

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

**TOPIC- PROVISIONS AS TO
ACCUSED PERSONS OF**

Topic- The Judgement

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Section 361. Special reasons to be recorded in certain cases.

361. Special reasons to be recorded in certain cases.

Where in any case the Court could have dealt with—

(a) an accused person under section 360 or under the provisions of the Probation of Offenders Act, 1958 (20 of 1958), or

(b) a youthful offender under the Children Act, 1960 (60 of 1960), or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders, but has not done so, it shall record in its judgment the special reasons for not having done so

362. Court not to alter judgment.

Save as otherwise provided by this Code or by any other law for the time being in force, no Court when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

Comments

(i) In case of sentence of imprisonment for offence punishable under section 302, I.P, subsequent alteration of sentence under section 304, Part 1, Indian Penal Code by High Court is not proper under section 362; Naresh v. State of Uttar Pradesh, AIR 1981 SC 1385: (1981) Cr LJ 1044: 1981 SCC (Cr) 285: (1981) Cr LR (SC) 432.

(ii) Inherent power of Court not contemplated by saving provision in section 362; Sooraj Devi v. Pyarelal, AIR 1981 SC 736: (1981) Cr LJ 296: (1981) 1 SCC 500: (1981) SCC (Cr) 188: (1981) Cr LR (SC) 174.

363. Copy of judgment to be given to the accused and other persons.

(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified 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, and such copy shall, in every case where the judgment is appealable by the accused be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2) any person affected by a judgment or order passed by a criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or any deposition or other part of the record:

Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost.

(6) The High Court may, by rules provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules provide

STATE AMENDMENT

Karnataka:

In section 363 after the proviso to sub-section (5), the following proviso shall be inserted, namely:— "Provided further that the State shall, on an application made in this behalf by the Prosecuting Officer, be given, free of cost, a certified copy of such judgment, order, deposition or record with the prescribed endorsement." [Vide Karnataka Act 19 of 1985, sec. 2 (w.e.f. 25-6-1985)]

364. Judgment when to be translated.

The original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different 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.

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

In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.