

ACT No. III OF 1884.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th January, 1884.)

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 25.

1. In section 25, after the words "British India" the following shall be inserted:—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving."

Addition to section 191.

2. To section 191 the following shall be added, namely:—

"When a Magistrate takes cognizance of an offence under clause (c), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session."

Amendment of section 443.

3. In section 443, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

Amendment of section 444.

4. In section 444, after the words "Court of Session" the words "except the Sessions Judge" shall be inserted.

Amendment of section 446.

5. (1) In section 446, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

(2) To

(2) To the same section the following shall be added, namely:—

“and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.”

6. Section 450 is hereby repealed.

Repeal of section 450.

7. For section 451 the following shall be substituted:—

New section substituted for section 451.

“451. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

Jury or assessors before High Court or Court of Session.

“(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.”

8. After section 451 the following shall be inserted, namely:—

New sections to follow section 451.

“451A. (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons case before he is heard in his defence under section 244, or in a warrant case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451.

Right of European British subject to claim jury before District Magistrate.

“(2) If a claim is made under sub-section (1) in a summons case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant

a warrant case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

“(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

“(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

“(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused, and the witnesses at every trial to be held under this section.

“(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

“(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

“(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.”

Transfer to  
another  
Court in  
certain cases.

“451.B. (1) If an accused person claims to be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances

circumstances of the case would be unreasonable; he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

“(2) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A.”

9. The last sixteen words of section 459 are hereby repealed; and in the same section, after the words “any Magistrate” the words “or any Judge presiding in a Court of Session” shall be inserted. Amendment of section 459.

10. In section 462, after the figures “460” the following shall be inserted, namely:—“or before the Court of a District Magistrate or Sessions Judge proceeding under section 451A or 451B.” Amendment of section 462.

11. (1) In section 526, after clause (d), the following shall be inserted, namely:— Amendment of section 526.

“or  
“(e) that such an order is expedient for the ends of justice.”

(2) In the same section, after clause (3), the following shall be inserted, namely:—

“or  
“(4) that an accused person be committed for trial to itself or to a Court of Session.”

12. After section 526 the following section shall be inserted, namely:— New section inserted after section 526.

“526A. If, in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers Adjournment on application under section 526.

of

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of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal."

Addition to section 528.

13. To section 528 the following shall be added, namely :—

"A Magistrate making an order under this section shall record in writing his reason for making the same."

Construction.

14. (1) In this Act, "section" means section of the Code of Criminal Procedure, 1882.

X of 1882.

(2) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

Short title and commencement.

15. This Act may be called the Criminal Procedure Code Amendment Act, 1884; and it shall come into force on the first day of May, 1884.