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GOVERNMENT OF ORISSA

**Instructions for use of the Executive
Magistrates deputed with Armed Police or
Armed Forces for dispersal of unlawful
assemblies**

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**HOME DEPARTMENT
(SPECIAL SECTION)**

PREFACE

Instructions for use of the Magistrates deputed with Armed Forces or Armed Police were compiled in the form of a booklet in the year 1957. In the meantime, some of the laws on which these instructions were based have been amended or repealed. As such it is necessary to revise these instructions suitably to conform with the principles of the existing law and also with the need of the present time. The fundamental principles which were taken into consideration at the time of compiling the original instructions have, however, been kept intact.

These instructions are meant for use of the Executive Magistrates deputed with Armed Force or Armed Police to disperse unlawful assembly. The booklet contains such matters as are essential for an Executive Magistrate and the Police Officer commanding the force to know when he must disperse an unlawful assembly by force. The instructions are *mutatis mutandis* applicable to the Police Officer accompanying the Executive Magistrate as Commanding Officer of the force.

Each Executive Magistrate as well as the Police Officer should make himself thoroughly acquainted with the instructions of this booklet and it should be kept in the personal custody of the Executive Magistrate and the Police Officer to whom it has been given. The booklet should be returned when the Officer is transferred from a station. The District Magistrates should satisfy themselves in course of their tours that individual Executive Magistrates have these instructions in their possession and that they are familiar with the contents.

V. JHA

Secretary to Government
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I. Instructions for Executive Magistrates deputed with Armed Police parties or Armed Forces for dealing with unlawful assemblies/riots.

1. The law relating to the use of force which includes use of fire arms for dispersing unlawful assemblies, or any assembly of five or more persons likely to cause a disturbance to the public peace, is contained in Chapter X of the Code of Criminal Procedure and in the Police Manual Rule 621. All Executive Magistrates and Police Officers who may have to deal with unlawful assemblies, should study with care and understand fully the law and the rules on the subject.

1.1. According to Section 129 Cr. P. C., an Executive Magistrate or a Police Officer not below the rank of Sub-Inspector may command any unlawful assembly etc., to disperse and whenever an Executive Magistrate is present with the force, the unlawful assembly should be dispersed under the orders of such Executive Magistrate. In the absence of any such Magistrate a Police Officer not below the rank of Sub-Inspector may command the unlawful assembly to disperse.

1.2. According to Section 130 Cr. P. C., an unlawful assembly can also be dispersed by use of Armed Forces if this is necessary for public security under orders of the Executive Magistrate of highest rank present on the spot.

2. Effort should always be made to disperse an unlawful assembly by use of minimum force. The amount of force that should be used in any particular situation will have to be judged at the spot by the Executive Magistrate or the Police Officer when no Magistrate is present according to the requirements of the situation. If a situation can be dealt with by lathi force and tear-smoke, the same should be used at the earliest possible opportunity in order to secure the most effective result. Vacillation and lack of determination at the initial stage which often lead to deterioration of a situation should be avoided. Every effort should be made to the extent possible to prevent the aggravation of the situation so as not to use fire arms.

If, however, it is found that despite all precautions and use of lathi force and tear smoke where such use is practicable, the mob refuses to disperse and the Executive Magistrate, or in his absence the Police Officer empowered to act, considers that there is imminent danger of serious damage to property like loot, destruction and arson, or of grievous injury to person, and the situation cannot otherwise be controlled, there should be no hesitation in opening fire, in order to protect life and property including those of the public servants engaged in this duty to disperse the mob, even if such mob is not armed with lethal weapons. However, while opening fire all precautions should be taken to cause so little injury as may be consistent with dispersing the mob.

3. The Executive Magistrate should assume responsibility in respect of the following matters :—
(i) Judging a situation, and its general handling.

(ii) Ensuring proper distance between the unlawful assembly and the police party, so that if the use of fire arms cannot be avoided, firing is carried out from a distance sufficient to obviate the risk of being rushed, and strict fire control is maintained.

(iii) Warning and ordering an unlawful assembly to disperse.

(iv) Ordering use of force for actual dispersal.

(v) Deciding and ordering about opening of fire if the Executive Magistrate deems it absolutely necessary to do so for the protection of life and property.

(vi) Ordering fire to cease as soon as the mob shows a disposition to retire or to disperse.

(vii) Use of minimum force necessary to disperse the unlawful assembly.

(viii) The despatch of the dead and the wounded as quickly as possible to the hospital after an unlawful assembly has been dispersed by force.

4. (1) After the unlawful assembly has been dispersed by force, the Police Officer in-charge of the force should take quick action to despatch the dead and wounded, if any, to the hospital.

(2) After despatch of the dead and wounded to the hospital, the Executive Magistrate and the Police Officer should draw up a joint report describing accurate details of the incident.

(3) Copies of their report should be sent to different quarters as prescribed in the Police Manual.

5. P. M. Rule 621 clearly demarcates the duties and responsibilities of the Executive Magistrate and the Police Officer-in-Command of the force. The respective duties and responsibilities should be carefully studied and understood. The disposition of the force into ranks, files or hollow squares etc., shall be left to the discretion of the Police Officer-in-Command to meet the varying conditions. While it is the responsibility of the Executive Magistrate to take the decision to use force to disperse an unlawful assembly, the manner of direction and control of force should ordinarily be left to the discretion of the Police Officer-in-Command who would be expected to carry out the orders given by the Executive Magistrate concerned. The actual number of round to be fired and the direction of fire etc, should be invariably given by the Police Officer-in-Command to the policemen of the party. The Executive Magistrate will, however, have the power to order the fire to cease.

6. Firing in the air or over the head of the riotous mob is forbidden. Firing in the air or over the head of the riotous mob gives rise to serious risk. Instead of scaring away the determined mob, it may lead to serious consequences. Firing over the head of the riotous mob may easily hit some innocent persons although they may not form part of the mob. The riotous mob may also get emboldened at the ineffectiveness of such firing and they may rush at the police party which may lead to heavy firing and casualties. It is, therefore, necessary to ensure

that when fire is required to be opened, there is no firing in the air or over the head of a riotous mob, as a substitute for warning or an addition to it.

7. No general instructions can be given about how to control a violent mob and a riot. There are different kinds of riots and mob violence and one situation differs from the other. The Executive Magistrate is to see that minimum force is used by the Armed Police in controlling a situation. The Magistrate should remain in firm control of the police party and should not detach himself from the force. When parley is required with the leaders of the unlawful assembly, the Magistrate should always take armed escorts with him keeping the main force in readiness.

8. Before force is used, the assembly should always be declared unlawful through a public address system or a similar instrument and the assembly should be commanded to disperse. Before resorting to firing such other preventive measures as arrest, tear-gas and lathi charge should be resorted to. In extreme cases like communal troubles or a situation in which the police party is likely to be over-powered, firing may be ordered at the earliest opportunity before the situation goes out of hand.

9. The District Magistrate should arrange proper training of the Executive Magistrates to handle law and order situation in general. This training should be arranged once or twice in a year at the District

Headquarters to afford opportunity to the Executive Magistrates to update their knowledge and acquire proper orientation for law and order duty.

10. The District Magistrate/Additional District Magistrate/Sub-divisional Magistrates should invariably brief the Executive Magistrates who are deputed with police force for law and order duty and should give general advice and guidance to them. Whenever necessary, the District Magistrate/Additional District Magistrate/Sub-divisional Magistrate may call a meeting to brief the Executive Magistrates which should ordinarily be held in their own office. No Executive Magistrate should be called to attend a meeting by any Police Officer. However, as far as practicable, the District Magistrate/Additional District Magistrate/Sub-divisional Magistrate may in consultation with S. P. arrange joint briefing of the Executive Magistrate and the officer commanding the police force.

11. The Senior most Executive Magistrate present on the spot on duty should remain in command of the force and should issue orders as per the provision of Cr. P. C.

12. There can be no blue print for tackling different types of riots. But there should be no hesitation to open effective fire to break up riotous mob intent on communal or racial violence. The communal and racial disturbances, if not firmly put down at the start, spread rapidly causing heavy loss of innocent lives and properties, leaving behind bitterness and hatred having wider repercussions.

13. *Curfews*—A curfew may be imposed under Section 144 of the Criminal Procedure Code. An Executive Magistrate empowered under Section 144 Criminal Procedure Code can impose curfew in a disturbed area. A curfew order may be imposed to prevent arson, looting and killing during a riot when a more stringent application of Section 144 Criminal Procedure Code is a necessity. Imposition of curfew restricts the movement and minimises the offence in the localised area.

When disturbances break out, curfew should be imposed rigorously and no leniency should be shown to the people who break the curfew. Police should invariably be posted in all mixed localities and particularly near the houses of members of minority community. Where the population lives in compact areas sufficient police should be posted to separate the two areas.

14. *Military in Aid of Civil Power*—Use of armed troops in civil disturbances is resorted to only after the State, local authorities have utilised the State Police/Central Police and are yet unable to control the situation under Section 130 of Criminal Procedure Code, 1973. The Executive Magistrate of the highest rank who is present may use troops for dispersal of an unlawful assembly which cannot be otherwise dispersed. Every Army Officer has to obey the order of the Executive Magistrate under Section 131 of the Criminal Procedure Code to disperse such assembly by use of minimum force as may be consistent with dispersing such assembly and arresting and detaining such person.

15. Law and order situations generally are to be dealt with tactfully and with conspicuous restraint. The use of force should be avoided as far as possible. Recourse to force should be taken when it becomes unavoidable and it should be minimum. Fire arms should be resorted to only when other remedies including tear-gas or lathi charge failed to produce the desired effect and where there is a clear and imminent danger to human life or threat of serious damage to property. While this general approach is essentially sound and should be followed in such law and order situations as agitations and demonstrations by political parties, students and trade unionists there should be no hesitation to open effective fire to break up riotous mobs or those intent on violence in communal or racial conflicts. Any failure or hesitation to take firm action in communal and caste violence will be viewed as grave dereliction of duty on the part of the Officers concerned. All the Officers who acted firmly and judiciously in this regard would have the fullest support and protection from the Government.

16. (1) It shall be the responsibility of District Magistrate/Sub-divisional Magistrate ordering deputation of an Executive Magistrate to be in-charge of a police force or armed force for meeting any law and order situation, to provide such Executive Magistrate a vehicle exclusively for his use during such duty.

(2) An Executive Magistrate should be provided with Identity Card. An orderly person with a badge or a Huda should accompany the Executive Magistrate.

(3) For protection of the Executive Magistrate, helmet, chest-guard, knee-guard and such other equipments as are necessary for his personal safety should be provided by the District Magistrate/Sub-divisional Magistrate.

(4) An Executive Magistrate shall not be directed to go to a Police-station or any other spot to join a Police-party detailed for law and order duty. On the other hand, the Officer commanding the Police party should report before the Magistrate and accompany him with force to the site. Whenever a Magistrate is travelling in a separate vehicle to the law and order spot, he should be provided with necessary armed escort to move in his vehicle.

II. Police Manual Rule 621 :

621 (a) *Requisition for armed reserve*—On the armed reserve being requisitioned by an officer authorised to do so [rule 615 and paragraph (b) below] the Superintendent or in his absence, the senior most officer-in-charge at headquarters, shall unless he has received a requisition for a definite number of officers and men, decide in consultation with the senior most Executive Magistrate available the strength to be supplied. He shall ensure that the men are properly armed and equipped and that they are each supplied with 2 rounds of ball in pouches. He shall also see that the party carries a reserve of ball ammunition at the rate of 1,000 rounds per platoon.

Buckshot shall not be issued to the men except for guard duty at night in accordance with rule 524 (6) (a) when muskets are carried and must be kept in separate pouches apart from ball ammunition.

(b) When an Inspector or any lower officer considers the presence of an armed force in his jurisdiction necessary, he shall apply to the Superintendent for a party of the armed reserve. In grave emergency, he is authorised, without the previous sanction of the Superintendent, to organise an armed party of local police for use in the interior and to utilise the emergency arms kept at police station.

(c) *Deputation of Executive Magistrate*—When the circumstances are such that the use of force or opposition to the Police is probable and when a detachment is deputed for protective duty during a strike, the District Magistrate, Sub-divisional Magistrate, Taluk Magistrate or an Executive Magistrate specially selected by the District Magistrate, shall whenever possible, accompany the party.

(d) *Disposition of force*—The disposition of the force shall be left to the discretion of the Police Officer-in-Command to meet varying conditions.

(e) As a rule, however, the following principles shall be observed :—

(i) The party shall be halted in two ranks at least 100 metres or other convenient distance from the scene of the disturbance or the place where the mob is collected and bayonets shall be fixed at once.

(ii) Every precaution should be taken to ensure that an Armed Force is not brought so close to a dangerous mob as to risk either its being rushed and overwhelmed or being forced to retire before achieving its objective or to inflict heavy casualties. If the use of fire arms is considered necessary, firing should be carried out from a distance sufficient to obviate the risk of being rushed and to enable strict fire-control to be maintained, e. g., between 70 and 100 metres. Firing must on no account be deferred until the mob has approached within 70 metres.

(iii) For purpose of fire control, the force should be told off into sections of not more than 10 men, each under a responsible commander.

(iv) If men have to be posted to face different ways, they should not be faced about in one line but lines should be formed facing the required directions with a clear space between them so as to enable the Officer-in-Command to move between the lines and exercise control.

(v) The Police Officer in executive command of the force shall on no account leave it, to parley with or to arrest leaders in the mob or for any other purpose.

(f) Neither the warning party referred to in paragraph (g) (i) nor the main body shall advance in skirmishing order unless it is strongly supported. The Police Officer-in-Command should also remember that at least half his men should always have their weapons loaded when an attack is anticipated.

(g) (i) *Warning to unlawful assembly*—When it becomes necessary to take action under Section 129 (1) Cr. P. C., the Executive Magistrate, or if no Executive Magistrate is present, the Police Officer-in-charge or in the absence of the Officer-in-charge, any Police officer not below the rank of a Sub-Inspector shall command the unlawful assembly to disperse, and warn it that if it does not disperse, it will be dispersed by force. He may either warn the unlawful assembly personally without leaving the force or may send out a subordinate officer with not less than two files to within shouting distance of the unlawful assembly. The warning party must, however, avoid advancing in a direction which will mask the fire of the main body. When possible, a bugle or a megaphone should be used to attract the attention of the crowd to the warning.

(ii) Signal shall be arranged by which the parleying Executive Magistrate may direct the Police Officer in executive command to open fire, without waiting until he is within hearing distance, and the parleying section commander, when there is no Magistrate, may so that he cannot extricate his party.

(iii) After this warning has been given and if it produces no effect, the main body shall move up to the warning party, if one has been sent out, or the warning party shall take cover to avoid masking the fire of the main body.

(h) (i) *Dispersal by force*—If upon being so commanded any such assembly does not disperse, or if without being so commanded, it conducts itself in such a way as

to show a determination not to disperse, the Executive Magistrate, or if no Executive Magistrate is present, the Police Officer-in-charge or in his absence, any Police Officer not below the rank of a Sub-Inspector shall proceed to disperse the unlawful assembly by force.

(ii) Both the Executive Magistrate and the Officer-in-Command of the Police party are, or if no Executive Magistrate is present, the Police Officer-in-charge or in his absence any Police Officer not below the rank of a Sub-Inspector is responsible for seeing that the force used is the minimum necessary to disperse the unlawful assembly, protect life and property and secure the safety of the police party and the Magistrate.

(iii) If a lathi charge is ordered and there is a prospect that further force will be required to disperse the mob, the charge shall be made from a flank, if possible. If this is not possible every effort shall be made so to direct the charge that the Armed Force can open fire as soon as it becomes necessary.

(iv) Fire shall only be opened if the Executive Magistrate or if no Executive Magistrate is present, the Police Officer in-charge deems it absolutely necessary to open fire for the protection of life and property.

(i) *Responsibility of Executive Magistrate*—If an Executive Magistrate is present the responsibility using force against, or opening fire on, an unlawful assembly will rest with him and he will direct the Officer-in-Command of the Police (in writing if possible) to use force or open fire. When the Executive Magistrate has

ordered the Police Officer-in-Command to disperse an unlawful assembly by force or to open fire on it, he shall not fetter the discretion of that officer in making his dispositions.

(j) *Responsibility of Police Officer-in-Command*—The actual order to fire shall invariably be given by the Police Officer-in-Command of the party or under his special instruction, conveyed (if possible in writing) to a junior officer-in-charge of a party detached from the main body.

(ii) The order to cease fire shall be given by the Officer-in-Command as soon as the mob shows a disposition to retire or disperse. The Executive Magistrate, if present, will also have power to order fire to cease.

(k) *Firing to be effective*—When firing is necessary it shall be at once effective. In no circumstances, should any blank ammunition be carried. Firing shall not commence before it can be effective nor be deferred until the rioters are so close that there is risk of the police party being overwhelmed. The effective range for ball is about 100 metres in the case of the 410 musket and 600 metres for the 303 rifle.

(ii) In firing on the unlawful assembly the men shall be instructed to aim low and as far as possible, fire shall be directed at the ringleaders or the more violent members or portion of the mob. The Police Officer-in-Command may order firing by selected men of the party or by files or by sections or, if necessary, by volleys according to the requirements of the situation ; but if

volleys are fired, not more than half the party shall fire at a time. He is specially required to make no greater effort than the circumstance of the case necessitates, and to rely upon the firing of specified individuals or of files, unless the attitude of the mob makes it imperative, for the protection of his men or for the protection of the life and property of others, to direct firing by sections or volleys.

(l) *Action after dispersal of mob*—When an unlawful assembly has been dispersed the dead shall be sent as quickly as possible to the nearest Medical Officer empowered to hold post mortem examination ; first-aid should be rendered to the wounded who shall then be sent to the nearest doctor for treatment. Thereafter, the Executive Magistrate and the Police-in-Command shall draw up an accurate report of all that transpired, noting the rounds served out and expended, and all relevant details. The Executive Magistrate shall send copies of the report by the quickest means to the District Magistrate, Revenue Divisional Commissioner and Chief Secretary while the Police Officer will send copies to the Superintendent, D. I.-G. and Inspector-General of Police. The written report shall be preceded by an express telegram or a wireless message to all the above named officers giving a concise account of the affairs.

(m) It is very necessary that men of the armed reserve and mobilisation force shall be practised in dealing with riots in diversified localities, e. g., in town or village street and standing crops.

III. Extracts from Chapter X of the Code of Criminal Procedure :

A—Unlawful Assemblies (Sections 129—132 Cr. P. C.)

129. *Dispersal of assembly by use of civil force—*

(1) Any Executive Magistrate or officer-in-charge of a police-station or, in the absence of such officer-in-charge, any police officer, not below the rank of a Sub-Inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or Police Officer referred to in sub-section (1) may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

130. *Use of armed forces to disperse assembly—(1)* If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any Officer-in-Command of any group of persons belonging to the Armed Forces to disperse the assembly with the help of the Armed Forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the Armed Forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. *Power of certain Armed Force Officers to disperse assembly—*When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any Commissioned or Gazetted Officers of the Armed Forces may disperse such assembly with the help of the Armed Forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law, but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall henceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

132. *Protection against prosecution for acts done under preceding sections*—(1) No prosecution against any person for any act purporting to be done under Section 129, Section 130 or Section 131 shall be instituted in any Criminal Court except,—

- (a) with the sanction of the Central Government where such person is an Officer or member of the Armed Forces;
 - (b) with the sanction of the State Government in any other case.
- (2) (a) No Executive Magistrate or Police Officer acting under any of the said sections in good faith;
- (b) No person doing any act in good faith in compliance with a requisition under Section 129 or Section 130;
 - (c) No officer of the Armed Forces acting under Section 131 in good faith;
 - (d) No member of the Armed Forces doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence.
- (3) In this section and in the preceding sections of this chapter,—
- (a) the expression “armed forces” means the military, naval and air forces, operating as land forces and includes any other Armed Forces of the Union so operating;

(b) “Officer”, in relation to the Armed Forces, means a person commissioned, gazetted or in pay as an Officer of the Armed Forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) “Member” in relation to the Armed Forces, means a person in the Armed Forces other than an officer.

B—Preventive powers of Executive Magistrate (Section 144 Cr. P. C.)

144. *Power to issue order in urgent cases of nuisance or apprehended danger*—(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order, stating the material facts of the case and served in the manner provided by Section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquillity, or a riot or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof :

Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health and safety or for preventing a riot or any affray it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

C—Powers of Superior Officers of Police (Section 36 Cr. P. C.)

36. *Power of Superior Officers of Police*—Police Officers superior in rank to an officer in-charge of a Police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

IV. Inquests (Sections 174—176 Cr. P. C.)

174. *Police to enquire report on suicide etc.*—(1) When the officer in-charge of Police-station or some other Police Officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and unless otherwise directed by any rule

prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such Police Officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-Divisional Magistrate.

(3) When—

- (i) the case involves suicide by a woman within seven years of her marriage; or
- (ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- (iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or
- (iv) there is any doubt regarding the cause of death; or

(v) the Police Officer for any other reason considers it expedient so to do, (he shall) subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified Medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-Divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

175. *Power to summon persons*—A Police Officer proceeding under Section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose cognizable offence to which Section 170 applies, such persons shall not be required by the Police Officer to attend a Magistrate's Court.

176. *Inquiry by Magistrate into cause of death*—(1) [When any person dies while in the custody of Police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of Section 174] the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (i) of Section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the Police Officer; and if he does so, he shall have all powers in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

Explanation—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.

V. APPENDIX-A

(Extracts from Sections 96—106 of I. P. C.)

96. *Things done in private defence*—Nothing is an offence which is done in the exercise of the right of private defence.

97. *Right of private defence of the body and of property*—Every person has a right, subject to the restrictions contained in Section 99, to defend—

First. His own body and the body of any other person, against any offence affecting the human body.

Secondly. The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief of criminal trespass or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. *Right of private defence against the act of a person of unsound mind, etc.*—When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person, doing that act, or by reason of any misconception on the part of that person, every person, has the same right of private defence against that act which he would have if the act were of that offence.

99. *Acts against which there is no right of private defence*—There is no right of private defence against an act which does not reasonably cause the apprehension of

death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonable cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the

act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

100. *When the right of private defence of the body extends to causing death*—The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assaillant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

First. Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault.

Secondly. Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault.

Thirdly. An assault with the intention of committing rape.

Fourthly. An assault with the intention of gratifying unnatural lust.

Fifthly. An assault with the intention of kidnapping or abducting.

Sixthly. An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. *When such right extends to causing any harm other than death*—If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

102. *Commencement and continuance of the right of private defence of the body*—The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed, and it continues as long as such apprehension of danger to the body continues.

103. *When the right of private defence of property extends to causing death*—The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:—

First. Robbery.

Secondly. House breaking by night.

Thirdly, Mischief by fire committed on any building, tent or vessel which building, tent or vessel is used as a human dwelling, or as a place for the custody of property.

Fourthly. Theft, mischief, or house trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

104. *When such right extends to causing any harm other than death*—If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, the mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

105. *Commencement and continuance of the right of private defence of property*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender, causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house breaking by night continues as long as the house trespass which has been begun by such house breaking continues.

106. *Right of private defence against a deadly assault when there is risk of harm to innocent person*—If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

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