

# CRIMINAL PROCEDURE

# HIEARACHY OF CRIMINAL COURTS

SUPREME COURT

HIGH COURT

SESSIONS COURT

(SESSIONS JUDGE, ADDITIONAL SESSIONS JUDGE)

ASST. SESSIONS  
JUDGE

CHIEF METROPOLITAN  
MAGISTRATE

CHIEF JUDICIAL  
MAGISTRATE

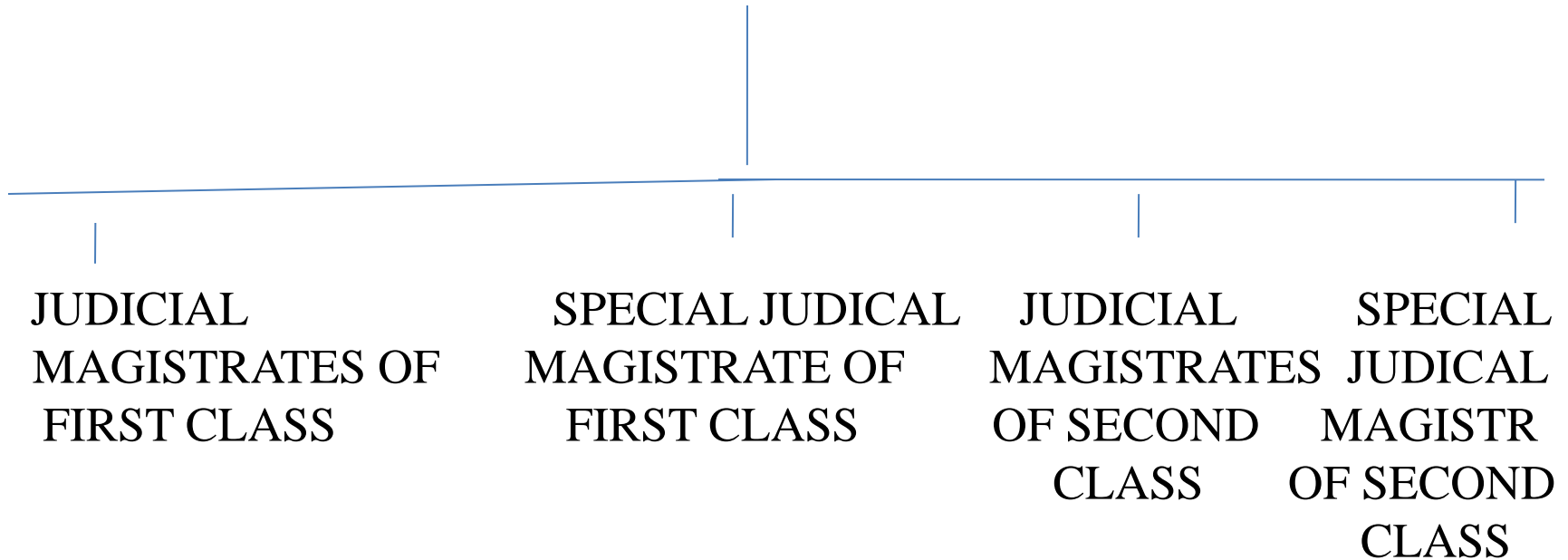
(ADDITIONAL CHIEF METROPOLITAN  
MAGISTRATE)

**ADDITIONAL CHIEF METROPOLITAN MAGISTRATE**

**METROPOLITAN MAGISTRATE**

**SPECIAL METROPOLITAN  
MAGISTRATE (HONORARY)  
(ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE)**

## SUB-DIVISIONAL JUDICIAL MAGISTRATES



# SENTENCES WHICH MAY BE PASSED BY THE CRIMINAL COURTS

## **SUPREME COURT OR HIGH COURT**

## **ANY SENTENCE AUTHORISED BY LAW**

SESSION JUDGE OR ADDITIONAL SESSION JUDGE	ANY SENTENCE AUTHORISED BY LAW- SENTENCE OF DEATH IS SUBJECT TO CONFIRMATION BY HIGH COURT
ASSISTANT SESSIONS JUDGE	IMPRISONMENT. UPTO 10 YEARS OR/AND FINE
CHIEF JUDICIAL MAGISTRATE OR CHIEF METROPOLITAN MAGISTRATE	IMPRISONMENT UPTO 7 YEARS OR/AND FINE
JUDICIAL MAGISTRATE OF CLASS I, OR METROPOLITAN MAGISTRATE	IMPRISONMENT UPTO 3 YEARS OR/AND FINE UPTO RS. 5000.
JUDICIAL MAGISTRATE OF CLASS II	IMPRISONMENT UPTO 1 YEAR OR/AND FINE UPTO RS. 1000.

## **COGNIZABLE OFFENCE / NON-COGNIZABLE OFFENCE**

GENERALLY SPEAKING ALL SERIOUS OFFENCES ARE CONSIDERED AS COGNIZABLE. THE SERIOUSNESS OF THE OFFENCE DEPENDS UPON THE MAXIMUM PUNISHMENT PROVIDED FOR THE OFFENCE. BY AND LARGE, OFFENCES PUNISHABLE WITH IMPRISONMENT FOR NOT LESS THAN THREE YEARS ARE TAKEN AS SERIOUS OFFENCES AND ARE MADE COGNIZABLE.

OFFENCES WHICH ARE NOT SERIOUS AND ARE PUNISHABLE WITH LESS THAN THREE YEARS IMPRISONMENT ARE TREATED AS NON-COGNIZABLE OFFENCES.

IF IT IS COGNIZABLE OFFENCE, A POLICE OFFICER CAN ARREST WITHOUT WARRANT FOR SUCH AN OFFENCE.

BAILABLE AND NON-BAILABLE CASES

**A LL CRIMINAL CASES ARE DIVIDED INTO SUMMONS CASES AND WARRANT CASES.**

**“WARRANT CASE” MEANS A CASE RELATING TO AN OFFENCE PUNISHBLE WITH DEATH, IMPRISONMENT FOR LIFE OR IMPRISONMENT FOR A TERM EXCEEDING TWO YEARS.**

**“SUMMONS CASE” MEANS A CASE RELATING TO AN OFFENCE, AND NOT BEING A WARRANT CASE**

**A WARRANT CASE RELATES TO A SERIOUS OFFENCES WHILE A SUMMONS CASE RELATES TO A COMPARATIVELY LESS SERIOUS CRIME.**

**IN A SUMMONS CASE A SUMMON IS TO BE ISSUED TO THE ACCUSED AND IN A WARRANT CASE A WARRANT OF ARREST IS NORMALLY TO BE ISSUED FOR THE ARREST OF THE ACCUSED.**

# **SEARCH AND SEIZURE**



# **SEARCH- WARRANT**

**A SEARCH WARRANT IS A WRITTEN AUTHORITY GIVEN TO A POLICE OFFICER OR OTHER PERSON BY A COMPETENT MAGISTRATE OR A COURT FOR THE SEARCH OF ANY PLACE EITHER GENERALLY OR FOR SPECIFIED THINGS OR DOCUMENTS OR FOR PERSON WRONGFULLY DETAINED.**

**A SEARCH IS A COERCIVE METHOD AND INVOLVES INVASION OF THE SANCTITY AND PRIVACY OF A CITIZEN'S HOME OR PREMISES.**

**A SEARCH IS A COERCIVE METHOD AND INVOLVES INVASION OF THE SANCTITY AND PRIVACY OF A CITIZEN'S HOME OR PREMISES.**

**THE POWER TO ISSUE SEARCH-WARRANT SHOULD BE EXERCISED WITH ALL THE CARE AND CIRCUMSPECTION.**

## **WHEN SEARCH-WARRANT MAY BE ISSUED. S. 93.**

1. WHERE ANY COURT HAS REASON TO BELIEVE THAT A PERSON TO WHOM A SUMMONS ARE ADDRESSED, WILL NOT OR WOULD NOT PRODUCE THE DOCUMENTS OR THING .

2.WHERE SUCH DOCUMENT OR THING IS NOT KNOWN TO THE COURT TO BE IN THE POSSESSION OF ANY PERSON, OR

3. WHERE THE COURT CONSIDERS THAT THE PURPOSES OF ANY INQUIRY, TRIAL OR OTHER PROCEEDING UNDER THIS CODE WILL BE SERVED BY A GENERAL SEARCH OR INSPECTION, IT MAY ISSUE A SEARCH WARRANT.

4. IF A DISTRICT MAGISTRATE, SUB-DIVISIONAL MAGISTRATE OR A MAGISTRATE OF THE FIRST CLASS HAS REASON TO BELIEVE THAT ANY PLACE IS USED FOR THE DEPOSIT OR SALE OF STOLEN PROPERTY, OR FOR THE DEPOSIT , SALE OR PRODUCTION OF ANY OBJECTIONABLE ARTICLES LIKE COUNTERFEIT COINS, STAMPS, CURRENCY NOTES, FALSE SEALS ETC., OR THAT SUCH OBJECTIONABLE ARTICLES ARE DEPOSITED IN ANY PLACE, HE MAY BY WARRANT, AUTHORISE ANY POLICE OFFICER TO SEIZE SUCH PROPERTY OR ARTICLES.

5. WHERE ANY NEWSPAPER, BOOK ETC, CONTAINS ANY MATTER THE PUBLICATION OF WHICH IS PUNISHABLE UNDER ANY OF THE SECTIONS 124-A, 153-A, 153-B, 292 ,295-A OF THE IPC.

6. IF ANY DISTRICT MAGISTRATE, SUB-DIVISIONAL MAGISTRATE OR MAGISTRATE OF THE FIRST CLASS HAS REASON TO BELIEVE THAT ANY PERSON IS WRONGFULLY CONFINED HE MAY ISSUE A SEARCH WARRANT FOR THE SEARCH OF SUCH PERSON.

## **SEARCH WITHOUT A WARRANT:-**

1. ANY MAGISTRATE MAY DIRECT A SEARCH TO BE MADE IN HIS PRESENCE OF ANY PLACE FOR THE SEARCH OF WHICH HE IS COMPETENT TO ISSUE A SEARCH WARRANT.
2. DURING INVESTIGATION, IF THERE IS NO TIME TO OBTAIN A SEARCH WARRANT AND IMMEDIATE SEARCH OF A PLACE IS NECESSARY FOR THE PURPOSE OF THE INVESTIGATION, A SENIOR INVESTIGATING POLICE OFFICER CAN CONDUCT A SEARCH WITHOUT A WARRANT.

THE FOLLOWING PROVISIONS HAVE BEEN MADE TO RESTRAIN THE POLICE POWER AND TO PREVENT THE POSSIBLE ABUSE.

(A) THE POWER TO SEARCH WITHOUT A WARRANT CAN BE EXERCISED ONLY BY A POLICE OFFICER IN CHARGE OF A POLICE STATION OR ANY OTHER OFFICER AUTHORISED TO INVESTIGATE INTO ANY OFFENCE AND IN FACT MAKING SUCH AN INVESTIGATION.

(B) THE SEARCH IS NOT TO BE A GENERAL SEARCH BUT MUST BE ONE FOR PARTICULAR THINGS, DOCUMENTS OR SPECIFIED MATERIALS NECESSARY FOR THE PURPOSE OF THE INVESTIGATION.

(C) THE PLACE OF SEARCH MUST BE WITHIN THE LIMITS OF THE POLICE STATION OF WHICH THE OFFICER IS IN CHARGE, OR TO WHICH HE IS ATTACHED.

(D) THE POLICE OFFICER MAKING THE SEARCH MUST HAVE REASONABLE GROUNDS FOR BELIEVING THAT –

(i) ANY SPECIFIC THING NECESSARY FOR THE PURPOSES OF THE INVESTIGATION MAY BE FOUND IN THE PLACE, AND

(ii) SUCH THING, IN HIS OPINION, CANNOT OTHERWISE BE OBTAINED WITHOUT UNDUE DELAY, I.E. IN HIS OPINION, CANNOT OTHERWISE BE OBTAINED WITHOUT UNDUE DELAY, I.E. IN HIS OPINION IT WOULD BE TOO LATE BEFORE A SEARCH WARRANT IS OBTAINED FROM A MAGISTRATE.

(E) A POLICE OFFICER BEFORE PROCEEDING TO SEARCH A PLACE MUST RECORD THE GROUNDS OF HIS BELIEF AS TO THE NECESSITY OF SUCH A SEARCH AND MUST ALSO SPECIFY IN SUCH A RECORD THE THINGS FOR WHICH THE SEARCH IS TO BE CONDUCTED.

(F) THE COPIES OF RECORD MADE PRIOR TO THE SEARCH ARE REQUIRED TO BE SENT FORTHWITH TO THE NEAREST MAGISTRATE.

(G) THE POLICE OFFICER, AS FAR AS PRACTICABLE, IS TO CONDUCT THE SEARCH IN PERSON.

(H) THE PROVISIONS AS TO SEARCH WARRANTS, AND THE GENERAL PROVISIONS AS TO SEARCH SHALL, SO FAR AS MAY BE, APPLY TO THE SEARCH MADE BY A POLICE OFFICER WITHOUT A WARRANT.

(3) IF THE EXIGENCIES OF THE SITUATION SO REQUIRE, A POLICE OFFICER WOULD BE ABLE TO EFFECTUATE A SEARCH WITHOUT A WARRANT OF A PLACE LOCATED BEYOND THE LIMITS OF HIS POLICE STATION.

(4) WHERE A POLICE OFFICER IN CHARGE OF A POLICE STATION HAS REASON TO BELIEVE THAT WEIGHTS, MEASURES OR INSTRUMENTS FOR WEIGHING, WHICH ARE FALSE, ARE USED OR KEPT IN ANY PLACE, HE CAN INSPECT AND SEARCH THE PLACE AND MAY SEIZE SUCH WEIGHTS, MEASURES ETC. AFTER SEIZURE, THE OFFICER IS REQUIRED FORTHWITH TO GIVE INFORMATION TO A MAGISTRATE HAVING JURISDICTION.



## **GENERAL PROVISIONS RELATING TO SEARCHES: -**

1. WHENEVER ANY PLACE LIABLE TO SEARCH OR INSPECTION IS CLOSED, ANY PERSON IN OCCUPATION OF SUCH PLACE SHALL, ON THE DEMAND OF THE PERSON MAKING THE SEARCH, ALLOW FREE INGRESS THERETO, AND AFFORD ALL REASONABLE FACILITIES FOR A SEARCH THEREIN.

2. IF SUCH INGRESS CANNOT BE OBTAINED, THE PERSON CONDUCTING THE SEARCH CAN ENTER THE PLACE AND IN ORDER TO EFFECT AN ENTRANCE INTO SUCH A PLACE CAN BREAK OPEN ANY OUTER OR INNER DOOR OR WINDOW IF AFTER NOTIFICATION OF HIS AUTHORITY AND PURPOSE, AND DEMAND OF ADMITTANCE DULY MADE, HE COULD NOT OTHERWISE OBTAIN ADMITTANCE.

3. WHERE ANY PERSON IN OR ABOUT SUCH PLACE IS REASONABLY SUSPECTED OF CONCEALING ABOUT HIS PERSON ANY ARTICLE FOR WHICH SEARCH SHOULD BE MADE, SUCH PERSON MAY BE SEARCHED.

(4) THE SEARCH IS TO BE MADE IN THE PRESENCE OF **AT LEAST TWO INDEPENDENT AND RESPECTABLE INHABITANTS OF THE LOCALITY IN WHICH THE PLACE TO BE SEARCHED IS SITUATED.** THE POLICE OFFICER OR OTHER PERSON MAKING THE SEARCH, HAS POWER TO CALL SUCH INHABITANTS TO ATTEND AND WITNESS THE SEARCH ; AND HE MAY FOR THIS PURPOSE ISSUE A WRITTEN ORDER TO THEM.

(S. 187 OF THE IPC)

(5) THE OCCUPANTS OF THE PLACE OF SEARCH OR HIS NOMINEE SHALL IN EVERY CASE BE PERMITTED TO ATTEND DURING THE SEARCH.

(6) A LIST OF ALL THINGS SEIZED IN THE COURSE OF THE SEARCH AND THE PLACES IN WHICH THEY ARE RESPECTIVELY FOUND SHALL BE PREPARED BY THE PERSON MAKING THE SEARCH AND SHALL BE SIGNED BY THE WITNESSES. IT HAS BEEN MADE OBLIGATORY THAT A COPY OF THE LIST OF THINGS SEIZED IN A SEARCH SHALL BE DELIVERED TO THE OCCUPANTS OR HIS NOMINEE IN WHOSE PRESENCE THE SEARCH WAS MADE.

(7) THE RECORD OF THE ARTICLES IN A SEARCH CAN BE PROVED AT THE TRIAL BY CALLING THE POLICE OFFICER OR ANOTHER PERSON MAKING THE SEARCH AS A WITNESS; AND IT IS NOT NECESSARY FOR A SEARCH-WITNESS TO BE SUMMONED TO COURT FOR THIS PURPOSE.

THE COURT CAN HOWEVER SUMMON SUCH A SEARCH-WITNESS IF IT CONSIDERS NECESSARY TO DO SO.

### **CONSEQUENCES OF IRREGULARITY OR ILLEGALITIES IN A SEARCH:-**

(1) WHERE A MAGISTRATE NOT EMPOWERED BY LAW TO ISSUE A SEARCH WARRANT FOR SEARCH OF A PLACE SUSPECTED TO CONTAIN STOLEN PROPERTY, ETC. UNDER SECTION 94 ERRONEOUSLY AND IN GOOD FAITH ISSUES SUCH A WARRANT, THE SEARCH PROCEEDINGS SHALL NOT BE SET ASIDE MERELY ON THE GROUND THAT THE MAGISTRATE WAS NOT EMPOWERED TO ISSUE SUCH A SEARCH WARRANT.

(2) IT HAS BEEN SPECIFICALLY PROVIDED BY SECTION 93(3) THAT NO MAGISTRATE OTHER THAN A DISTRICT MAGISTRATE OR CHIEF MAGISTRATE SHALL ISSUE A WARRANT TO SEARCH FOR A DOCUMENT, PARCEL OR OTHER THING IN THE CUSTODY OF THE POSTAL OR TELEGRAPH AUTHORITY.

(3) A SEARCH WITHOUT A WARRANT CONDUCTED BY A POLICE OFFICER WHO IS NOT AUTHORISED TO DO SO, IS ILLEGAL AND DEVOID OF LEGAL AUTHORITY.

(4) COURTS HAVE TAKEN THE VIEW THAT NON-COMPLIANCE WITH THE SEARCH-PROCEDURE WILL NOT VITIATE THE TRIAL OR MAKE THE SEARCH-EVIDENCE INADMISSIBLE THOUGH THAT MAY AFFECT THE WEIGHT OF EVIDENCE IN SUPPORT OF THE SEARCH AND RECOVERY.

(5) IF THE SEARCH-PROCEDURE FOLLOWED BY THE POLICE OFFICER IS NOT STRICTLY LEGAL, THE OCCUPANT OF THE PLACE OF SEARCH CAN OBSTRUCT WITH IMPUNITY THE OFFICER ATTEMPTING SUCH A SEARCH.

(6) NON-COMPLIANCE WITH THE SEARCH-PROCEDURE WOULD MAKE THE ENTRY INTO THE PLACE OF SEARCH AS ONE WITHOUT LAWFUL AUTHORITY. THE PERSON MAKING SUCH AN ENTRY IS LIABLE TO BE SUED IN A CIVIL COURT FOR TRESPASS.

## **SEIZURE: -**

A POLICE OFFICER MAKING ANY SEARCH HAS FAR WIDER POWERS TO SEIZE ANY INCRIMINATING THINGS THOUGH THEY MIGHT NOT HAVE BEEN THE SPECIFIC THINGS FOR WHICH THE SEARCH WAS TO BE MADE.

ANY POLICE OFFICER MAY SEIZE ANY PROPERTY WHICH MAY BE ALLEGED OR SUSPECTED TO HAVE BEEN STOLEN OR WHICH MAY BE FOUND UNDER CIRCUMSTANCES WHICH CREATE SUSPICION OF THE COMMISSION OF ANY OFFENCE.

SEIZURE MEANS ACTUALLY TAKING POSSESSION IN PURSUANCE OF A LEGAL PROCESS..

**FORM NO 10.**

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

**FORM NO 11.**

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

## **TRIAL OF WARRANT CASES: -**

### **TRIAL BEFORE A COURT OF SESSION:-**

1. PARTIES
2. OPENING CASE FOR PROSECUTION
3. DISCHARGE OF ACCUSED.
4. FRAMING OF CHARGE
5. EXPLAINING THE CHARGE TO THE ACCUSED AND ENQUIRING ABOUT PLEA
6. CONVICTION ON PLEA OF GUILTY
7. DATE FOR PROSECUTION-EVIDENCE

8. EVIDENCE FOR THE PROSECUTION

- (i) EXAMINATION OF WITNESS
- (ii) RECORD OF EVIDENCE

9. ARGUMENTS ON BEHALF OF PROSECUTION.

10. EXAMINATION OF ACCUSED.

11. ACQUITTAL OF ACCUSED AFTER HEARING THE PARTIES

12. EVIDENCE FOR THE DEFENCE: -

- (i) EXAMINATION OF WITNESS FOR THE DEFENCE
- (ii) WRITTEN STATEMENT OF THE ACCUSED
- (iii) RECORD OF EVIDENCE.

13. COURT WITNESS

14.. ARGUMENTS

15. JUDGMENT

16 . PROCEDURE TO FOLLOW THE ORDER OF CONVICTION

17. PROCEDURE IN CASE OF PREVIOUS CONVICTION.



# TRIAL OF WARRANT CASES BY MAGISTRATES CASES INSTITUTED ON A POLICE REPORT

1. SUPPLY OF COPIES TO THE ACCUSED.
2. DISCHARGE OF ACCUSED.
3. FRAMING OF CHARGE.
4. EXPLAINING THE CHARGE TO THE ACCUSED.
5. CONVICTION ON PLEA OF GUILT
6. FIXING DATE FOR EXAMINATION OF WITNESSES
7. EVIDENCE FOR PROSECUTION.
  - (i) EXAMINATION OF WITNESS
  - (ii) RECORD OF EVIDENCE
8. STEPS TO FOLLOW PROSECUTION EVIDENCE

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## 9. EVIDENCE FOR THE DEFENCE

- (i) EXAMINATION OF WITNESS
- (ii) WRITTEN STATEMENT
- (iii) RECORD OF THE EVIDENCE

10 STEPS TO FOLLOW THE DEFENCE EVIDENCE.

## CASES INSTITUTED OTHERWISE THAN ON A POLICE REPORT

1. PRELIMINARY HEARING OF THE PROSECUTION CASE.
2. DISCHARGE OF A CCUSED.
- 3.FRAMING OF CHARGES
4. EXPLAINING THE CHARGE AND THE PLEA OF THE ACCUSED.
5. CHOICE OF ACCUSED TO RECALL PROSECUTION WITNESS
6. EVIDENCE FOR PROSECUTION

## 8. SPECIAL COURSE TO BE ADOPTED BY MAGISTRATES-

(1) MAGISTRATE NOT HAVING JURISDICTION

(2) WHERE CASE SHOULD BE COMMITTED

(3) WHEN MAGISTRATE CANNOT PASS SENTENCE SUFFICIENTLY SEVERE.

## **COMMON PROVISIONS REGARDING CONCLUSION OF TRIAL**

1. ACQUITTAL OR CONVICTION

2. PROCEDURE IN CASE OF PREVIOUS CONVICTION

3. COMPENSATION FOR ACCUSATION WITHOUT REASONABLE CAUSE.

# **PROCEDURE FOR TRIAL OF SUMMONS CASES AND SUMMARY TRIAL**

## **PROCEDURE FOR TRIAL IN A SUMMONS CASE.**

1. EXPLAINING THE SUBSTANCE OF THE ACCUSATION TO THE ACCUSED.
2. CONVICTION ON PLEA OF GUILTY
3. CONVICTION ON PLEA OF GUILT IN ABSENCE OF ACCUSED IN PETTY CASES.
4. HEARING OF THE PROSECUTION CASE
  - (1) HEARING THE PROSECUTION
  - (2) EVIDENCE FOR THE PROSECUTION
  - (3) RECORD OF EVIDENCE
5. PERSONAL EXAMINATION OF THE ACCUSED.

## 6. HEARING OF THE DEFENCE CASE

- (1) HEARING THE ACCUSED AND EVIDENCE FOR THE DEFENCE
- (2) RECORD OF EVIDENCE FOR DEFENCE
- (3) ARGUMENTS.

## 7. SPECIAL COURSE TO BE ADOPTED BY THE MAGISTRATE.

## 8. ACQUITTAL OR CONVICTION

## 9. ACCUSED CAN BE CONVICTED OF AN OFFENCE NOT CHARGED

## 10. POWER OF COURT TO CONVERT A SUMMONS CASE INTO A WARRANT CASE

## 11. COMPENSATION FOR ACCUSATION WITH REASONABLE CAUSE

# SUMMARY TRIALS

1. MAGISTRATE AUTHORISED TO CONDUCT SUMMARY TRIALS

2. OFFENCES TRIABLE SUMMARILY

3. PROCEDURE

(1) NORMALLY SUMMONS CASE PROCEDURE

(2) PUNISHMENT

(3) SUMMARY TRIAL TO BE GIVEN UP IN FAVOUR OF REGULAR TRIAL.

(4) RECORD

4. JUDGMENT.

# **APPEALS**

AN APPEAL IS A COMPLAINT TO A SUPERIOR COURT OF AN INJUSTICE DONE OR ERROR COMMITTED BY AN INFERIOR ONE, WHOSE JUDGMENT OR DECISION THE COURT ABOVE IS CALLED UPON TO CORRECT OR REVERSE.

## **TYPES OF APPEALS**

### **APPEAL FROM CONVICTION**

#### **1. NO APPEAL IN CERTAIN CASES**

(i) **NO APPEAL IN PETTY CASES** – THERE SHALL BE NO APPEAL BY A CONVICTED PERSON IN THE FOLLOWING CASES: -

(A) WHERE THE ONLY SENTENCE IS ONE OF IMPRISONMENT UPTO SIX MONTHS OR OF FINE UPTO RS. 1000 OR OF BOTH AND IS PASSED BY A HIGH COURT

(B) WHERE THE ONLY SENTENCE IS ONE OF IMPRISONMENT UPTO THREE MONTHS, OR OF FINE UPTO RS. 200 OR OF BOTH, AND IS PASSED BY A COURT OF SESSION OR A METROPOLITAN MAGISTRATE.

( C) WHERE THE ONLY SENTENCE IS ONE OF FINE UPTO Rs. 100, AND IS PASSED BY A MAGISTRATE OF THE FIRST CLASS.

(D) WHERE THE ONLY SENTENCE IS ONE OF FINE UPTO RS. 200 AND IS PASSED IN A SUMMARY TRIAL BY A CHIEF JUDICIAL MAGAISTRATE, A METROPOLITAN MAGISTRATE, OR A MAGISTRATE OF THE FIRST CALSS SPECIALLY EMPOWERED BY THE HIGH COURT.

## **2. NO APPEAL FROM CONVICTION ON PLEAS OF GUILTY: -**

WHERE AN ACCUSED PERSON HAS PLEADED GUILTY AND HAS BEEN CONVICTED ON SUCH PLEA, THERE SHALL BE NO APPEAL –

(1) IF THE CONVICTION IS BY A HIGH COURT OR

(2) IF THE CONVICTION IS BY A COURT OF SESSION, METROPOLITAN MAGISTRATE, OR MAGISTRATE OF THE FIRST OR SECOND CLASS, EXCEPT AS TO THE EXTENT OR LEGALITY OF THE SENTENCE.



## **APPEAL TO THE SUPREME COURT:-**

(A) SUCH TRIALS ARE EXTREMELY RARE, IT WAS FELT THAT , IN THE INTERESTS OF FINALITY TO THE PROCEEDINGS APPEAL SHOULD LIE DIRECT TO THE SUPREME COURT AND NOT TO ANOTHER BENCH OF THE SAME HIGH COURT.

(B) WHERE THE HIGH COURT HAS, ON APPEAL, REVERSED AN ORDER OF ACQUITTAL OF AN ACCUSED PERSON AND CONVICTED AND SENTENCED HIM TO DEATH OR TO IMPRISONMENT FOR LIFE OR TO IMPRISONMENT FOR A TERM OF TEN YEARS OR MORE, HE MAY APPEAL AS OF RIGHT OF THE SUPREME COURT.

( C ) THE CONSTITUTION PROVIDES THAT AN APPEAL SHALL LIE TO THE SUPREME COURT FROM ANY JUDGEMENT, DECREE OR FINAL ORDER OF A HIGH COURT, IF THE HIGH COURT CERTIFIES THAT THE CASE INVOLVES A SUBSTANTIAL QUESTION OF LAW AS TO THE INTERPRETATION FO THE CONSTITUTION.

(D) ARTICLE 134(1) OF THE CONSTITUTION INTER ALIA PROVIDES THAT AN APPEAL SHALL LIE TO THE SUPREME COURT FROM ANY JUDGMENT , FINAL ORDER OR SENTENCE IN A CRIMINAL PROCEEDING OF A HIGH COURT IF THE HIGH COURT –

(i) HAS WITHDRAWN FOR TRIAL BEFORE ITSELF ANY CASE FROM ANY COURT SUB-ORDINATE TO ITS AUTHORITY AND HAS IN SUCH TRIAL CONVICTED THE ACCUSED PERSON AND SENTENCED HIM TO DEATH OR

(ii) CERTIFIES THAT THE CASE IS A FIT ONE FOR APPEAL TO THE SUPREME COURT.

(E) ARTICLE 136(1) OF THE CONSTITUTION PROVIDES THAT THE SUPREME COURT MAY, IN ITS DISCRETION, GRANT SPECIAL LEAVE TO APPEAL FROM ANY JUDGMENT, DECREE, DETERMINATION, SENTENCE OR ORDER IN ANY CAUSE OR MATTER PASSED OR MADE BY ANY COURT OR TRIBUNAL.

**(2) APPEAL TO THE HIGH COURT: -**

ANY PERSON CONVICTED ON A TRIAL HELD BY A SESSIONS JUDGE OR AN ADDITIONAL SESSIONS JUDGE OR ON A TRIAL HELD BY ANY OTHER COURT IN WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN SEVEN YEARS HAS BEEN PASSED AGAINST HIM OR AGAINST ANY OTHER PERSON CONVICTED AT THE SAME TRIAL MAY APPEAL TO THE HIGH COURT.

**(3) APPEAL TO THE COURT OF SESSION: - ANY PERSON**

(A) CONVICTED ON A TRIAL BY A METROPOLITAN MAGISTRATE OR ASSISTANT SESSIONS JUDGE OR MAGISTRATE OF THE FIRST CLASS, OF THE SECOND CLASS, OR

(B) SENTENCED UNDER S. 325 OR

© IN RESPECT OF WHOM AN ORDER HAS BEEN MADE OR A SENTENCE HAS BEEN PASSED UNDER S.360 BY ANY MAGISTRATE MAY APPEAL TO THE COURT OF SESSION.

## **APPEAL BY GOVERNMENT AGAINST SENTENCE: -**

### **APPEAL AGAINST THE ORDER OF ACQUITTAL.**

(1) EVERY APPEAL SHALL BE MADE IN THE FORM OF A PETITION IN WRITING PRESENTED BY THE APPELLANT OR HIS PLEADER, AND EVERY SUCH PETITION SHALL BE ACCOMPANIED BY A COPY OF THE JUDGMEENT OR ORDER APPEALED AGAINST.

HEARING OF APPEALS

JUDGEMENT

## **CRIMINAL APPEALS**

MODEL FORM NO. 52, TO 62

## **REVISIONS**

MODEL FORM NO 63

## **TRANSFER OF CRIMINAL CASES**

MODEL FORM NO 64

## **MEMORANDUM OF PUBLIC ANALYST**

MODEL FORM NO 95

## **REVIEW PROCEDURES :**

### **REFERENCE TO HIGH COURT**

1. REFERENCE ON QUESTION OF CONSTITUTIONAL VALIDITY
2. REFERENCE ON OTHER QUESTIONS OF LAW
3. POST-REFERENCE PROCEDURE

## **REVISION**

VERY WIDE DISCRETIONARY POWERS HAVE BEEN CONFERRED ON THE COURT OF SESSION AND THE HGH COURT FOR THE PURPOSE OF 'REVISION'.

1. POWER TO CALL FOR AND EXAMINE THE RECORD OF THE LOWER COURT
2. NO REVISION IN RESPECT OF INTERLOCUTORY ORDERS.
3. ONLY ONE REVISION PETITION EITHER TO SESSIONS COURT OR THE HIGH COURT
4. STATE OF METR TOPOLITAN MAGISTRATE INDICATING GROUNDS OF HIS DECISION
5. POWER OF COURT OF REVISION TO ORDER INQUIRY
6. SESSIONS JUDGE'S POWERS OF REVISION
7. HIGH COURT'S POWERS OF REVISION

THANK YOU