

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

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

Topic- Miscellaneous

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474. Trials before High Court.

When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a Court of Sessions would observe, if it were trying the case.

475. Delivery to commanding officers of persons liable to be tried by Court-martial.

(1) The Central Government may make rules consistent with this Code and the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of 1950), and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, navel or air force law, or such other law, shall be tried by a Court to which this Code applies or by a Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military,

naval or air-force station, as the case may be, for purpose of being tried by a Court-martial.

Explanation.—

In this section— (a) "unit" includes a regiment, corps, ship, detachment, group, battalion or company. (b) "Court-martial" includes any tribunal with the powers similar to those of a Courtmartial constituted under the relevant law applicable to the Armed Forces of the Union. (2) Every Magistrate shall, on receiving a written application for that purposes by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence. (3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

476. Forms.

Subject to the power conferred by Article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

477. Power of High Court to make rules.

(1) Every High Court may, with the previous approval of the State Government, make rules— (a) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it; (b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them. (c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed; (d) any other matter which is required to be, may be, prescribed.

(2) All rules made under this section shall be published in the Official Gazette. Comments Rules and orders for the guidance of the criminal Courts in a state are issued by the High Court in exercise of its powers conferred by Article 227 of the Constitution of India and section 477 of the Code of Criminal Procedure; K. Umaphathy v. Superintendent of Jail, (1997) 2 Crimes 609 (AP).

478. Power to alter functions allocated to Executive Magistrates in certain cases.—

If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with High Court, by notification, direct that references in sections 108, 109, 110, 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.

STATE AMENDMENT

Maharashtra: In section 478 for the words "to an Executive Magistrate shall be construed" the words "to an Executive Magistrate in the areas of the State outside Greater Bombay shall be construed" shall be substituted. Vide Maharashtra Act 1 of 1978 (w.e.f. 15-4-1978).

480. Practising pleader not to sit as Magistrate in certain Courts.

No pleader who practises in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court. STATE AMENDMENT Karnataka: After section 480, the following section(480A) shall be inserted.

481. Public servant concerned in sale not to purchase or bid for property.

A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.