

and also when combined, a different offence, the accused may be charged with, and tried at one trial for, the offence constituted by such acts when combined, or one or more of the several offences, but in the latter case shall not be punished with more severe punishment than the Court which tries him could award for any one of those offences.

(e.) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the offences; and if it appears in evidence that he has committed a different offence for which he might have been charged, he may be convicted of that offence, although not charged with it.

34. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one is accused of committing an offence and another of abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

35.—(1.) Any Court, if sitting with a jury or assessors, may alter any charge at any time before the verdict of the jury is returned or the opinions of the assessors are expressed; if sitting without jury or assessors, at any time before judgment is pronounced.

(2.) Every such alteration shall be read and explained to the accused.

(3.) If the altered charge is such that proceeding with the trial immediately is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, the Court may adjourn the trial for such period as may be necessary.

36.—(1.) No error or omission in stating either the offence or the particulars shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

(2.) When the facts alleged in certain particulars are proved and constitute an offence, and the remaining particulars are not proved, the accused may be convicted of the offence constituted by the facts proved, although not charged with it.

(3.) When a person is charged with an offence and the evidence proves either the commission of a minor offence or an attempt to commit the offence charged, he may be convicted of the minor offence or of the attempt.

37.—(1.) If the accused has been previously convicted of any offence, and it is intended to prove such conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

(2.) If such statement is omitted, the Court may add it at any time before sentence is passed.

(3.) The part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted, as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(4.) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(5.) If he answers that he has been so previously convicted, the Court may proceed to pass sentence on him accordingly, but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the Court shall then inquire concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

38.—(1.) In each of the two following cases, namely:—

(i.) Where the offence charged is felony; or,

(ii.) When it appears to the Court at any time before the trial, the opinion of the Court being recorded in the minutes, that the offence charged, if proved, would not be adequately punished by imprisonment for three months with hard labour, or by a fine of twenty pounds, or both such imprisonment and fine—

The charge shall be triable with a jury or assessors (according to the provisions of this Order applicable to the Court); but may, with the consent of the accused, be tried without assessors or jury. In the Supreme Court, when the accused does not so consent, the charge shall be tried with a jury, unless the Court is of opinion that a jury cannot be obtained.

(2.) The Supreme Court may, for any special reason, direct that any case shall be tried with assessors or a jury, and a Provincial Court may, for any special reason, direct that any case shall be tried with assessors. In each such case the special reason shall be recorded in the Minutes.

39.—(1.) The Registrar of the Supreme Court when the duties of that officer are not performed by the Assistant Judge shall, subject to any directions of the Supreme Court, hear and determine such criminal cases in that Court as may, under this Order, be heard and determined without assessors or jury, and for this purpose shall exercise all the powers and jurisdiction of a Provincial Court.

(2.) The officer performing the duties of Registrar, in a Provincial or Local Court, shall, when required by the Court, act as public prosecutor, and conduct the prosecution in any criminal case.

40.—(1.) Where a charge made in a Provincial or Local Court appears to that Court to be one which ought under the provisions of this Order to be reported, the Provincial or Local Court shall proceed to make a preliminary examination of the charge in the prescribed manner, and shall send the depositions and a Minute of other evidence (if any) together with its Report, in the case of a Provincial Court, to the Supreme Court, or in the case of a Local Court, to the Provincial Court.

(2.) Where a charge, reported to a Provincial Court under this Article appears to that Court to be one which ought to be reported to the Supreme Court, the Provincial Court shall send the depositions, Minutes, and Report of the Local Court, with a covering Report, to the Supreme Court.

41.—(1.) Where a person charged with an offence is arrested on warrant issuing out of any Court, he shall be brought before the Court within forty-eight hours after the execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the Minutes.

(2.) In every case, he shall be brought before the Court as soon as circumstances reasonably