

## **APPENDIX I**

### **I. BENGAL RULES**

7. In the trial of ordinary cases, the Chairman shall generally record the evidence and judgment, but such duty may, with his consent, be performed by anyone of his colleagues.

In the trial of summary cases, where the Bench has been invested with summary powers, the necessary record shall be prepared by the Chairman or one of his colleagues, or by means of the Clerk of the Court, but in every case the record must be signed by each member of the Bench who is present.

9. The Bench may refer any point of law for the opinion of the Magistrate of the district or sub-division, or of any first-class Magistrate appointed by the Magistrate of the district for that purpose, and the Magistrate may certify his opinion thereon.

10. Magistrates should ordinarily not make over cases to Benches which are likely to be of a protracted character. See Calcutta Gazette, 1889, Pt. 1, p. 1071.

### **II. MADRAS RULES**

1. One or more Special Magistrates, appointed for any local area may sit as a Bench, together with any salaried Magistrate whom the District Magistrate shall from time to time nominate for that purpose. The salaried Magistrate shall be the Chairman of the Bench so constituted, and the Bench is hereby invested with the powers of a Magistrate of the third class or such higher powers as are exercisable under the provisions of sub-sec. (2) of s. 15 of the Code of Criminal Procedure :

- (1) to try summarily offences against the I.P.C., ss. 277, 278, 279, 285, 286, 289, 290, 323, 344, 336, 341, 352, 426 and 477 ;
- (2) to try summarily offences against the Municipal Acts and the Conservancy Clauses of Public Acts, punishable only with fine or with imprisonment for a term not exceeding one month;
- (3) to try summarily abetments of any of the foregoing offences;
- (4) to try summarily attempts to commit any of the foregoing offences when such attempts are offences;
- (5) to try in accordance with Chapter XX of the Code of Criminal Procedure, 1898, offences punishable under—

- (a) sub-sections (2) and (3) of s. 112 of the Madras Local Boards Act, 1884;
- (b) s. 18 of the Madras Registration of Births and Deaths Act, 1899;
- (c) ss. 5, 6 and 7 of the Madras Towns Nuisances Act, 1889;
- (d) the Madras Hackney Carriage Act, 1911;

Provided that no Bench of Magistrates shall try offences under ss. 426 and 447, I. P. C., including abetment of and attempts to commit, such offences, except with the special sanction of Government;

Provided also that, with the approval of the District Magistrate, any three or more Special Magistrates, of whom one is specially designated by the District Magistrate, may sit as a Bench and shall exercise the powers of a Magistrate of the third class in respect of the offences specified above other than those referred to in the first proviso.

2. The Magistrate specially designated by the District Magistrate shall, if no salaried Magistrate is present, be Chairman of such bench.

3. All the existing rules made by District Magistrates for the guidance of Benches in their several districts as to the times and places of sitting shall continue in force until modified or withdrawn.

4. Differences of opinion shall be settled by the votes of the majority of the Magistrates present, the Chairman having the casting vote.

5. If any person charged with any of the offences specified above is arrested without warrant, and not been released on bail, he shall be produced for trial before the salaried Magistrate having jurisdiction. If such person has been released on bail, or if process to compel his appearance is issued by the salaried Magistrate having jurisdiction, the bail-bond or the process shall require him to appear in accordance with its terms before the Bench of Magistrates having jurisdiction. The District Magistrates or the sub-divisional Magistrate shall exercise the same powers in regard to withdrawal or reference cases from Benches as he possesses in the case of Magistrates under s. 528 of the Cr. P.C.

6. Under s. 265, Cr. P.C., every Bench of Magistrates is authorised to prepare the record or judgment, of the Bench by means of any officer appointed by the Sub-divisional Magistrate.

7. Under s. 260 of the said Code, every Bench of Magistrates exercising first-class powers is hereby invested with power to try summarily any or all of the offences specified in that section, and every Bench of Magistrates exercising powers of the first or second class is hereby empowered to try summarily all or any of the offences specified in clauses (1) and (2) of Rule 1, supra. Government Order No. 1628, Notification, Judicial, 8th October, 1912. See also Fort St. George Gazette, 1891, Pt. 1. pp. 879, 923 and 1095.