

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. ¹[The Supreme Court] shall from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the evidence shall be taken down in accordance with such rule.

Record of
evidence in
High Court
Division

CHAPTER XXVI OF THE JUDGMENT

366.(1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained—

Mode of
delivering
judgment

- (a) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and
- (b) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

¹ 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).

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties of their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment.
Contents of judgment

367.(1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court or from the dictation of such presiding officer in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him.

(2) It shall specify the offence (if any) of which, and the section of the Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

Judgment in alternative

(3) When the conviction is under the Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

¹[(5) If the accused is convicted of an offence punishable with death or, in the alternative, with *transportation for life or imprisonment for a term of years, the Court shall in its judgment state the reasons for the sentence awarded.]

¹ Sub-section (5) was substituted, for sub-section (5) by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

* The words "transportation for life" construed as a reference to "imprisonment for life" by section 3 of the Penal Code (Amendment) Ordinance, 1985 (Ordinance No. XLI of 1985).

(6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.

368.(1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of death

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Sentence of transportation

369. Save as otherwise provided by this Code or by any other law for the time being in force ¹[* * *], no Court when it has signed its judgment, shall alter or review the same, except to correct a clerical error.

Court not to alter Judgment

370. [Omitted by the Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.]

371.(1) On the application of the accused a copy of the judgment, or when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a ²[case under Chapter XX], be given free of cost.

Copy of judgment, etc., to be given to accused on application

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

(3) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

Judgment when to be translated

¹ The words and commas "or, in the case of the High Court Division, by the Letters Patent of such High Court Division" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² The words and figure "case under Chapter XX" were substituted, for the word "summons-case" by section 28 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

Court of Session to send copy of finding and sentence to District Magistrate

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

Sentence of death to be submitted by Court of Session

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court Division and the sentence shall not be executed unless it is confirmed by the High Court Division.

Power to direct further inquiry to be made or additional evidence to be taken

375.(1) If when such proceedings, are submitted the High Court Division thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

¹[(2) Unless the High Court Division otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.]

(3) When the inquiry and the evidence (if any) are not made and taken by the High Court Division, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court Division to confirm sentence or annul conviction

376. In any case submitted under section 374, ²[* * *] the High Court Division—

- (a) may confirm the sentence, or pass any other sentence warranted by law, or
- (b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or
- (c) may acquit the accused person:

¹ Sub-section (2) was substituted, for sub-section (2) by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² The words and comma "whether tried with the aid of assessors or by jury," were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).