

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

TOPIC- General provisions as to inquiries and trials.

Lecture Notes by- BINOD KUMAR JHA

Date:- 22/06/2020

326. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

(1) Whenever any Judge or Magistrate after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Judge or Magistrate who has and who exercises such jurisdiction, the Judge or Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself:

Provided that if the succeeding Judge or Magistrate is of opinion that further examination of any of the witness whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Code from one Judge to another Judge or from one Magistrate to another Magistrate, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of subsection (1).

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 322 or in which proceedings have been submitted to a superior Magistrate under section 325.

STATE AMENDMENTS

Rajasthan:

In section 326,—

(a) in sub-section (1), for the word "Magistrate" wherever it occurs, the words "Judge or Magistrate" shall be substituted;

(b) in sub-section (2), before the words "from one Magistrate to another Magistrate" the words "from one Judge to another Judge or" shall be inserted. [Vide Rajasthan Act 10 of 1977, sec. 3 (w.e.f. 3-3-1977).

Uttar Pradesh:

In section 326,—

(a) in sub-section (1), for the words "Magistrate," wherever occurring the words "Judge or Magistrate" shall be substituted;

(b) in sub-section (2), before the words "from one Magistrate to another Magistrate", the words "from one Judge to another Judge or" shall be inserted. [Vide U.P. Act No. 16 of 1976, sec. 8 (w.e.f. 28-11-1975).

327. Court to be open.

(1) The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room building used by the Court.

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376 B, section 376C or section 376D of the Indian Penal Code (45 of 1860) shall be conducted in camera:

Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the Court.