

THE JUDGMENT

1. Contents of a judgment:-

(i) ^[1] In all cases a judgment must be drawn up containing (1) the point or points for determination, (2) the decision thereon, and (3) the reasons for the decision. In case of a conviction, the judgment should separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them should be dealt with separately. In case of acquittal and if the accused is in confinement, a direction should be given to set the accused at liberty, unless such accused is in custody in any other case.

^[1] Rule 1(i) substituted vide correction slip no. vide C.S. no. 40 Rules/II.D4 dated 10.12.2021.

^[2] (i-a) Every judgment should contain the following:-

- a) Start with a preface showing the names of parties as per FORM 'A' appended at the end of this chapter.
- b) A tabular statement as per FORM 'B' appended at the end of this chapter.
- c) An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per FORM 'C' appended at the end of this chapter.

(i-b) In the judgment the accused, witnesses, exhibits and material objects should be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number should be indicated within brackets."

^[2] sub-rule (i-a) and (i-b) inserted vide C.S. no. 40 Rules/II.D4 dated 10.12.2021 }

(ii) Judgment should be dated, signed and pronounced in the presence of the accused:- The judgment should be written in the language of the Court or in English; it should be pronounced in open Court, and dated and signed by the presiding officer at the time it is pronounced. Except where the attendance of the accused has been dispensed with during the trial, and the sentence to be passed is one of fine only or when the judgment is one of acquittal the accused should be in attendance when judgment is pronounced. No Court has power to alter or review a judgment once signed except for the purpose of correcting a clerical error, or for the purpose of revising a sentence of whipping under sections 394 and 395 of the Code.

(iii) Judgment not written by the Magistrate:- When the judgment is not written by the presiding officer with his own hand every page of it shall be signed by him.

(iv) Pronouncement of judgment before a spell of holidays:- All cases in which an accused person is likely to be convicted and sentenced to imprisonment before a spell of four or more holidays should be decided at least two days before the commencement of the holidays and arrangements should be made for supply, free of cost, of copies in such

cases forthwith to the person convicted to enable him to apply for bail before the commencement of the holidays.

(v) Judgments not be written at home:- Magistrates should not write judgments at their houses during court hours even though they have no cases fixed for hearing.

(vi) Copy of judgment to be supplied to accused free of cost in some cases:- The judgment must be explained to the accused. In view of sub-section (4) of Section 371, Whenever an accused person is sentenced to imprisonment, then, without prejudice to the provisions of sub-sections (1) and (2) of that Section, a copy of the finding and sentence shall be given to the accused, free of cost, soon after the delivery of the judgment.

(vii) Accused sentenced to death to be informed about the right and period of appeal:- When the accused is sentenced to death and an appeal lies the Court should inform the accused of the period within which, if he wishes to appeal his appeal should be preferred.

(viii) ^[1] Numbering of paragraphs:- The judgment should be written in paragraphs and each paragraph should be numbered in seriatim. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

^[1] Rule (viii) substituted vide C.S. no. 40 Rules/II.D4 dated 10.12.2021 }

(ix) Sentences:- The question of sentence requires careful consideration in each case. The presiding officer should see that the sentence passed is legal and appropriate. For detailed instructions on the subject see Chapter 19, Sentences.

2. Criminal powers of the courts should be noted in the record and final order:- Every judicial Officer hearing, conducting or deciding a criminal proceeding, trial or appeal is responsible that the record and the final order in such criminal proceedings, trial or appeal shall disclose the criminal powers which such officer exercised in hearing or deciding such proceeding, trial or appeal.

3. Powers of various criminal court:- The powers referred to in the above rule are the following:-

- (a) Magistrate, third class.
- (b) Magistrate, second class.
- (c) Magistrate, first class.
- (d) Magistrate, empowered under section 30 of the Code of Criminal Procedure.
- (e) Additional District Magistrate. (f) District Magistrate.
- (g) Additional Sessions Judge.
- (h) Assistant Sessions Judge.
- (i) Sessions Judge.
- (j) Special Judge appointed under the Criminal Law Amendment Act,

1952 (XLVI of 1952).

- (k) Special Magistrates of first, second or third class.
- (l) Bench of Magistrates, first, second or third class.

4. Special powers to be noted on the record and final order:- When an officer exercises powers specially, conferred,-for example, the powers to try cases summarily, or the power to pass sentences of whipping in the case of a magistrate of the second class, the record and final order in any criminal proceeding or trial shall disclose the fact that such officer is specially empowered in that behalf.
5. Separate judgments in riot cases:- In riot cases in which members of opposite factions are separately tried, separate judgments should be record-ed. (For detailed instructions see Chapter 4, Trial of Riot Cases.)
6. Criticism on the conduct of police and other officers:- It is undesirable for Courts to make remarks censuring the action of police Officers unless such remarks are strictly relevant to the case. It is to be observed that the Police have great difficulties to contend with in this country, chiefly because they receive little sympathy or assistance from the people in their efforts to detect crime. Nothing can be more disheartening to them than to find that, when they have worked up a case, they are regarded with distrust by the courts; that the smallest irregularity is magnified into a grave misconduct and that every allegation of ill-usage is readily accepted as true. That such allegations may sometimes be true it is impossible to deny but on a closer scrutiny they are generally found to be far more often false. There should not be an over-alacrity on the part of Judicial Officers to believe anything and everything against the police; but if it be proved that the police have manufactured evidence by extorting confessions or tutoring witnesses they can hardly be too severely punished. Whenever a Magistrate finds it necessary to make any criticism on the work and conduct, of any Government servant he should send a copy of his judgment to the District Magistrate who will forward a copy of it to the Registrar, High Court, accompanied by a covering letter giving reference to the Home Secretary's circular letter No. 920-J- 36/14753, dated the 15th April, 1936. Similarly, Sessions Judges shall also send a copy of their judgment containing criticism of the work and conduct of police officers to the District Magistrate. They shall also send a copy of the judgment direct to the High Court accompanied by a covering letter giving reference to the High Court circular letter No 1585-Gaz. / XXXI-2, dated the 14th February , 1936.

Award of Compensation and Costs.

7. Award of Costs:- Certain of the costs incurred by a complainant in a complaint of a non-cognizable offence may he recovered from a convicted accused in the manner provided in section 546-A of the Code. The costs incurred in enforcing an order of a magistrate for the removal of a nuisance

may be recovered from the person against whom the order is made in the event of his disobeying the order. [Section 140(2)]. The costs incurred by any party in the proceedings relating to dispute as to immovable property under Chapter XII of the Code, may be awarded to him against any other party by the magistrate. [Section 148 (3)], and may be realised as if the amount awarded was a fine. (Section 547). The costs incurred in proceedings under sections 87 to 89 of the Code, in dealing with the property of persons absconding to avoid process, may be recovered from such property. (Section 89).

8. Application of fine towards costs and compensation:- When a fine is imposed by a criminal court, the Court may order the whole or any part of the fine recovered to be applied:-

(a) in defraying expenses properly incurred in the prosecution;

(b) in compensation for any loss or injury caused by the offence committed, where substantial compensation is, in the opinion of the Court; recoverable by civil suit.

(bb) in compensating the heirs of a person whose death has been caused by the offence tried when such heirs are entitled to recover damages under the Fatal Accidents Act, 1855, from the person convicted for the commission or abetment of the offence.

(c) in compensating a bona fide purchaser of stolen property (Section 545).

Compensation not to be paid until appeal decided:- If the fine is imposed in a case which is subject to appeal, the compensation must not be paid away until the period for appeal has elapsed, or, if an appeal is presented, before it is decided. Cases have occurred when the lower court has paid the compensation in ignorance of the fact that an appeal has been lodged and later on when an appeal the amount has been reduced or remitted, it has become impossible to obtain a refund from the complainants. Therefore, the lower courts should not pay compensation to the complainant until they are satisfied by examining the records of the case and making a reference to the appellate court that no appeal or revision has been lodged. Compensation so awarded must be taken into account in any subsequent civil suit relating to the same matter (sections 545 and 546 of the Code).

9. Award of compensation to accused:- (i) In the case of any offence triable by a magistrate and instituted upon complaint or upon information given to a Police Officer or to a magistrate, if the Court discharges or acquits all or any of the accused and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court by its order of discharge or acquittal, (a) if the complainant or informant is present, may call upon him forthwith to show cause why he should not pay compensation to

such or each of such accused or, (b) if he is not present, may direct the issue of a summons to him to appear and to show cause.

(ii). After recording and considering any cause, which may be shown, the magistrate if satisfied that the accusation was of the character aforesaid, may, for reasons to be recorded; direct the complainant or informant to pay to the accused or to each or any of them compensation not exceeding one half of the amount of fine that the magistrate is empowered to impose.

(iii). Simple imprisonment not exceeding thirty days may also be ordered in default of payment. An order for payment of such compensation shall not exempt the complainant or informant from any civil or criminal liability incurred by him by reason of his complaint or information, but any amount paid in obedience to such order must be taken into account in any subsequent civil suit relating to the matter.

(iv). An appeal is provided for in cases where the order is by a magistrate of the second or third class and where any other magistrate has ordered the payment of compensation exceeding Rs. 50. Where no appeal lies the amount of compensation shall not be paid to the accused person or persons until the expiration of one month from the date of the order. In other cases it shall not be paid until the period allowed for appeal has elapsed or the appeal has been decided. (Section 250 of the Code as amended by Act 26 of 1955).

(v). If this provision of the law is enforced with discretion, it may be expected largely to reduce the number of groundless and frivolous complaints filed. In fixing the amount of compensation awarded, the Court should be careful to consider the position of the accused as well as that of the complainant. Excessive amounts should not be awarded.

Compounding of offences

10. Acquittal of accused when offence is compounded:- The compounding of an offence under section 345 of the Code of Criminal Procedure, with or without the permission of the Court, has, the effect of an acquittal. In such cases, no judgment on facts is needed, but the statement of all the parties concerned must be recorded and in cases where permission of the Court is necessary for compounding the offence the reasons for granting permission should be stated in the order directing the acquittal of the accused.

Act 26 of 1955 has added certain offences to the table given in sub-section (2) of Section 345 of the Code so that a much larger number of offences can now be compounded with the permission of the Court. Thefts and Criminal breaches of trust of property of a value not exceeding rupees two hundred and fifty and fraudulent executions of deeds and dispositions of property to save it from creditors or for other ulterior purposes and mischiefs to cattle and animals where the value is small and certain other offences may now be compounded with the Court's permission.

11. Compounding of cases of grievous hurt should be discouraged:- There is

a growing tendency to allow cases of grievous hurt to be compounded, and from inquiries made it appears that in most districts magistrates are too prone to allow cases of the kind enumerated in section 345(2) of the Code of Criminal Procedure to be compounded, when the complainant asks for it. In some instances this may be due to ignorance of the fact that the law allows the Courts discretion to grant or refuse permission to compound, but there are indications that it is sometimes due to the desire of magistrates to get the cases disposed of as quickly as possible. The effect of this practice must clearly be bad, and in districts where the people are naturally turbulent and addicted to settling their disputes by force it must encourage crimes of violence.

12. Points to be remembered before a compromise is permitted:- The facts of the each case require careful consideration before a compromise is permitted. In particular, the following points should be considered: -

- (a) Whether the assault was premeditated.
- (b) Whether it, was provoked in any way by the complainant?
- (c) The nature and extent of the injury inflicted.
- (d) The nature of the weapon or means used.
- (e) Whether the compromise is the result of a genuine reconciliation, or caused by undue pressure on the complainant.
- (f) The relationship, if any, between the parties.
- (g) The extent to which violent crime is prevalent in the locality.

In districts where crime of violence are common, the interests of society demand that permission to compound should ordinarily be refused when serious Injury has been caused, and a deterrent sentence of imprisonment should be awarded, except when the assault has been provoked by any act of the person injured. In every case in which a magistrate allows the parties to compromise, his reason should be recorded in his order.

FORM 'A'

IN THE COURT OF Present: Sessions Judge [Date of the Judgment] [Case No...../20...] (Details of FIR/Crime and Police Station)	
COMPLAINANT	STATE OF..... OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY	NAME OF THE ADVOCATES

FORM 'B'

Date of Offence	
Date of FIR	
Date of Chargesheet	
Date of Framing of Charges	
Date of commencement of evidence	
Date on which judgment is reserved	
Date of the Judgment	
Date of the Sentencing Order, if any	

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.PC

FORM 'C'**LIST OF PROSECUTION/DEFENCE/COURT WITNESS****A. Prosecution**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	
2	Exhibit P-2/PW2	

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW1	

2	Exhibit D-2/DW2	
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C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

D. Material Objects:

Sr. No.	Material Object Number	Description
1	MO1	
2	MO2	

{ Form 'A', 'B' and 'C' inserted vide C.S. no. 40 Rules/II.D4 dated 10.12.2021 }