

SYNOPSIS

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506. Irregularities which do not vitiate proceedings:

If any Magistrate not empowered by law to do any of the following things, namely:--

- (a) to issue a search-warrant under section 97;
- (b) to order, under section 174, the police to investigate an offence;
- (c) to hold an inquest under section 196;
- (d) to issue process under section 207, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;
- (e) to take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 210;
- (f) to make over a case under sub-section (2) of section 212;
- (g) to tender a pardon under section 343;
- (h) to recall a case and try it himself under section 450; or
- (i) to sell property under section 504 or section 505, erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

507. Irregularities which vitiate proceedings:

If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:--

- (a) attaches and sells property under section 85;
- (b) issues a search-warrant for a document, parcel or other things in the custody of a postal authority;
- (c) demands security to keep the peace;
- (d) demands security for good behaviour;
- (e) discharges a person lawfully bound to be of good behaviour;
- (f) cancels a bond to keep the peace;
- (g) makes an order for maintenance;
- (h) makes an order under section 152 as to a local nuisance;
- (i) prohibits, under section 162, the repetition or continuance of a public nuisance;
- (j) makes an order under Part C or Part D of Chapter XI;
- (k) takes cognizance of an offence under clause (c) of sub-section (1) of section 210;
- (l) tries an offender;
- (m) tries an offender summarily;
- (n) passes a sentence, under section 364, on proceedings recorded by another Magistrate;
- (o) decides an appeal;
- (p) calls, under section 438, for proceedings; or

(q) revises an order passed under section 491, his proceedings shall be void.

508. Proceedings in wrong place:

No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

509. Non-compliance with provisions of section 183 or section 316:

(1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 183 or section 316, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 94 of the Bharatiya Sakshya Adhiniyam, 2023, take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

510. Effect of omission to frame, or absence of, or error in, charge:

(1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no

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charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision, is of opinion that a failure of justice has in fact been occasioned, it may,--

(a) in the case of an omission to frame a charge, order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge;

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

### **511. Finding or sentence when reversible by reason of error, omission or irregularity:**

(1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Sanhita, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

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(2) In determining whether any error, omission or irregularity in any proceeding under this Sanhita, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

**512. Defect or error not to make attachment unlawful:**

No attachment made under this Sanhita shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

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