

**361. Interpretation of evidence to accused or his pleader.** (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

**362.** [Record of evidence in Presidency Magistrate's Court.] Omitted by A. O., 1949,

Sch.

**363. Remarks respecting demeanour of witness.** When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

**364. Examination of accused how recorded.** (1) Whenever the accused is examined by any Magistrate or by any Court other than a High Court the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English; and such record shall be shown or read to him or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(3) In a case in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound as the examination proceeds, to make memorandum thereof in the language of the Court or in English, if he is sufficiently acquainted with latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

**365. Record of evidence in High Court.** Every High Court shall from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court and the evidence shall be taken down in accordance with such rule.

## CHAPTER XXVI - OF THE JUDGMENT

**366. Mode of delivering judgment.** (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced or the substance of such judgment

(a) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(b) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding judge, if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of the fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

**367. Language of judgment: Contents of judgment.** (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court or from the dictation of such presiding officer in the language of the Court, or in English; and shall contain the points for determination, the decision thereon and the reasons for the decision; shall be dated and signed by the presiding officer in open Court at the time of pronouncing it and with his own hand, every page of such judgment shall be signed by him.

(2) It shall specify the offence (if any) of which, and the section of the Pakistan Penal Code or other law under which the accused is convicted, and the punishment to which he is sentenced.

(3) Judgment in alternative. When the conviction is under the Pakistan Penal Code and it is doubtful under which of two sections, or under which or two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

Proviso [x x x x x x x] Omitted by Law Reforms Ord. 1972, item 122. Enforced in the Province of Punjab w.e.f. 26.12.1975.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, and Court shall in its judgment state the reason why sentence of death was not passed.

(6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.

**368. Sentence of death.** (1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(2) [Omitted by Act XXV of 1974, item 123. Enforced in the Province of Punjab w.e.f. 26.12.1975].

**369. Court not to alter judgment.** Save as otherwise provided by this Code or by any other law for the time being in force or, in case of a High Court by the Letters Patent of such High Court no Court when it has signed its judgment, shall alter or review the same, except to correct a clerical error.

**370.** [Presidency Magistrate judgment] Omitted by A.O.1949.

**371. Copy of judgment, etc. to be given to accused .....** [(1) In every case where the accused is convicted of an offence, a copy of the judgment shall be given to him at the time of pronouncing the judgment, or when the accused so desires, a translation of the judgment in his own language. If practicable, or in the language of the Court, shall be given to him without delay. Such copy or translation shall be given free of cost.

Provided that this sub-section shall not apply to cases tried summarily or where the accused is convicted of an offence under any law other than the Pakistan Penal Code]

(2) [Omitted by Law Reforms Ordinance, 1972, item No. 124 (ii)].

(3) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

**372. Judgment when to be translated.** The original judgment shall be filled with the record of proceedings, and, where the original is recorded in a different language 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.

**373. Court of Session to send copy of finding and sentence to District Magistrate.** In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

## CHAPTER XXVII - OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

**374. Sentence of death to be submitted by Court of Session.** When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

**375. Power to direct further inquiry to be made or additional evidence to be taken.** (1) If when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry to take such evidence itself, or direct it to be made or taken by the Court of Session.

[(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.]

(3) When the Inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

**376. Power of High Court to confirm sentences or annul conviction.** In any case submitted under section 374, [...] the High Court:

(a) may confirm the sentence, or pass any other sentence warranted by law; or

(b) may annul the conviction and convict the accused of any offence of which the Sessions Court might have convicted him or order a new trial on the same or an amended charge; or

(c) may acquit the accused person ;

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

**377. Confirmation of new sentence to be signed by two Judges.** In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall when such Court consists of two or more judges, be made, passed and signed by at least two of them.

**378. Procedure in case of difference of opinion.** When any such case is heard before a Bench of Judges and such Judges are equally divided, in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion and the judgment or order shall follow such opinion.

**379. Procedure in cases submitted to High Court for confirmation.** In cases submitted by the Court of Session to the High Court for the confirmation of sentence of death, the proper officer of the High Court shall without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court and attested with his official signature, to the Court of Session.

**380.** [Rep. by Probation of Offenders Ordinance. LXV of 1960].

## CHAPTER XXVIII - OF EXECUTION

**381. Execution of order passed under section 376.** When a sentence of death passed by a Court of Sessions is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

[Provided that the sentence of death shall not be executed if the heirs of the deceased pardon the convict or enter into a compromise with him even at the last moment before execution of the sentence. ]

**382. Postponement of capital sentence on pregnant woman.** If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to [imprisonment] for life.

**[382-A. Postponement of execution of sentence of imprisonment under section 476 or for a period of less than one year.** Notwithstanding anything contained in section 383 or 391, where the accused:

(a) is awarded any sentence of imprisonment under section 476, or

(b) is sentenced in cases other than those provided for in Section 381, to imprisonment whether with or without fine or whipping for a period of less than one year.

the sentence shall not, if the accused furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, be executed., until the expiry of the period prescribed for making an appeal against such sentence, or, if an appeal is made within that time, until the sentence of

imprisonment is confirmed by the appellate Court, but the sentence shall be executed as soon as practicable after the expiry of the period prescribed for making an appeal, or, in case of an appeal as soon as practicable after the receipt of order of the appellate Court confirming the sentence.

**[382-B. Reduction of period of sentence of imprisonment.** The length of any sentence of imprisonment imposed upon an accused person in respect of any offence shall be treated as reduced by any period during which he was detained in custody for such offence]

**N.W.F.P Amendment.** In S. 382-B for the word 'may' the word 'shall' substituted by Cr.P.C. (Amndt.) Regn., 1997, w.e.f. on the 23rd September, 1997. PLD 1999 N.W.F.P. St. p.36.

**[382-C. Scandalous or false and frivolous pleas to be considered in passing sentence.** In passing a sentence on an accused for any offence, a Court may take Into consideration any scandalous or false and frivolous plea taken in defence by him or on his behalf.]

**383. Execution of sentence of [imprisonment] in other cases.** Where the accused is sentenced to (imprisonment] for life or imprisonment in cases other than those provided for by section 381 [and section 382-A] the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

**384. Direction of warrant for execution.** Every warrant for the execution of sentence of imprisonment shall be directed to the officer incharge of the jail or other place in which the prisoner is or is to be, confined.

**385. Warrant with whom to be lodged.** When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

**386. Warrant for levy of fine.** (1) Wherever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may:

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the District authorizing him to realize the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter;

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole, of such imprisonment in default, no Court shall issue such warrant [.....].

(2) The Provincial Government may make rules regulating the manner in which warrants under sub-section (1), clause (a) are to be executed, and for the summary determination of any claim made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under sub-section (1) clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly;

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

**387. Effect of such warrant.** A warrant issued under section 386, sub-section (1), clause (a), by any Court may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the attachment and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

**388. Suspension of execution of sentence of imprisonment.** (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may:

(a) order that the fine shall be payable either in full on or before a date not more (than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval, or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realized on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

**389. Who may issue warrant.** Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

**390. Execution of sentence of whipping only.** When the accused is sentenced to whipping only, the sentence shall subject to the provisions of section 391 be executed at such place and time as the Court may direct.

**391. Execution of sentence of whipping, in addition to imprisonment.** (1) When the accused:

(a) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(b) is sentenced to whipping in addition to imprisonment. The whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court, but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days or in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.



(3) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months.

**392. Mode of inflicting punishment.** (1) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode and on such part of the person, as the Provincial Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as the Provincial Government directs.

(2) **Limit of number of stripes.** In no case shall such punishment exceed thirty stripes and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes.

**393. Not to be executed by instalments. Exemptions.** No sentence of whipping shall be executed by instalments and none of the following persons shall be punishable with whipping, namely:

(a) females;

(b) males sentenced to death or to [imprisonment for life] or to imprisonment for more than five years;

(c) males whom the Court considers to be more than forty-five years of age.

**394. Whipping not to be inflicted if offender not in fit state of health.** (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies or if there is not a medical officer present, unless it appears to the Magistrate or officer present that the offender is in a fit state of health to undergo such punishment.

(2) Stay of execution, if during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the sentence, the whipping shall be finally stopped.

**395. Procedure if punishment cannot be inflicted under section 394.** (1) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion either remit such sentence or sentence the offender in lieu of whipping or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, or to a fine not exceeding five hundred rupees, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term or a fine or an amount exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

**396. Execution of sentence on escaped convicts.** (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death fine or whipping shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, or [imprisonment for life] shall take effect according to the following rules, that is to say:

(2) if the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

**Explanation.** For the purposes of this section:

(a) x x x x x

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

**[397. Sentence on offender already sentenced for another offence.** When a person already undergoing a sentence of imprisonment or imprisonment for life is sentenced to imprisonment, or imprisonment for life, such imprisonment, or imprisonment for life shall commence at the expiration of the imprisonment, or imprisonment for life to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.]

**398. Saving as to section 396 and 397.** (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment or to a sentence of [imprisonment for life], and the person undergoing the sentences is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, or [imprisonment for life] effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

**399. Confinement of youthful offenders in reformatories.** (1) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Provincial Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Provincial Government prescribes with regard to the discipline and training of persons confined therein.

(2) All persons confined under this section shall be subject to the rules so prescribed,

(3) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

**400. Return of warrant on execution of sentences.** When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

## CHAPTER XXIX - OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES