

PART F.—EXECUTION BY ARREST AND IMPRISONMENT.

1. The law regarding arrest and imprisonment is contained in Section 51, 55 to 59, 135, 135-A and 136 Order XXI, Rules 21, 37 to 40, Order 38, rules 1 to 4 of the Civil Procedure Code and the Punjab Relief of Indebtedness Act, Section 34.

References.

2. A woman is exempt from arrest or detention in execution of a decree for money. (Section 56 of the Code.)

Persons exempted from arrest..

For other persons exempt from arrest under Civil Procedure Code see Sections 135 and 145-A of the Code

For exemption on the grounds of illness see Section 59.

3. In view of the amendments made in Order XXI Rule 37 of the Code by Act XXI of 1936 the Court shall issue a notice to the judgment debtor before issuing a warrant of his arrest in execution of the decree unless the Court is satisfied, by affidavit or otherwise that the judgment-debtor is likely to abscond or leave the limits of the jurisdiction of the court with the object or effect of delaying the execution of the decree. Under section 34 of the Punjab Relief of Indebtedness Act as substituted by Punjab Act X11 of 1940, no debtor as defined in that Act shall be arrested or imprisoned in execution of a decree from money.

Present Law of arrest.

4. A judgment-debtor against whom no act of bad faith is proved can obtain his discharge as an insolvent under Act V of 1920; whenever a judgment-debtor is to be committed to jail, he should be informed that he may apply to be declared insolvent (Section 55(3) of the Code).

Judgment-debtor should be asked whether he wants to be declared insolvent.

5. A judgment-debtor cannot be arrested in execution of a decree unless and until the decree-holder has paid into Court such sum as the judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court. When the judgment-debtor is committed to the Civil prison, the Court must fix such monthly allowance for the subsistence of the judgment-debtor as it thinks fit. The first payment shall be made by the decree-holder to the proper officer of the Court for such portion of the current month as remains unexpired at the time. All subsequent payments

Expenses of arrest and imprisonment.

must be made to the officer-in-charge of the Civil prison in advance before the first day of each month. (order XXI, Rule 39, Civil Procedure Code).

Sums disbursed by the decree-holder for the subsistence of the judgment-debtor shall be deemed to be costs in the suit (Vide Order XXI, Rule 39(5), Civil Procedure Code as amended by the Punjab High Court.)

Arrest during
vacation.

6. Warrants of arrest should be held in suspense during the September Vacation.