

- (f) persons accused of any offence under sections 411 and 414 of the Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and
- (g) persons accused of any offence under Chapter XII of the Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.

Withdrawal of remaining charges on conviction on one of several charges

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX

OF THE TRIAL OF ¹[CASES] BY MAGISTRATES

Procedure in cases

241. The following procedure shall be observed by Magistrates in the trial of ²[cases].

¹ The word "CASES" was substituted, for the words "SUMMONS-CASES" by section 14 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

² The word "cases" was substituted, for the words "summons-cases" by section 15 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

¹[**241A.** When the accused appears or is brought before the Magistrate, and if the Magistrate, upon consideration of the record of the case and the documents submitted therewith and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, considers the charge to be groundless, he shall discharge the accused and record his reasons for so doing.]

When accused shall be discharged

²[**242.** ³[If, after such consideration and hearing as aforesaid, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence, the Magistrate shall frame a formal charge] relating to the offence of which he is accused and he shall be asked whether he admits that he has committed the offence with which he is charged.]

Charge to be framed

243. If the accused admits that he has committed the offence ⁴[with which he is charged], his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of accusation

244.(1) If the Magistrate does not convict the accused under the preceding section or if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence:

Procedure when no such admission is made

¹ Section 241A was inserted by section 7 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

² Section 242 was substituted, for the former section 242 by section 16 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

³ The words and commas "If, after such consideration and hearing as aforesaid, the Magistrate is of opinion that there is ground for presuming that the accused has committed as offence, the Magistrate shall frame a formal charge" were substituted, for the words and comma "When the accused appears or is brought before the Magistrate, a formal charge shall be framed" by section 8 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

⁴ The words "with which he is charged" were substituted, for the words "of which he is accused" by section 17 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue a summons to any witness directed him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal

245.(1) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence

(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.

246. [Omitted by section 18 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).]

Non-
appearance of
complainant

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything herein before contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day:

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

Withdrawal of
complaint

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

249. In any case instituted otherwise than upon complaint, ¹[a Metropolitan Magistrate], a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Power to stop proceedings when no complainant

²[*Frivolous Accusations in Cases tried by Magistrates*]

250.(1) If in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate or any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.

False, frivolous vexatious accusations

(2) The Magistrate shall record and consider any cause which such complainant or information may show and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding ³[one thousand Taka] or, if the Magistrate is a Magistrate of the third Class, not exceeding ⁴[five hundred Taka], as he may determine be paid by such complainant or informant to the accused or to each or any of them.

¹ The letter and words "a Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The sub-heading was substituted, for the former sub-heading by section 19 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

³ The words "one thousand taka" were substituted, for the words "one hundred taka" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

⁴ The words "five hundred taka" were substituted, for the words "fifty taka" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

(2A) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2B) When any person is imprisoned under sub-section (2A), the provisions of sections 68 and 69 of the Penal Code shall, so far as may be, apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(3) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second or third class to pay compensation or has been so ordered by any other Magistrate to pay compensation exceeding ¹[one hundred taka] may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if any appeal is presented, before the appeal has been decided and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

¹ The words "one hundred taka" were substituted, for the words "fifty taka" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

¹[(5) Notwithstanding anything contained in this section, the Magistrate may, in addition to the order directing payment of the compensation under sub-section (2), further order that the person ordered to pay such compensation shall also suffer imprisonment for a period not exceeding six months or pay a fine not exceeding three thousand Taka.]

CHAPTER XXI. [Omitted by section 21 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).]

CHAPTER XXII

OF SUMMARY TRIALS

260.(1) Notwithstanding anything contained in this Code,-

Power to try summarily

- ²(a) the Metropolitan Magistrate or the District Magistrate,]
- (b) ³[any ⁴[***] Magistrate] of the first class specially empowered in this behalf by the Government, and
- (c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Government,

⁵[shall] try in a summary way all or any of the following offences:-

- (a) offences not punishable with death, transportation or imprisonment for a term exceeding ⁶[two years];

¹ Sub-section (5) was added by section 20 of the Code of Criminal Procedure (Second Amendment) Ordinance, (Ordinance No. XXIV of 1982).

² Clause (a) was substituted, for clause (a) by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ The words "any Metropolitan Magistrate or Magistrate" were substituted, for the words "any Magistrate" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

⁴ The words "Metropolitan Magistrate or" were omitted by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

⁵ The word "shall" was substituted, for the words and commas "may, if he or they think fit," by section 22 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

⁶ The words "two years" were substituted, for the words "one year" by section 22 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).