

## CHAPTER II

### CONSTITUTION OF CRIMINAL COURTS AND OFFICES

**6. Classes of Criminal Courts.**—Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:—

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates.

**7. Territorial divisions.**—(1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions divisions shall, for the purposes of this Code, be a district or consist of districts:

Provided that every metropolitan area shall, for the said purposes, be a separate sessions division and district.

(2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.

(3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

(4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, shall be deemed to have been formed under this section.

**8. Metropolitan areas.**—(1) The State Government may, by notification, declare that, as from such date as may be specified in the notification, any area in the State comprising a city or town whose population exceeds one million shall be a metropolitan area for the purposes of this Code.

(2) As from the commencement of this Code, each of the Presidency-towns of Bombay, Calcutta and Madras and the city of Ahmedabad shall be deemed to be declared under sub-section (1) to be a metropolitan area.

(3) The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area but the reduction or alteration shall not be so made as to reduce the population of such area to less than one million.

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State Government may, by notification, specify in this behalf, cease to be a metropolitan area; but notwithstanding such cesser, any inquiry, trial or appeal pending immediately before such cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

(5) Where the State Government reduces or alters, under sub-section (3), the limits of any metropolitan area, such reduction or alteration shall not affect any inquiry, trial or appeal pending immediately before such reduction or alteration before any Court or Magistrate, and every such inquiry, trial or appeal shall continue to be dealt with under this Code as if such reduction or alteration had not taken place.

*Explanation.*—In this section, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

### STATE AMENDMENT

#### Delhi

In its application to the National Capital Territory of Delhi, in section 8,—

- (a) in sub-section (1), for the words “a city or town”, substitute “a city or town or part thereof”;

(b) for sub-section (3), substitute the following sub-section, namely:—

“(3) The State Government may, by notification divide a metropolitan area into two or more such areas or extend or reduce or alter the limits of a metropolitan area:

Provided that—

(a) the division of metropolitan area shall not be so made as to result in the population of any of the areas into which it has been divided being less than one million; and

(b) the reduction or alteration of metropolitan area shall not be so made as to reduce the population of such area to less than one million.”;

(c) after sub-section (4), insert the following sub-section, namely: —

“(4-A) Where any metropolitan area is divided under sub-section (3), the High Court may issue such directions as it deems fit with respect to the disposal of the proceedings pending immediately before such division before any Magistrate or court having jurisdiction in respect of such area.”

[*Vide* Delhi Act 9 of 2011, s. 2.]

**9. Court of Session.**—(1) The State Government shall establish a Court of Session for every sessions division.

(2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.

(3) The High Court may also appoint Additional Sessions Judges and Assistant Session Judges to exercise jurisdiction in a Court of Session.

(4) The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

(5) Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.

(6) The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.

*Explanation.*—For the purposes of this Code, “appointment” does not include the first appointment, posting or promotion of a person by the Government to any Service, or post in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

## STATE AMENDMENT

### West Bengal.—

To sub-section (3) of section 9 of the principal Act, the following provisos shall be added:—

Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a sub-division, other than the sub-division, by whatever name called, wherein the headquarters of the Sessions Judges are situated, exercising jurisdiction in a Court of Session, shall have all the powers of the Sessions Judge under this Code, in respect of the cases and proceedings in the Criminal Courts in that sub-division, for the purposes of sub-section (7) of section 116, sections 193 and 194, clause (a) of section 209 and sections 409, 439 and 449:

Provided further that the above powers shall not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code.”.

[*Vide* West Bengal Act, 24 of 1988, s. 3.]

### Orissa

**Amendment of section 9.**—In Section 9 of the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the principal Act), to sub-section (3), the following provisions shall be added, namely:—

“Provided that notwithstanding anything to the contrary contained in this Code, an Additional Sessions Judge in a district or subdivision, other than the district or subdivision, by whatever name called, wherein the headquarters of the Sessions Judge are situated, exercising jurisdiction in a Court of Sessions shall have all the powers of the Sessions Judge under this Code, in respect of the cases and the proceedings in the Criminal Courts in that district or subdivision for the purposes of sub-section (7) of section 116, sections 193 and 194, clause (a) of section 209 and sections 409 and 449:

Provided further that the above powers shall be not be in derogation of the powers otherwise exercisable by an Additional Sessions Judge or a Sessions Judge under this Code.”

[*Vide* Orissa Act 6 of 2004, s. 2]

**10. Subordination of Assistant Sessions Judges.**—(1) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction.

(2) The Sessions Judge may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges.

(3) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and every such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

**11. Courts of Judicial Magistrates.**—(1) In every district (not being a metropolitan area) there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification, specify:

<sup>1</sup>[Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.]

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of

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1. Added by Act 45 of 1978, s. 3 (w.e.f. 18-12-1978).

a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

## STATE AMENDMENT

### Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep

In the Code, as it applies to the Union Territories to which this regulation extends, in sub-section (3) of section 11, for the words “any member of the judicial service of the state functioning as a judge in a civil court”, the words “any person discharging the functions of a civil court”, shall be substituted.

[*Vide* The Code of Criminal Procedure (Amendment) Regulation, 1974 Act (1 of 1974), s. 4.]

**12. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.—**(1) In every district (not being a metropolitan area), the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate.

(2) The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(3) (a) The High Court may designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(b) Subject to the general control of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise, such powers of supervision and control over the work of the Judicial Magistrates (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

**13. Special Judicial Magistrates.—**(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate <sup>1</sup>[of the first class or of the second class, in respect to particular cases or to particular classes of cases, in any local area, not being a metropolitan area:]

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

<sup>2</sup>[(3) The High Court may empower a Special Judicial Magistrate to exercise the powers of a Metropolitan Magistrate in relation to any metropolitan area outside his local jurisdiction.]

## STATE AMENDMENT

### Assam

**For section 13 of the Code, the following shall be substituted, namely:—**

“13. (1) The State Government may appoint as many persons as it thinks fit to be sub divisional Magistrates in any district in the State of Assam.

(2) The State Government, or subject to the control of the State Government, the District Magistrate may place one or more Sub divisional Magistrates in charge of a subdivision”.

[*Vide* Assam Act 13 of 1964, s. 2.]

1. Subs. Act 45 of 1978, s. 4, for certain words (w.e.f. 18-12-1978).

2. Ins. by s. 4, *ibid.* (w.e.f. 18-12-1978).

## Himachal Pradesh

**Amendment of Section 13.**— in Sub-section (1) of section 13 of the Code of Criminal Procedure, 1973 (2 of 1974) in its application to the State of Himachal Pradesh for the words “in any district” the words “in any local area” shall be substituted.

[*Vide* Himachal Pradesh Act 40 of 1976, s. 2.]

**14. Local jurisdiction of Judicial Magistrates.**—(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code:

<sup>1</sup>[Provided that the Court of Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.]

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

<sup>2</sup>[(3) Where the local jurisdiction of a Magistrate, appointed under section 11 or section 13 or section 18, extends to an area beyond the district, or the metropolitan area, as the case may be, in which he ordinarily holds Court, any reference in this Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area.]

**15. Subordination of Judicial Magistrates.**—(1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2) The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Judicial Magistrates subordinate to him.

**16. Courts of Metropolitan Magistrates.**—(1) In every metropolitan area, there shall be established as many Courts of Metropolitan Magistrates, and at such places, as the State Government may, after consultation with the High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

**17. Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate.**—(1) The High Court shall, in relation to every metropolitan area within its local jurisdiction, appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such metropolitan area.

(2) The High Court may appoint any Metropolitan Magistrate to be an Additional Chief Metropolitan Magistrate, and such Magistrate shall have all or any of the powers of a Chief Metropolitan Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

**18. Special Metropolitan Magistrates.**—(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases <sup>3\*\*\*</sup>, in any metropolitan area within its local jurisdiction:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Metropolitan Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

<sup>4</sup>[(3) The High Court or the State Government, as the case may be, may empower any Special Metropolitan

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1. Added by Act 45 of 1978, s. 5, (w.e.f. 18-12-1978).

2. Ins. by s. 5, *ibid.* (w.e.f. 18-12-1978).

3. The words “or to cases generally” omitted by s. 6, *ibid.*, (w.e.f. 18-12-1978).

4. Subs. by Act 45 of 1978, s. 6, for sub-section (3) (w.e.f. 18-12-1978).

Magistrate to exercise, in any local area outside the metropolitan area, the powers of a Judicial Magistrate of the first class.]

**19. Subordination of Metropolitan Magistrates.**—(1) The Chief Metropolitan Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions Judge; and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

(2) The High Court may, for the purposes of this Code, define the extent of the subordination, if any, of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate.

(3) The Chief Metropolitan Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

**20. Executive Magistrates.**—(1) In every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have <sup>1</sup>[such] of the powers of a District Magistrate under this Code or under any other law for the time being in force <sup>2</sup>[as may be directed by the State Government].

(3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of the State Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

<sup>3</sup>[(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.]

(5) Nothing in this section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a metropolitan area.

**21. Special Executive Magistrates.**—The State Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates, for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates, as it may deem fit.

**22. Local Jurisdiction of Executive Magistrates.**—(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

**23. Subordination of Executive Magistrates.**—(1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with

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1. Subs. by Act 45 of 1978, s. 7, for “all or any” (w.e.f. 18-12-1978).

2. Ins. by s. 7, *ibid*, (w.e.f. 18-12-1978).

3. Ins. by Act 25 of 2005, s. 2 (w.e.f. 23-6-2006).

this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

<sup>1</sup>[**24. Public Prosecutors.**—(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or State Government, as the case may be.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case or class of cases in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything contained in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

<sup>2</sup>[*Explanation.*—For the purposes of this sub-section,—

(a) “regular Cadre of Prosecuting Officers” means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) “Prosecuting Officer” means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.]

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

<sup>3</sup>[Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.]

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as a pleader, or has rendered (whether before or after the commencement of this Code) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person

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1. Subs. by Act 45 of 1978, s. 8, for section 24 (w.e.f. 18-12-1978).

2. Ins. by Act 25 of 2005, s. 3 (w.e.f. 23-6-2006).

3. Ins. by Act 5 of 2009, s. 3 (w.e.f. 31-12-2009).

has been in practice as an advocate.]

## STATE AMENDMENT

### Karnataka

**Amendment of section 24.-** In section 24 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) (hereinafter referred to as the principal Act) in sub-section (1),—

(i) the words and punctuation mark “or the State Government shall”, shall be omitted; and

(ii) for the words “appoint a Public Prosecutor” the words “or the State Government shall appoint a Public Prosecutor” shall be substituted.

[*Vide* Karnataka Act 20 of 1982, s. 2.]

### Maharashtra

**Amendment of section 24.-** In Section 24 of the Code of Criminal Procedure, 1973, (2 of 1974) in its application to the State of Maharashtra:—

(a) in sub-section (6), the proviso shall be deleted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6-A) Notwithstanding anything contained in sub-section (6), the State Government may, subject to the provisions of sub-sections (4) and (5), appoint a person who has been in practice as an advocate for not less than seven years, as the Public Prosecutor or Additional Public Prosecutor for the district.”.

[*Vide* Maharashtra Act 33 of 2014, s. 2.]

### Madhya Pradesh

**Amendment of Section 24.—**In Section 24 of the principal Act.—

(i) in sub-section (6), for the words, “brackets and figure “Notwithstanding anything contained in sub-section (5)”, the words, brackets, letter and figures “Notwithstanding anything contained in sub-section (5), but subject to the provisions of sub-section (6-A)” shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978;

(ii) after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978, namely:—

“(6-A) Notwithstanding anything contained in sub-section (6), the State Government may appoint a person who has been in practice as an advocate for not less than seven years as the Public Prosecutor or Additional Public Prosecutor for the district and it shall not be necessary to appoint the Public Prosecutor or Additional Public Prosecutor for the district from among the person constituting the Cadre of Prosecuting Officers in the State of Madhya Pradesh and the provisions of sub-sections (4) and (5) shall apply to the appointment of a Public Prosecutor Additional Public Prosecutor under this sub-section”;

(iii) in sub-section (7), after the words, bracket and figure “sub-section (6)”, the words, brackets, figure and letter “or sub-section (6-A)” shall be inserted and shall be deemed to have been inserted with effect from 18th December, 1978; and

(iv) in sub-section (9), for the words, brackets and figure, “sub-section (7)”, the words, brackets, figures and letter “sub-section (6-A) and sub-section (7)” shall be substituted and shall be deemed to have been substituted with effect from 18th December, 1978.



[*Vide* Madhya Pradesh Act 21 of 1995, s. 3.]

### **West Bengal**

In Sub-section (6) of section 24 of the principal Act, for the words “shall appoint a Public Prosecutor or an Additional Public Prosecutor only”, the words “may also appoint a Public Prosecutor or an Additional Public Prosecutor” shall be substituted.

[*Vide* West Bengal Act 26 of 1990, s. 3.]

### **West Bengal**

In sub-section (6) of section 24 of the principal Act, the proviso shall be omitted.

[*Vide* West Bengal Act 25 of 1992, s. 3.]

### **STATE AMENDMENT**

#### **Jammu and Kashmir and Ladakh (UTs).—**

Section 24.— After sub-section (6), insert the following sub-section, namely:—

“(6A).—Notwithstanding anything contained in sub-section (1) and sub-section (6), the Government of the Union territory of Jammu and Kashmir may appoint a person who has been in practice as an Advocate for not less than seven years as Public Prosecutor or Additional Public Prosecutor for High Court and for the District Courts and it shall not be necessary to appoint Public Prosecutor or Additional Public Prosecutor for the High Court in consultation with High Court and Public Prosecutor or Additional Public Prosecutor for the District Court from amongst the person constituting the cadre of Prosecution for the State of Jammu and Kashmir.”

[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020).*]

**25. Assistant Public prosecutors.**—(1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

<sup>1</sup>[(1A) The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the Courts of Magistrates.]

(2) Save as otherwise provided in sub-section (3), no police officer shall be eligible to be appointed as an Assistant Public Prosecutor.

(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case:

Provided that a police officer shall not be so appointed—

(a) if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or

(b) if he is below the rank of Inspector.

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1. Ins. by Act 45 of 1978, s. 9 (w.e.f. 18-12-1978).