colon was substituted for the full-stop at the end of sub-section (2A) and thereafter the proviso was added by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

⁴ Sub-section 2(B) was added by section 12 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

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).