

CHAPTER 30

Judicial Powers – Criminal.

PART A.-POWERS OF CRIMINAL COURTS

The constitution and powers of the Criminal Courts are regulated by Chapters II and III, and Schedules III and IV, of the Code of Criminal Procedure. Column 8 of Schedule II of the Code indicates the class of Court competent to try each offence falling under the Indian Penal Code. In regard to offences falling under Local and Special Laws, the classes of courts by which such offences are triable are usually specified in the Act creating the offences. Where, in any such Act, the term 'Magistrate' is used without qualification, it includes all persons exercising all or any of the powers of a Magistrate under the Code. (*vide* section 2(32) of the Punjab General Clauses Act, 1898 or section 3(32) of the General Clauses Act, 1897.)

Powers defined in the Criminal Procedure Code and other Acts.

2. The general powers which Magistrates are entitled to exercise in addition to those conferred upon them by sections 32 and 33 of the Code will be found in the third and fourth Schedules of the Code. Besides their ordinary powers detailed in the third Schedule Magistrates of the first class may (1) require security for good behaviour under section 110, and (2) issue process for a person who within local jurisdiction has committed an offence outside such local jurisdiction section 186 (Punjab Government Notification No. 507, dated 5th April, 1904). The same notification empowers all Magistrates of the first and second classes (1) to make orders prohibiting repetitions of nuisances, section 143; (2) to make order under section 144 as regards nuisances; and (3) to take cognizance of offences upon information section 190. All Magistrates are empowered to take cognizance of offences upon (1) Complaint or (2) Police report, section 190.

Special powers.

3. For powers conferred by the State Government upon certain classes of officers, either under the Code of Criminal Procedure or any other Act, See Schedule A and B attached to this order.

Powers conferred by Government.

SCHEDULE A - MAGISTERIAL POWERS

Serial No.	Officer	Powers conferred	Limits	No. and date of Government Notification
1	Registrar, High Court, Punjab	Magistrate, 1 st Class	Within the limits of High Court building and compound	No.1004, dated 26 th July, 1897
2	Tahsildars (Permanent or Temporary)	Magistrates, 2 nd Class	Within the limits of any District to which the person may be posted	No.1081, dated 24 th August, 1910
3	Assistant Commissioners and Extra Assistant Commissioners (not invested with any higher powers)	Ditto	Ditto	No.3, dated 2 nd January, 1889
4	Naib-Tehsildars holding the office of Naib-Tehsildar of a Sub-Tahsil.	Ditto	Ditto	No.28643-Gaz., dated the 28 th August, 1935
5	Naib-Tahsildars (Permanent)	Ditto	Ditto	No.1536, dated 8 th November, 1899
6	Settlement Tahsildars employed in the work of colonization or settlement	Magistrates, 3 rd Class	Within the limits of any district or districts in which the Person may from time to time be employed, and only for the purposes of disposing of complaints brought by or against members of the District and settlement of Colony Establishment working under their orders.	No.1108, dated 13 th September, 1904

Note.-Permanent Naib-Tehsildars will, under serial No.4, exercise 3rd Class Magisterial powers. Officiating Naib-Tahsildars will not ordinarily be re-invested, but if likely to continue to act for a considerable period, an Officiating Naib-Tahsildar who has passed the prescribed examination, may be specially recommended.

SCHEDULE B- SPECIAL PROCESS

Serial No.	Officer	Powers conferred	Limits	No. and date of Government Notification
1	Registrar, High Court, Lahore	To try summarily under section 260, Criminal Procedure Code of 1882, Offences against the Police Act.	Within the limits of High Court building and compound	No.1005, dated 26 th July, 1897
2	All Magistrates, 1 st Class	<p>I. To require security for good behavior (Section 110, Criminal Procedure Code)</p> <p>II. To make orders as to local nuisances (Section 132)</p> <p>III. To issue process for persons within local jurisdiction who has committed and offence outside the local jurisdiction(section 186)</p> <p>IV. To spell property alleged or suspected to have been stolen (section524)</p>		No.507, dated 5 th April, 1904
3	All Magistrates of the 1 st and the 2 nd Classes	<p>(i) To make order prohibiting re-petition of nuisances (section 143)</p> <p>(ii) To make orders under section 144</p> <p>(iii) To hold inquests (section 174)</p> <p>(iv) To make cognizance of offences upon information received from any person other than police officer or upon their own knowledge or suspicion [section 190(1)(c)]</p>		No.507, dated 5 th April, 1904

SCHEDULE B- CONCLUDED

Note.-All the powers mentioned in serial numbers 2 to 5 will be exercised subject to the general control of the District Magistrates..			
Serial No.	Officer		Notification
4	All Magistrates	To take cognizance of offences upon complaint or police report [Section 190(i)(a) and (b)]	No.507, dated 5 th April, 1904
5	All Sub-Divisional Magistrates	To call for records(Section 435)	Ditto
6	All Magistrates, 1 st Class	Powers mentioned in Section 8(1) of the reformatory School Act, 1897	No.576, dated 7 th January, 1924
7	All stipendiary Magistrates, 2 nd Class	Powers to authorised the detention of accused persons in the custody of the police under Section 167 (2) of the Code of Criminal Procedure)	No.11984, dated the 4 th January, 1924
8	All District Magistrates	Power to withdraw classes of cases from the Magistrate subordinate to them (section 528 of the Code of Criminal Procedure)	No.101, dated the 3 rd February, 1883
9	All Magistrates, 2 nd Class	Powers to take exercise all or any of the Powers conferred upon a court by the provisions of Section 562 of the Code of Criminal Procedure.	No.431 (Home Judl.), dated the 18 th April, 1910