

**CHAPTER XI.**  
**Criminal Business.**

**A-General.**

1. (a) The Rules in Chapter IV shall apply, as far as possible, to applications made under this Chapter.

(b) The functions of the Registrar under this Chapter, except those mentioned in rule 18, may be performed by any Gazetted Officer, who may from time to time, be placed in charge of the Criminal Section.

2. A copy of every notice issued on admitting an appeal, also copies of notices issued on receipt of references under Sections 307 and 374, Criminal Procedure Code, and in all other classes of criminal cases (except revision cases) in which the Court directs the issue of notice, shall be sent to the Superintendent and Remembrancer of Legal Affairs.

<sup>1</sup>[Provided that in an appeal under the Foreign Exchange Regulation Act, 1947 (Act VII of 1947) a copy of such notice shall also be sent to the Governor State Bank of Pakistan and the Secretary to the Government of Pakistan, Ministry of Finance].

3. On every Saturday <sup>2</sup>[at the end of each fortnight] the Registrar shall cause to be prepared and posted on the Notice Board a List of the cases which are likely to be ready for hearing during the following <sup>2</sup>[fortnight]. This list shall be called the <sup>2</sup>["Fortnightly] Cause List" and shall contain the cases in which the paper-books are ready or likely to be ready during the following <sup>2</sup>[fortnight].

4. From this List the Registrar shall cause to be prepared every day a list of cases for hearing on the following day and shall cause them to be entered in the Daily Cause List.

5. The Registrar shall cause to be prepared and posted every morning on the General Notice Board outside the Court where the Senior Judge of the Bench, taking undefended criminal cases, sits, a type-written copy of the list of such cases as are ready for hearing. In the last column of this list shall be shown the date when a case was entered for the first time in the list, and no case shall be heard until the expiry of 7 days from the date of such entry. This list shall be called the "Undefended Cause List."

6. In all criminal cases coming before the High Court on appeal, reference or revision, 10 days' time shall be given for calling for the records and service of notices, and the provisional date of hearing shall be fixed 15 days from the date of the issue of the notices or as soon as thereafter as the business of the Court permits.

7. (a) In every case (i) in which an accused person is ordered by the High Court to be released (whether from jail or from bail) or to surrender to his bail to serve out the sentence of imprisonment imposed upon him on being convicted by the High Court on reference or on appeal by the Provincial Government, or on the dismissal of an appeal made by him, or (ii) in which the capital sentence is confirmed, modified, set aside or passed on an accused person by the High Court, the necessary order shall be sent down to the Lower Court in Form ,No. I (Criminal) Appendix II, without waiting for the judgment to be signed:

Provided that if it is not possible to obtain the signature or signatures of the judge or judges on the day on which the order is passed, the matter should immediately be brought to the notice of the Registrar. If one Judge of a Bench has signed the order the substance of it shall be communicated to the Lower Court immediately with a note that the copy of the order proper will follow.

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<sup>1</sup> Added by file no. 1P-5/1961.

<sup>2</sup> The words "at the end of each fortnight" were added and the words "fortnight" and "fortnightly" were substituted for the word "week" and "weekly" respectively by Notification No. 3190-G, The Dacca Gazette, September 09, 1971.

(b) Orders for the release of an accused person from jail or from bail or for his surrender to bail shall not be communicated by telegram, telephone or radiogram.

8. In cases in which an accused person makes an application to the High Court for the transfer of his case from one Court to another, the accused person, or the Advocate acting on his behalf, shall file with the application a receipt showing that a notice of the application has been given to the Superintendent and Remembrancer of Legal Affairs in accordance with the provisions of Section 526, clause (6), Criminal Procedure Code, and such receipt of notice must bear the signature of a responsible officer in the office of the Legal Remembrancer, also the office seal acknowledging receipt of the notice and noting the time of receipt.

9. Unless the Court otherwise directs, an application which is presented to the Court shall, in the first instance, be given to the Bench Clerk, who shall satisfy himself that it is properly stamped, and is in proper and regular form. If he is not so satisfied he shall return, it at once to the Advocate concerned.

*B - Cases involving Capital Sentences.*

10. On receipt, of a reference under Section 307 of the Criminal Procedure Code in which the accused is charged with the offence of murder, or a reference under Section 374 of the Code, or under Section 3, sub-section (2) of the Bengal Criminal Law Amendment (Supplementary) Act, 1925 or on the admission of an appeal under Section 417 of the Criminal Procedure Code against the acquittal of an accused on a charge of murder, the Registrar shall at once give notice in Forms Nos. 2, 3 and 4 (Criminal) Appendix II, to the prisoner or the accused through the District Magistrate or Deputy Commissioner, as the case may be, of the date fixed for hearing of such matter, which date shall be determined in accordance with rule 6 of this Chapter.

11. After notice has been given in the manner prescribed by rule 10 above, the Registrar shall cause the record to be examined and entered in the prescribed Registers.

12. If the record is in order, the Registrar shall at once cause the record of the Sessions Court to be printed without delay for the use of the Division Court at the hearing.

<sup>1</sup>[Explanation: In this Rule the word “print” includes computer print or print by other means].

<sup>2</sup>[13. The paper-book shall contain the following papers:-

- (a) the first information, if any; m
- (b) statement under section 164, if any;
- (c) police report;
- (d) charge;
- (e) examination under sections 342 & 346, if any;
- (f) *post mortem* report, Chemical Examiner's report, Inquest report (if any), injury report and Map (if any);
- (g) the order-sheet and the record of evidence in the Court of Sessions/Tribunals with further examination under section 364, if any;
- (h) the judgment of the Sessions Judge/Judges of the Tribunals;
- (i) exhibits (if any), but if in an appeal filed by an Advocate it is agreed upon by such Advocate and the Deputy Attorney General (Criminal) that some exhibits or parts of exhibits might be omitted, the omitted portion may be excluded from the paper book;
- (j) petition of appeal (if any); and
- (k) the letter of reference in the case of a reference].

<sup>1</sup> Added by Notification No. 11308-G, The Bangladesh Gazette, April 1, 2004

<sup>2</sup> Rule 13 was substituted by rule 13 by Notification No. 11308-G, The Bangladesh Gazette, April 1, 2004

14. Ordinarily 20 copies of the paper-book shall be printed, 8 copies of which shall be for the use of the High Court and 12 copies to be preserved in a sealed cover in the Criminal Section for the use of the Supreme Court in the event of a Supreme Court appeal being filed. Immediately on receipt of the paper-book the Registrar shall cause two copies to be sent to the Superintendent and Remembrancer of Legal Affairs. If spare copies of the printed paper-books are available and parties, other than the accused, apply for them, they may be sold at the rate of six annas per page, subject to a maximum charge of Rs.20 .per paper-book.

15. In any case in which a sentence of death has been confirmed or passed by the Division Court, two copies of the printed paper-book of the case, together with two copies of the judgment of the Division Court shall be forwarded to the Provincial Government immediately after the issue of the warrant, confirming the sentence.

### *C.-Appeals.*

16. A criminal appeal, other than a jail appeal, shall be presented to the Registrar.

17. The Registrar shall endorse on such petition of appeal, the date of presentation, and if the petition of appeal is not barred by limitation, is sufficiently stamped and is otherwise in order, he shall cause it to be registered and laid before the Bench without delay.

18. If the Registrar finds that an appeal is barred by limitation, he shall forthwith lay the same before the Court for orders, If he finds that the Memorandum of Appeal is insufficiently stamped, or is not in proper order, he shall upon the matter being laid before him.

(a) in the case of a memorandum which is insufficiently stamped, fix a period within which the additional fee required may be paid provided that the period of limitation has not expired; or if such period has expired, lay the memorandum before the Court for orders;

(b) in the case of a memorandum which is not in proper form, fix a period within which such memorandum must be amended or lay the same, before the Court for orders,

19, When an appeal has been admitted, the Registrar shall send for the record, fix a date for hearing, and cause notices to issue in Forms 5, 5A and 6 (Criminal) Appendix II. .

20. In every case in which notice has been issued on the appellant that an appeal will be heard, the Registrar shall, on receipt of the record from the Lower Court, have prepared two typed copies of the record of the proceedings of the Court., whose sentence or order is under appeal, for the use of the Division Court at the hearing:

Provided that no copies need be made by him of the record (i) in case where no lawyers appear; (ii) in case in which the appeal is admitted on the question of sentence only; and (iii) in cases of appeals or applications to be heard by a single Judge under the proviso to rule 7, Chapter II of these Rules.

*Note.-*The papers forming the “A” file of the Sessions record, the Injury Report and Maps, if any and the petition of appeal to the High Court, shall always be incorporated in the paper-book. <sup>1</sup>[The paper-book shall include the dying declaration and confessional statement, if any, proved in the case but no other exhibit shall be incorporated unless so directed by the Division Court].

21. Jail appeals may be received by post. In the case of such appeals the Registrar shall cause a translation of the petition of appeal to be prepared (if necessary) and shall submit it to the Bench for orders.

22. If a Jail appeal is admitted, it shall be dealt with in the manner prescribed for appeals which are filed in Court.

*D.- Revisions and References.*

23. Cases (other than those mentioned in the preceding rules) may be taken up in revision in the following way:-

- (a) Upon a report by a Magistrate or Sessions Judges;
- (b) Upon a petition presented to a Bench; and
- (c) Upon an order by a Judge on perusal of a Sessions statement.

24. Every report with a record received from a Magistrate or Sessions Judge shall be examined to see if it complies with the instructions of the High Court to Magistrates and Sessions Judges and is in proper form.

25. If such report complies with the instructions and is in proper form, the Registrar shall place the case before the Division Court.

26. Unless otherwise ordered, no copies need be made of the records-

- (1) in case where no pleaders appear;
- (2) in case where pleaders appear--
  - (a) where a rule is granted, or a reference is made on a question of sentence or jurisdiction only; and
  - (b) where a rule or reference is confined to matters appearing in a judgment.

<sup>2</sup>[*Note- Except as provided above the paper-book shall include the petition and affidavit filed in the High Court, the Court’s order issuing the rule and Magistrate’s explanation, if any, and the documents comprising the “A” filed of the lower Court or Courts, if the rule issued is one for enhancement of sentence or setting aside an order of acquittal*”].

27. The Provisions of Part C of this Chapter shall apply as far as possible to applications for revision.

<sup>1</sup> Substituted by file no. 4R-8/64.

<sup>2</sup> Substituted by Notification No. 2665-G, The Dacca Gazette (Extraordinary), May 15, 1968.

28. All applications for orders, under clauses (a), (b), (c), (e) and (f) of Section 491 of the Criminal Procedure Code or for directions, orders, or writs in the nature of Habeas corpus under <sup>1</sup>[Art 98] of the Constitution shall be made before the Division Bench taking the Criminal business of the Appellate Jurisdiction of the High Court.

29. Such applications shall be made by Advocate.

30. Applications for order under clauses (a), (b), (c), (e) and (f) of Section 491 of the Criminal Procedure Code shall be made on petition duly verified by affidavit setting forth the circumstances under which the order is sought.

31. Where the application is for an order under clause (c) of Section 491 of the Criminal Procedure Code it shall be stated where the prisoner is detained and for what purpose his evidence is required.

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<sup>1</sup> The word and figure "Art 98" were substituted for the word and figure "Art 170" by Notification No. 4259-G, The Dacca Gazette, July 29, 1968.

32. Where an order under clause (d) of Section 491 of the Criminal Procedure Code is required the Court-martial or the Commissioners may send an application to this Court in writing and in such a case an affidavit shall not be required. The application shall be in the form of a letter addressed to the Registrar, stating the purpose for which the said Court-martial has been assembled or the authority under which the said Commissioners are acting, and also stating where the prisoner is detained in custody, and when, where, and for what purpose he is required to be produced. It shall be the duty of the Registrar to submit the letter, as soon as possible after the receipt thereof, to, and to obtain the order thereon, of the judges presiding over the Criminal Bench of this Court.

33. Where the application is for an order under clause (e) of Section 491 of the Criminal Procedure Code, notice of the application shall be served on the prisoner and it shall be stated in the affidavit where the prisoner is detained in custody, to what other custody it is proposed to remove him and the reason for such change of custody.

34. Where the application is for an order under clause (f) of Section 491 of the Criminal Procedure Code, the return to the warrant of arrest shall be produced. The officer having the custody of the return shall cause the same to be produced before the Court on a requisition to him in writing.

35. In any case in which the Court shall order a person in custody to be brought either before it, or before a Court-martial, or before Commissioners; or to be removed from one custody to another, a warrant shall be prepared and signed by the Registrar and sealed with the seal of the Court.

36. Such warrant where issued under rule 32 above, shall be forwarded by the Registrar to the Officer-in-Charge of the Jail in which the prisoner is confined; in every other case the warrant shall be served personally upon the person to whom it is directed or otherwise as the Court shall order.

37. Where the application is to bring up before the Court a person in custody under a warrant to detain such person, a copy of the warrant under which he is detained, obtained from and authenticated by the signature of the person in whose custody the applicant is, shall be produced to the Court, or it shall be shown by affidavit that it has been asked for, and denied.

38. Where the Court is of opinion that a *prima facie* case for granting the application is made out, a *rule nisi* may be issued calling upon the person, or persons against whom the order is sought to appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

39. On the return day of such rule or on any day to which the hearing thereof may be adjourned, where no cause is shown, or where cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty or delivered to the person entitled to his or their custody. Where cause is allowed the rule shall be discharged.

40. In disposing of any such rule the Court may in its discretion make an order for the payment by one side or the other of the costs of the rule.

41. The forms of warrants Nos. 7 to (Criminal) in Appendix II, shall be followed.