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Review Document

THE CODE OF CRIMINAL PROCEDURE, 1973

Author- Ms. Randita Paul

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ENACTMENT OF THE ACT

In the light of recommendations of the Commission a draft Bill was introduced in the Rajya Sabha on December 10, 1970. The Bill was cited to a Joint Select Committee of both the Houses of Parliament. The Bill was returned with its recommendations after it was thoroughly examined by the Committee. Finally, the Bill after having been passed by the Parliament has emerged in its present form as the Code of Criminal Procedure, 1973 (Act No. 2 of 1974). It received the assent of the President of India on January 25, 1974 and came into force on April 1, 1974. This Act extends to the whole of India but this Act does not apply to the State of Nagaland and to the tribal areas. The “tribal areas” are the territories which were included in the tribal areas of Assam before 21st January, 1972. It is referred to in paragraph 20 of the Sixth Schedule to the Constitution of India. This tribal area does not include the local limits of the municipality of Shillong.

SCOPE AND APPLICATION OF THE ACT

The Criminal Procedure Code is especially an adjective law of procedure. But there are at the same time some provisions that are in the nature of a substantive law, e. g., provisions relating to prevention of offences and maintenance proceedings.¹ The object of the Code is to provide a machinery for the punishment of offenders against the substantive criminal law as contained in the Indian Penal Code as well as in other Acts. The rules of procedure as provided by the Code are meant to regulate the procedure in the courts. The rules are imperative and not merely directory.²

Consolidating and amending the law relating to Criminal Procedure is the main objective with which this Act was enacted. This is stated in the Preamble of the Code. The law relating to procedure has not only been consolidated but has been suitably amended also in whatever respect thought necessary. It means it is a complete code of procedure. It is a complete code with respect to matters provided for by this Code. But if no provision is made in the Code with respect to any matter it does not mean that there is no such power in a criminal court which may be based on the principle that every procedure should be understood as permissible till it is shown to be prohibited

¹ Chapters VIII, X and XI deal with prevention of offences and Chapter IX of the Code deals with maintenance proceedings.

² Maxwell on the Interpretation of Statutes, 10th Ed., p. 379.

by law.³ That is in case of those matters which are not provided for by the Code the courts shall follow any appropriate procedure in the interest of justice. The rule is that any procedure not expressly prohibited by the Code may be followed.⁴

CONSTRUCTION OF PROCEDURAL LAW

It was held in *Shivjee Singh v. Nagendra Tiwary and others*⁵, that provisions of Criminal Procedure Code are procedural in nature. If violation of procedural provision does not result in denial of justice i. e., in denial of fair hearing or cause prejudice to the parties the same has to be treated as directory notwithstanding the use of the word “shall”.

REFERENCE AND REVISION

❖ REFERENCE TO HIGH COURT

Under Section 395(1) of CrPC, 1973, a reference is made by a subordinate Court to the High Court. For making a reference to the High Court the following conditions are necessary:

- A case must be pending before the Court making the reference.
- The Court making reference must be satisfied that the determination of that case involves a question as to the validity of:
 - Any Act, Ordinance or Regulation, or
 - Any provision contained in an Act, Ordinance or Regulation.
- The determination of validity of any such Act, Ordinance, Regulation or any provision thereof must be necessary for the disposal of the case.
- The Court making reference must be of the opinion that such Act, Ordinance, Regulation or any provision thereof is invalid or inoperative.
- Till the date of reference, the Act, Ordinance, Regulation or any such provision therefrom should not have been declared as invalid by the High Court to which that Court is subordinate or by the Supreme Court.

³ *Hansraj*, (1942) Nag 33; *Rahim Sheikh*, (1923) 50 Cal 872.

⁴ *The State v. Sohan Lal*, A. I. R. 1960 Raj 44.

⁵ (2010) 4 Cr. L. J. 3827 (S.C.).

When the above conditions are fulfilled the Court making reference shall state a case and make a reference to the High Court. The Court shall also set out its own opinion and give reasons in support thereof while making a reference. But on the ground that a different view of law was taken by some other High Court, the subordinate court cannot make a reference. The law laid down by the High Court to that of the subordinate court is must be followed.⁶

❖ DISPOSAL OF CASE ACCORDING TO DECISION OF HIGH COURT

Section 396(1) of CrPC, 1973, states when a subordinate court make a reference to the High Court, if the High Court thinks fit it may pass an order and sent the copy of such order to the court by which the reference was made. This will dispose of the case to the said order. Sub-section (2) of this section states that it is the High Court, which directs the cost of reference to be paid by whom.

In *Iqbal Abdul Samiya Malek v. State of Gujarat*⁷, it was held that in case of appeal against conviction the court has to independently assess whether evidence is reliable and whether an evidence adduced prosecution case is proved beyond reasonable doubt. Disposal of appeal without adverting to all material was held to be improper and the order is liable to be set aside.

❖ CALLING FOR RECORDS TO EXERCISE POWERS OF REVISION

Section 397(1) gives power to the High Court and the Sessions Judge to call for and examine the record of any proceeding before any inferior Criminal Court within its or his local jurisdiction. The purpose of examination of record is to satisfy about:

- The correctness, legality or propriety of any finding, sentence or order recorded or passed by such inferior Court, or
- The regularity of any proceedings of such inferior Court.

The grounds to call for records of inferior criminal courts are:

- Where the finding, sentence or order is illegal or improper and,
- Where proceedings are irregular.

⁶ *Qazi Mohd. Hanif v. Mumtaz Begum*, 1990 Cr. L.J. 171 (Bom).

⁷ (2013) 1 Cri. L.J. 745 (S.C.).

While exercising power conferred by this sub-section the High Court or the Sessions Judge may direct the execution of any sentence or order be suspended. If the accused is in confinement, he may be released on bail or on his own bond pending the examination of the record.

In *Johar and others v. Mangal Prasad and another*⁸, it was held that the Court has limited jurisdiction under Section 397 Criminal Procedure Code. Where the order of Trial Court is not found to be passed without considering relevant evidence or by considering irrelevant evidence, interference by entering into merits of the case and re-appreciating entire evidence is improper. The power of revision against judgement of acquittal though not barred but the jurisdiction is severely restricted under Section 397.

In the case of *Badri Lal v. State of M. P.*⁹, it was held that this section confers very wide powers upon the High Court and the Sessions Judge. Under this section not only the correctness and legality of any finding, sentence or order is reviewed, but even regularity of proceedings may be examined. This section empowers to examine not only the correctness and legality, but even propriety of any finding, sentence or order. But the power conferred by this section should be exercised in exceptional cases only when there is manifest error or point of law or flagrant miscarriage of justice. The scope of revisional jurisdiction is limited and discretionary.

In the case of *Amarchand v. Shanti Bose*¹⁰, it was held that though the powers under this section are undoubtedly wide and the Sessions Judge can take up the matter *suo motu* it must be seen that criminal law is not used as an instrument of private vengeance.

Sub-section (2) does not allow the powers of revision to be exercised for any interlocutory order which is passed in any appeal, inquiry, trial or other proceeding. It was stated in *Murlidhar v. State of U. P.*¹¹, where the subject matter of trial was custody of the truck. It is given to a party by the court. This order is an interlocutory order and revision is not maintainable against it. So also an order of Magistrate issuing process is an interlocutory order.¹²

⁸ (2008) 2 Cr. L.J. 1627 (S.C.).

⁹ 1989 Cr. L.J. (NOC) 16 (MP).

¹⁰ A.I.R. 1973 S.C. 799.

¹¹ 1992 Cr. L. J. 2032 (All.).

¹² *Hasan Bandhubhai v. K. T. Kulkarni*, 1991 Cr. L. J. 215 (Bom.).

Sub-section (3) bars the High Court to entertain application made by any person who has already made an application to the Sessions Judge or the *vice versa*. In *Preetpal Singh v. Ishwari Devi*¹³, a husband filed a revision application against an order passed under Section 125 of the Code for maintenance to the wife and the minor son. It was dismissed. A second revision application was filed by him through his minor son. It was held that as neither the Magistrate nor the revisional court had passed any order against the minor, the child could not be said to have been aggrieved and, therefore, no application could be made by him for revision.

❖ POWER TO ORDER INQUIRY

Section 398 of the Code gives power to the High Court and to the Sessions Judge to order further inquiry into any complaint which has been dismissed under Section 203 of this Code. Inquiry may be ordered when the High Court or the Sessions Judge, on examination of any record under Section 397, think such inquiry to be necessary. Further inquiry under this section may be ordered:

- In case of dismissal of a complaint under Section 203 or Section 204(4); or
- Into the case of any person accused of an offence who has been discharged.

The High Court or the Sessions Judge may direct the Chief Judicial Magistrate to make and inquiry himself or direct any subordinate Magistrate to make it. When a Chief Judicial Magistrate is directed to make an inquiry, he may either make inquiry himself or cause it to be made by any other Magistrate subordinate to him

But when further inquiry is considered necessary in the case of any person who has been discharged no such direction shall be issued. To prove why such direction should not be made such person should be given an opportunity to show cause. Only then such a direction shall be issued. That is in case of discharge a show-cause notice to the discharged person is necessary before directing further inquiry into his case. Failure to give a show cause notice is an illegality and, in any case, such an irregularity seriously prejudices an accused person who is ordered to be proceeded against.¹⁴

¹³ 1991 Cr. L.J. 2247 (S.C.).

¹⁴ *Bhagwan Das v. Chander Bhan*, (1933) 56 All 285.

It was held in *Subrata Das v. State of Jharkhand*¹⁵, that where a matter had been remanded back to Magistrate to hold further inquiry, this direction does not necessarily oblige Magistrate to record any further evidence in the case.

❖ SESSIONS JUDGE'S POWER OF REVISION

Section 399 deals with revisional power of the Sessions Judge. While hearing a case records of which have been called for by himself, the Sessions Judge has the same power as the High Court has under Section 401 of the Code.¹⁶

In *Niranjan Kumar Das v. Randhir Roy*¹⁷, the accused who was charged on police report was acquitted and the State did not file an appeal against the order of acquittal. The informant filed a revision. In *R. Venkat Reddy v. State of A. P.*¹⁸, the accused was wrongly tried under summons procedure instead of under warrant procedure. It was argued by the defence council that the proceedings are on that ground vitiated and illegal and the accused is entitled to acquittal. The Public Prosecutor submitted that though this point was raised before the appellate court the same was not made a ground to assail the conviction and sentence and therefore this point cannot be pressed by the petitioner in revision. The counsel for the petitioner contends that the concession made on behalf of the accused during the course of appeal is not binding at the revision stage. It was held that a wrong concession made by the accused or his counsel will not bind the appellate court and it is open to such court to consider the case on merits and that this proposition extends even to revision.

❖ POWER OF ADDITIONAL SESSIONS JUDGE

Section 400 says that when a case is transferred to an Additional Sessions Judge, by or under any general or special order of the Sessions Judge, an Additional Sessions Judge can exercise all the powers which are vested upon the Sessions Judge in this Chapter.

❖ HIGH COURT'S POWER OF REVISION

It is well settled in law that inherent as well as revisional jurisdiction should be exercised cautiously. Normally a revisional jurisdiction should be exercised on a question of law.

¹⁵ (2011) 1 Cr. L.J. 87 (S.C.).

¹⁶ *Vinod Kumar v. Mohrawati*, 1990 Cr. L. J. 2068 (All).

¹⁷ 1990 Cr. L. J. 683 (Gau).

¹⁸ 1992 Cr. L. J. 414 (AP).

Section 401(1) authorises the court to exercise power of revision *suo motu* apart from the application from a party. If the State does not move a revision, the complainant can do so. At the instance of the aggrieved private party, revision is maintainable, even in case when prosecution was instituted not on the basis of a complaint but by police.¹⁹

The limits placed on revisional jurisdiction of High Court according to sub-section (2) and (3) are:

- Sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement and conditions laid down in second *proviso* to Section 386 are also fulfilled, and
- That a finding of acquittal cannot be converted into conviction.

Sub-section (4) provides that where a party who could have appealed has not appealed, the High Court will not entertain his revision. It was held in *S. Bhupinder Singh Makkar v. Narinder Kaur*²⁰, that where an *ex-parte* order granting maintenance was passed, even when the procedure was illegal, the aggrieved person could file a revision without first moving an application before the Magistrate under Section 126 of the Code.

Sub-section (5) of this section gives power to the High Court to treat the application for revision as a petition of appeal and deal accordingly in certain cases. The conditions precedent to exercise of this power are :

- Where an appeal lies but an application for revision is made by a person;
- The High Court must be satisfied that the application for revision was made by such person under the erroneous belief that no appeal lies;
- The High Court must be of the opinion that in the interest of justice it is necessary to treat the application for revision as a petition of appeal.

Revision and Appeal – While exercising revisional power under Section 401, the High Court has all the power of a court of appeal subject to the following limitations:

- A finding of acquittal cannot be converted into conviction.
- It can tender pardon to the accused for making him an approver in a pending case, which it cannot do in appeal.

¹⁹ *R. Jagdish Murty v. Balaram Mohanty, 1992 Cr. L. J. 996 (Orissa).*

²⁰ 1990 Cr. L. J. 2265 (Del).

❖ POWER OF HIGH COURT TO WITHDRAW OR TRANSFER REVISION CASES

Section 402 vests power upon the High Court to withdraw or transfer the revision cases before it, whenever one or more persons who are convicted at the same trial makes an application for revision to the High Court. It is the discretionary power of the High Court.

❖ OPINION OF COURT TO HEAR PARTIES

In revision a party cannot insist upon being heard by the Court. The Court has a discretion to hear a party. This rule applies to an accused as well as a complainant. Section 401 is an exception to the rule contained in Section 403. *Proviso* to Section 388 is another exception to this rule which provides that further inquiry into the case of a discharged person shall not be ordered without giving him an opportunity of showing cause against it. However, it is a general practise in the High Court to hear pleaders in revision. But a counsel has no right of being heard at all in revision.²¹

It was held in *T. Moosa v. Sub-Inspector of Police, Ernakulum*²², that for application of the principle of *autrefois acquit*, the judgement relevant within the meaning of Sections 40 to 43 of Evidence Act to bar trial under Section 403 of CrPC should be judgement inter-parties. Acquittal of some of the co-accused by itself is not a reason to bar the trial in case of other accused.

TRANSFER OF CRIMINAL CASES

❖ POWER OF SUPREME COURT TO TRANSFER CASES AND APPEALS

Section 406(1) of the Code vests upon the Supreme Court the power to transfer cases and appeals. It is a wide discretion of the Supreme Court to transfer any case from one High Court to another High Court or from a subordinate Criminal Court to one High Court or to another Criminal Court which is of equal or superior jurisdiction and subordinate to another High Court.

²¹ *Satnarain Lal, 1940 All. 539.*

²² 2006 Cr. L. J. 1922 (Kerala) F. B.

Sub-section (2) of this section states that the Supreme shall exercise the powers vested only on application of the Attorney-General of India or of any party interested. The application shall be made in motion except when such application is supported by affidavit or affirmation.

Sub-section (3) of this section gives power to the Supreme Court to order the applicant to pay compensation not exceeding one thousand rupees in case the application was dismissed because of frivolousness or of vexatious.

In *K. Anbazhagan v. Superintendent of Police*²³, the question was as to who can move a transfer petition and for this purpose who is an “interested party”. It was observed that the words “party interested” has not been defined under the CrPC. The words “party interested” is of wide import and it has to be given a wider meaning. Had it been the intention of the legislature to give a restricted meaning then they would have used the words “party to the proceedings”. These words were purposely used by the legislature in a broad import in this section. Also, it is well settled principle of law that statutes must be interpreted to advance the cause of statute and not to defeat it. The petitioner in the present case, being a political opponent, is virtually interested in the administration of justice in the State and is a “party interested” within the meaning of sub-section (2) of Section 406 of CrPC.

In *A. K. K. Nambiar v. Desray*²⁴, three out of four similar cases against the accused were tried at a place X, while the fourth was being tried at a place Y. The accused made an application to transfer the case at Y to X. Prosecution expressed apprehension of tampering by accused with the prosecution witnesses. It was held that there was good ground to allow the transfer as merely vague apprehensions were not sufficient to oppose the transfer.

❖ POWER OF HIGH COURT TO TRANSFER CASES AND APPEALS

In view of provisions of Section 407(2) the High Court may transfer cases in three ways:

- *Suo motu*;
- On the application of a party interested; or
- On the report of the lower court.

²³ (2004) Cri. L. J. 583 (S.C.).

²⁴ A. I. R. 1973 S. C. 203.

This power may be exercised under the following conditions when it appears to the High Court that –

- a) A fair and impartial inquiry or trial cannot be had in any subordinate criminal court;
- b) Unusual difficulty is likely to arise as a question of law;
- c) An order under this section is required by any provisions of this Code;
- d) General convenience of the parties or witnesses may be attended;
- e) It is expedient for the ends of justice.

Any of these following orders may be passed on by the High Court:

- a) That an offence be inquired into or tried by a court otherwise competent though not empowered under Section 177 to 185 of the Code;
- b) That any particular case or appeal be transferred to another criminal court;
- c) That any case be committed for trial to a Court of Session;
- d) That any case or appeal be transferred to and tried by the High Court itself.

Provisions of this section empowering the High Court to transfer any case from a Criminal Court subordinate to it to any other court competent to try it apply to the case before any Sessions Judge.²⁵ The High Court can under this section transfer a case pending before a Magistrate to the Court of Additional Sessions Judge.²⁶

In *Ram Bilas v. State of U. P.*²⁷, which was an old case pending since long, arguments were partly heard and four adjournments were granted and the date was again fixed for arguments. On that date an application for transfer was made. It was held that the application for transfer was liable to be rejected as there was no reasonable apprehension of not getting a fair and impartial trial.

❖ POWER OF SESSIONS JUDGE TO TRANSFER CASES AND APPEAL

Section 408(1) deals with the power of Sessions Judge to transfer cases and appeals when it is expedient for the ends of justice. Where the Sessions Judge had transferred the case under this section from his court to the court of Additional Sessions Judge, who already

²⁵ *Ram Chandra v. State of Bihar*, A. I. R. 1961 S. C. 1629.

²⁶ *P. C. Gulati v. Lajya Ram*, A. I. R. 1966 S. C. 595.

²⁷ 1990 Cr. L. J. 677 (All).

began the trial, subsequent trial of the same case before the Sessions Judge would be illegal and beyond his jurisdiction.²⁸

Sub-section (2) states that the Sessions Judge may transfer the case only on the report of the lower Court or on the application of a party interested, or on his own initiative.

In *Rajesh Bhardwaj v. State of Bihar*²⁹, a case was transferred from Additional Sessions Judge I to Additional Judge III. The transfer was done for administrative reasons following transfer of judges themselves. It was held that the transfer of case from one court to other was proper because there was no failure of justice.

❖ **WITHDRAWAL OF CASES AND APPEALS BY SESSIONS JUDGE**

Section 409 empowers the Sessions Judge to withdraw any cases and appeals. Sub-section (1) gives power to the Sessions Judge to withdraw, repeal any case or appeal which he had transferred to any Assistant Sessions Judge or subordinate Chief Judicial Magistrate.

A Sessions judge cannot withdraw or recall any case or appeal pending before a Judge, which has been partly heard by him.³⁰ So also a case cannot be withdrawn and proceeded with under Section 409(1) after the trial has commenced.³¹

❖ **WITHDRAWAL OF CASES BY JUDICIAL MAGISTRATES**

Section 410 empowers the Chief Judicial Magistrate to withdraw, recall, inquire into or try any case which he has referred to any other Magistrate subordinate to him.

Sub-section (2) authorises the Judicial Magistrate to recall any case which he had transferred to any other Magistrate under Section 192(2) of the Code and inquire or try the case himself.

❖ **MAKING OVER OR WITHDRAWAL OF CASES BY EXECUTIVE MAGISTRATES**

Any District Magistrate or Sub-Divisional Magistrate has under Section 411 of the Code, right to transfer for disposal, any proceeding which has been started before him, to any Magistrate subordinate to him. He can also withdraw or recall any case, which he has

²⁸ *State of W. B. v. Gangadhar Dawn, 1989 Cr. L. J. 563 (Cal).*

²⁹ (2012) 3 Cr. L. J. 3313 (S.C.).

³⁰ *Smt. Gulzar v. Nizam, 1981 Cr. L. J. (NOC) 22 (All).*

³¹ *Amrithappa v. State of Karnataka, 1982 Cr. L. J. 1336 (Kant).*

transferred to any subordinate Magistrate and thereafter he can either dispose of the case himself or send it for disposal to any other Magistrate.

It was held in *State of Gujarat v. Ratilal Uttamchand Morabia*³², that where a case is pending before a Sub-Divisional Magistrate, an application for transfer of proceedings cannot be entertained and heard by the Sessions Judge. The Sessions Judge is also not authorised to pass or pronounce any interim orders, staying further proceedings. Such power can be exercised only by the District Magistrate under Section 411 of the Code.

EXECUTION OF SENTENCES

❖ EXECUTION OF ORDER PASSED UNDER SECTION 368

Section 413 of the Code states that when the Sessions Court receives a confirmation order or other order of death sentence from the High Court, the order has to be executed by the Sessions Court by issuance of warrant or any other necessary steps.

❖ EXECUTION OF SENTENCE OF DEATH PASSES BY HIGH COURT

Section 414 of the CrPC states that when the Sessions Court receives any order of a death sentence which is passed by the High Court, the Sessions Court will cause the order to be executed into effect in issuance of a warrant.

❖ POSTPONEMENT OF EXECUTION OF SENTENCE OF DEATH IN CASE OF APPEAL TO SUPREME COURT

Section 415 of the CrPC talks about the postponement of execution of death sentence:

- Sub-section (1) states that the High Court may postpone the execution of death sentence whose appeal under Article 134 (1)(b) of the Constitution lies on the Supreme Court. The execution may be postponed until the period of preference has expired, the appeal within the time period has been disposed of completely.
- Sub-section (2) states that the person who is executed may file an application before the High Court for the grant of certificate under Article 132 or Article 134(1)(c) of the Constitution of India in case of death sentence passed and confirmed by the High Court. In such a case, the High Court may postpone the execution until the application is disposed of by the High Court, or if certificate is granted on such

³² 1992 Cr. L. J. 9 (Guj).

application, or the time of appeal before the Supreme Court on such certificate had expired.

- Sub-section (3) states that in case when the death sentence is passed and confirmed by the High Court and if the High Court thinks that the person sentenced wants to file a petition before the Supreme Court for granting special permission to appeal under Article 136 of the Constitution of India, the execution order of death sentence may be postponed by the High Court as long as the person sentenced presents the petition.

❖ EXECUTION OF SENTENCE OF IMPRISONMENT

Section 418 of the CrPC states that the Court which passes the sentence of imprisonment for life or for a specific term should forward such warrant to the jail or any other place where the accused is confined to. The *proviso* to this section states that in case of imprisonment till the rise of the Court, forwarding of such warrant is not necessary. An arrest warrant may be issued for confining the accused to jail if he is not present in the Court at the time when the sentence of imprisonment was issued.

*Ishwarbhai Hirabhai Churana v. State of Gujarat*³³, held this Section to be mandatory. Under this Section 418 of the CrPC, the court owes a duty to ensure that the sentence is executed, otherwise, the accused may avoid it.

❖ DIRECTION OF WARRANT FOR EXECUTION

Section 419 of the Code states that every warrant for the execution of a sentence of imprisonment should be directed to the officer-in-charge of the jail or any other place where the prisoner is confined.

❖ WHO MAY ISSUE WARRANT

According to Section 425 of the CrPC, the Judge, or the Magistrate who passed the sentence, or successor-in-office may issue warrant for the execution of sentence.

❖ SENTENCE ON OFFENDER ALREADY SENTENCED FOR ANOTHER OFFENCE

Section 427 fixes the time from which a sentence passes on an offender who is already undergoing sentence for another offence should run.

³³ On 22nd February, 2017.

In *Azad Singh v. State*³⁴, the accused was convicted for various offences by different courts in Delhi and outside Delhi. It was held that the High Court can issue direction in respect of sentences awarded by courts within the jurisdiction of that High Court and not outside its jurisdiction to run concurrently.

In *Grahari v. State*³⁵, several sentences were inflicted and direction was given by the court that they shall run concurrently. The convict prisoner undergoing imprisonment jumped bail and was rearrested, tried and convicted of the offence. It was held that his prayer to make the sentence now imposed concurrent with the sentence which the petitioner was undergoing could not be considered because if it is so made, the petitioner will not have to suffer consequences of the second conviction.

It was held in *Sadashiv Chhokha Sable v. State of Maharashtra*³⁶, that a person sentenced for imprisonment must, for the purpose of Section 427 be deemed to be undergoing that sentence from the very moment the sentence is passed. The accused may be on bail or in custody in the earlier case at the time of passing of the subsequent sentence. The convict need not be physically present in jail to suffer sentence of imprisonment at the time of pronouncing subsequent sentence.

❖ RETURN OF WARRANT ON EXECUTION OF SENTENCE

Section 430 of CrPC states that on complete execution of sentence, the warrant issued by the Court has to be returned to it by the officer who executed the warrant. The warrant has to be endorsed by the officer and the manner in which the sentence was executed has to be certified in it.

CONCLUSION

The Code of Criminal Procedure, 1973 confers several powers on the Supreme Court, High Court, Magistrate and other officers in matters relating to reference, revision, transfer and execution. All these powers are vested so that no form of any judicial injustice can permeate through this power. However, these inherent powers apply to both substantive as well as procedural matters. Hence, it cannot re-examine any evidence.

³⁴ 1991 Cr. L. J. 438 (Del).

³⁵ 1988 Cr. L. J. 1351 (Kerala).

³⁶ 1993 Cr. L. J. 1469 (Bom).

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About the Author



I am Randita Paul from Surendranath Law College, University of Calcutta. I had got a marvellous opportunity for one-month internship under LegalEagle Law Forum. This internship was very enriching for me. I had gathered a lot of experience. An internship like this was very challenging. Reviewing the Bare Acts is tough as well as knowledgeable. I had to go through the Bare Act thoroughly and review the same. This internship was a supplement to my academic education. It allowed me to work with experts in the organisation. An internship like this has bridged the gap between my academic knowledge and practical field. I have gained an outstanding experience that will help me in my future for the real world.

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