

CONTENTS AT A GLANCE

<i>Preface Fifth Edition</i>	<i>iii</i>
<i>Preface Fourth Edition</i>	<i>v</i>
<i>Detailed Contents</i>	<i>ix</i>
<i>Table of Cases</i>	<i>xxxiii</i>
Chapter 1 - First Information Report (FIR)	1
Chapter 2 - Investigation	59
Chapter 3 - Arrest, Custody and Remand	128
Chapter 4 - Bails	152
Chapter 5 - Statement, Confession and Dying Declaration	229
Chapter 6 - Trial of Criminal Cases	269
Chapter 7 - Cross-Examination and Defence	367
Chapter 8 - Compounding, Withdrawal of Cases, Exemption from Personal Appearance & Transfer of Cases	419
Chapter 9 - Disposal of Property and Limitation Points	452
Chapter 10 - Judgment, Revision and Appeals	471
Chapter 11 - Execution, Suspension, Remission and Commutation of Sentences	490
Chapter 12 - Mercy Petitions and Delay in Execution of Sentence	508
Chapter 13 - Judgment, Appeal and Reference	518
Chapter 14 - Medico Legal Aspects	542
Chapter 15 - Offences Against Public Justice	587
Chapter 16 - Probation of Offenders	594
Chapter 17 - Trial of Juvenile Cases	607
Chapter 18 - Inherent Powers of High Court	619
Chapter 19 - Revision, Special Leave Appeal (S.L.P.) and other Appeals to Supreme Court	642
Chapter 20 - Parole, Furlough and Jail Rules	659

<i>Chapter 21 - Rights of an Accused</i>	672
<i>Chapter 22 - Defence Pleas in Criminal Trial</i>	693
<i>Chapter 23 - Words and Phrases</i>	730
<i>Chapter 24 - Notable Excerpts</i>	741
<i>Chapter 25 - Important Model Forms of Drafting</i>	743
Comparative Table of Cr.P.C. with BNSS, 2023	787
Classification of Offences	815
Bibliography	875
Subject Index	877

DETAILED CONTENTS

Preface Fifth Edition iii
Preface Fourth Edition..... v
Contents at a Glance..... vii
Table of Cases xxxiii

CHAPTER 1

FIRST INFORMATION REPORT (FIR)

1.1 Offence: Definition and Scope 2
1.2 FIR: Constituents and Contents 3
1.3 *Locus Standi* to Lodge FIR 8
1.4 Lodging of FIR: By Whom, Where and How 9
1.5 Dispatch of FIR to Magistrate and Superior Officer 11
1.6 Situation of delay in lodging the FIR 12
1.7 Reasonable Explanations of Delay in Lodging FIR 13
1.8 Situation of Lodging Two FIRs for same Incident 14
1.9 Situation of Joint Complaint signed by two persons: 16
1.10 Evidentiary Value of FIR 16
1.11 How to Prove an FIR 18
1.12 FIR in Non-Cognizable Cases 19
1.13 FIR in Cognizable Offences 20
1.14 FIR in cognizance Offence..... 21
1.15 Use of FIR in Cross-examination and Defence 21
 [A] Some Case-Laws: Useful for Defence 23
 [B] Case-Laws: Useful for Prosecution 26
1.16 Complaints before Magistrate 29

1.17	Essential of a proper complaint.....	30
1.18	Opportunity of Hearing to an accused	36
1.19	FIR: As a Public Document	37
1.20	Writ Petition for Quashing an FIR or Complaint	38
1.21	Accused residing outside the territorial jurisdiction	40
1.22	Amendment in Complaint or pleading in criminal proceedings	41
1.23	Situation of refusal of lodging FIR by Police and Remedies	43
1.24	Power of Magistrate under Section 175(3) of Bharatiya Nagarik Suraksha Sanhita [<i>u/s 156(3) of Criminal Procedure Code</i>]	46
1.25	Protest Petition : Nature and Scope	55
1.26	Whether the Magistrate's Order under section 175(3) of BNSS [<i>u/s</i> <i>156(3), Cr.P.C.</i>] is revisable or can be challenged in writ petition ?...	57
1.27	FIR was lodged after inordinate delay of several days: Accused entitled to get the benefit of doubt.....	58

CHAPTER 2

INVESTIGATION

COMPARATIVE TABLE	60
2.1 Introduction	61
2.2 Investigation: Definition, Objective and Aspects	69
2.3 Investigation: <i>Locus Standi</i> and Rights thereof	72
2.4 Right of an accused to fair investigation.....	73
2.5 Further Investigation	73
2.6 Investigation: When may be Refused	75
2.7 Various Stages of Investigation	76
2.8 Precautionary Measures in Investigation	76
2.9 Important Points for Inquiry and Investigation into Cases	77
[A] In the Case of Suspected Poisoning	77
[B] In the Cases of Hanging or Strangulation	77
[C] In Case the Dead Body is Found in a Well or Tank	78
[D] If a Dead Body is Found on an Open Road	78

[E] In Case of Presumed Murder and Burial of the Remains	79
[F] In the Case of Rape /Sexual Assault	79
[G] In Cases of Motor Accident	79
[H] In the Prohibition Cases	80
2.10 Power of Magistrate on Investigation and Enquiry	81
2.11 Power of Magistrate u/s 175(3) of BNSS [<i>u/s 156(3), Cr. PC</i>]	85
2.12 Protection against unnecessary or frivolous assets [Section 35(3) to 35(6) of BNSS (<i>Sections 41, 41-A, Cr. P.C.</i>)],	87
2.13 Coercive steps to Secure presence of Accused	93
2.14 Investigation: Duty to Perform Speedily and Fairly	95
2.15 Situation of Irregular and Illegal Investigation	97
2.16 Situation if illegal and irregular investigation	100
2.17 Further Investigation: Permission of Court Necessary	100
2.18 Re-investigation and Transfer of Investigation	102
2.19 Some Aspects of Medical Jurisprudence	104
[A] Physical Verification of Place of Occurrence (P.O.)	104
[B] Medical Examination of Dead Bodies	106
[C] Nature and Types of Injuries	109
2.20 Identification of Accused and Properties Involved in a Crime	119
2.21 Rights of an Accused during Investigation	121
2.22 Defence Pleas Regarding Investigation	122
2.23 Duty and functions of Police	124
2.24 Power of High Court.....	126

CHAPTER 3

ARREST, CUSTODY AND REMAND

3.1 "Arrest" Definition and Aspects	128
[A] Power to Arrest an Accused	130
[B] Arrest: How to be Made	131
[C] Arrest—How to be made.....	132
[D] Distinction between "Arrest" and "Custody"	132

[E] Relevant Provisions Regarding “Arrest” in Bharatiya Nagarik Suraksha Sanhita [<i>Criminal Procedure Code</i>]	133
[F] Arrest without a Warrant	136
[G] Rights of Arrested Person	138
3.2 “Custody” and “Remand” Definition and Relevant Aspects	139
[A] Power of Remand in Old and New Code	145
[B] Provisions of Sections 187(2), 232 and 346 of BNSS [<i>Sections 167(2), 209 and 309, Cr.P.C.</i>]: A Comparative Analysis	146
[C] Co-relation of “Bail” and “Remand”	147
[D] Consequences of Failure to Pass Remand Order under Section 232 of BNSS [<i>u/s 209, Cr.P.C.</i>]	148
3.3 Consequences of Illegal Arrest and Remand	149

CHAPTER 4

BAILS

4.1 Bail: Definition and Concept	154
[A] Historical Perspective	154
[B] Definitions	154
[C] Purpose of Bail	156
[D] Bail is Rule, Refusal is Exception	156
[E] Liberalization of Bails for Poors	157
4.2 Distinction between Bail, Parole & Furlough	158
4.3 Parole and Furlough: Distinction	159
4.4 Bail in Bailable Offences	160
[A] Bail: A Matter of Right	160
[B] Imposition of Condition	162
[C] Cancellation of Bail [Section 483 of BNSS (<i>S. 439(2), Cr.P.C.</i>)].....	163
[D] Release on Personal Bond	165
[E] Amount of Security in Bail	166
[F] Order to Deposit Cash : Improper	166
[G] Order to File Local Sureties: Not proper	167
[H] Bail in Special and Local Laws	167
[I] Bail in Security Proceeding	168

[J] Meaning of “At any Stage of Proceedings” in Section 478 of BNSS [<i>Section 436, Cr.P.C.</i>]	168
[K] Bail on Conviction in a Bailable Offence	169
[L] Bail Application must be Disposed of on Same Day	169
[M] No Application Necessary for Bail	169
[N] Effect of Unwillingness to Furnish Bail Bond	170
[O] Consequences of Breach of Bail Bond.....	170
4.5 Bail in a Non-bailable Offence	170
[A] The Word “Non-bailable”: Meaning thereof	170
[B] Principles Governing “Bail”	171
[C] Special Provisions under section 479 of BNSS [<i>under Sec. 436A, Cr.P.C.</i>] for Bail and Release	173
[D] Terms “Arrested”, “Detained” and “Custody”: Meaning thereof	174
[E] Surrender of Accused and Grant of Bail	175
[F] Imposition of Condition	176
[G] Relevant Consideration for Grant and Refusal of Bail	178
[H] Relevant consideration for grant of Bail	178
[I] Situations: Fit for Bail	179
[J] Situations : Unfit for Bail	181
4.6 Anticipatory Bail	183
[A] Distinction between “Anticipatory Bail” and “Ordinary Bail”	184
[B] Anticipatory Bail: Needs and Objective	185
[C] Power and Factors for Grant of Anticipatory Bail	186
[D] Option to Move Anticipatory Bail before “Session Court” and/or “High Court”	188
[E] Jurisdiction to Grant Anticipatory Bail when Offence Committed Outside the Territorial Jurisdiction	189
[F] Where Offence Committed in One State and Bail Sought for in Another State	190
[G] Scope of “Anticipatory Bail” under section 482 of BNSS [<i>u/s 438, Cr.P.C.</i>]	190
[H] Condition Precedents for “Anticipatory Bail”	192
[I] Anticipatory Bail and Remand of Police Custody	193
[J] Anticipatory Bail in Complaint Cases	194

[K] Effectiveness of Anticipatory Bail after Charge-sheet	195
[L] Principles Governing “Anticipatory Bail”	196
[M] Refusal of “Anticipatory Bail”	197
[N] Blanket Order of Anticipatory Bail	198
[O] Anticipatory Bail in Local and Special Acts	198
[P] Duration of Anticipatory Bail	201
[Q] Imposition of Conditions	202
[R] Cancellation of “Anticipatory Bail”	203
[S] Reasons must be Recorded	204
[T] Object of Bail	205
[U] Successive Applications may be Filed	207
[V] Anticipatory Bail Order: Whether Interlocutory?	208
[W] Various Situations of Anticipatory Bail	208
[X] Bail under section 187(2) of BNSS [u/s 167(2), Cr.P.C.].....	210
[Y] Special cases for Bail	210
[Z] Procedure for maturation of bail application—Time period and performance.....	211
4.7 Cancellation of bail.....	211
4.8 Cancellation of Bail in Bailable and Non-bailable Offence	211
4.9 Bail in Security Proceedings	214
4.10 Surety and Bail Bonds	214
4.11 Bail under Special and Local Acts	216
4.12 Bail to Juveniles	216
4.13 Bail by Civil and Revenue Court	217
4.14 The Bail Provisions under Various Special and Local Acts	218
4.15 Writ for and against Bail.....	228

CHAPTER 5

STATEMENT, CONFESSION AND DYING DECLARATION

[A] Statements	230
5.1 Various Provisions in the Bharatiya Nagarik Suraksha Sanhita [Criminal Procedure Code] Bharatiya Sakshya Adhinyam, 2023 [Evidence Act, 1872]	230

5.2	Provisions Governing 'Statement' and 'Confession' in Bharatiya Sakshya Adhinyam [<i>Evidence Act</i>]	233
5.3	Meaning, Objective and Scope of Statements to Police	235
5.4	Power of Police to Summon Witnesses to Record Statement under section 179 of BNSS [<i>Section 160, Cr.P.C.</i>]	236
5.5	Recording of Statement by the Investigation Officer (IO) under section 180 of BNSS [<i>Section 161, Cr.P.C.</i>]	237
5.6	Use of Statements Recorded under section 180 of BNSS [<i>Section 161, Cr.P.C.</i>]	239
5.7	Defence Points to the Statements Recorded under section 180 of BNSS [<i>section 161, Cr.P.C.</i>]	240
5.8	Statements of Witnesses under section 183 of BNSS [<i>u/s 164, Cr.P.C.</i>] ...	242
	(A) Procedure to Record Statements under Section 183 of BNSS [<i>u/s 164, Cr.P.C.</i>]	243
	(B) Value and Scope of Statements Recorded under section 183 of BNSS [<i>u/s 164, Cr.P.C.</i>]	244
5.9	Statements under section 351 of BNSS [<i>u/s 313, Cr.P.C.</i>]	245
[B]	Confessions	246
5.10	Definition, Objective and Scope of Confession	246
5.11	Classification of Confession	247
5.12	Confession before Police under section 23 of BSA [<i>Sections 25, 26 and 27 of Evidence Act</i>]	256
5.13	Retracted Confession	257
5.14	Confession of Co-accused	258
5.15	Laws Relating to Approver	259
[C]	Dying Declaration	260
5.16	Meaning and Scope of Dying Declaration	260
5.17	Duty of the Investigating Officer in Recording Dying Declaration	260
5.18	Mode of Recording Dying Declaration by the Magistrate	261
5.19	Admissibility of Dying Declaration	261
5.20	Inadmissibility and Weaknesses of Dying Declaration	262
5.21	Dying Declaration: Its Value and Scrutiny by the Court	265

- 5.22 A Dying declaration is admissible in evidence under section 26 of BSA, 2023 [*u/s 32 of the Indian Evidence Act, 1872*] 266
- 5.23 Dying declaration was made voluntarily and is true 267
- 5.24 Trial Court has rightly relied upon and/or believed dying declaration recorded by Assistant Divisional Transport Officer 267

CHAPTER 6

TRIAL OF CRIMINAL CASES

- 6.1 Power and Jurisdiction of Criminal Court 270
- 6.2 Types of Criminal Trial 273
- 6.3 Trial Before A Court of Session 275
- 6.4 Powers and Duties of Magistrate for Committing a Case to Session Court 278
- [A] Trial of Criminal cases..... 279
- 6.5 Territorial Jurisdiction of Trial Court..... 280
- 6.6 Powers, Duties and Procedures of Session Court in Session Trial 282
- 6.7 Framing of Charges..... 282
- 6.8 Rights of Defence in Session Trial 284
- 6.9 Trial of Warrant Cases by the Magistrate 285
- [A] Cognizance : Concept of 286
- [B] Procedural Aspects of Police Cases—Sections 261 to 266 of BNSS [*Sections 238 to 243, CrPC*]..... 289
- [C] Procedural Aspects of Complaint Cases—sections 267 to 270 of BNSS [*Sections 244 to 247, Cr.P.C.*]..... 291
- [D] Second complaint on same or similar facts..... 293
- [E] Conclusion of Trial 295
- 6.10 Trial of Summon Cases: Sections 274 to 282 of BNSS [Sections 251 to 259, Cr.P.C.] 299
- [A] Procedural Aspects of Trial of Summon Cases by Magistrate—Sections 274 to 282 of BNSS [*Sections 251 to 259, Cr.P.C.*]..... 300
- 6.11 Summary Trial Cases: [Sections 283 to 288 of BNSS (*Sections 260 to 265, Cr.P.C.*)]..... 303

6.12	Trial of Private Complaints	305
6.13	Definition of “Complaint”	305
6.14	Trial Before Executive Magistrate [Sections 125 to 166 of BNSS (sections 106 to 147, Cr.P.C.)], [Chapters IX to XI of BNSS (Chapters VIII to X, Cr.P.C.)]	311
	[A] Proceeding U/s 126 of BNSS [Section 107, Cr.P.C.]	315
	[B] Proceeding under section 163 of BNSS [Section 144, Cr.P.C.]	316
	[C] Proceeding u/s 164 of BNSS [u/s 145, Cr.P.C.]	316
	[D] Proceeding under section 165 of BNSS [Section 146, Cr. P.C.]...	317
	[E] Proceeding u/s 152 of BNSS [u/s 133, Cr.P.C.].....	318
6.15	Trial of Maintenance Cases	319
	[A] Relevant Provision under BNSS [Cr.P.C.].....	319
	[B] Procedural Aspects	321
6.16	Important Case-Laws	322
6.17	Trial Before High Court	325
6.18	Camera Trial	325
6.19	Trial of Juvenile Cases	327
6.20	Appeal in Juvenile Cases	330
6.21	Trial of Lunatics—Sections 367 to 378 of BNSS [Sections 328 to 339, Cr.P.C.]	330
6.22	Cases based on search and seizure	333
6.23	Launching criminal prosecutions in civil disputes:	336
6.24	Trial of offences committed by a Company or Firm and its officers	338
6.25	Trial of Persons Related to Military, Naval and Air Forces	340
6.26	Prosecution of Public Servant for offence committed while discharging public duties.....	343
6.27	Usual Procedure of Enquiry and Trial	346
6.28	Usual Procedure of Enquiry or Trial	348
6.29	Usual Place of Trial—Sections 197 to 204 of BNSS [sections 177 to 184, Cr.P.C.].....	348
6.30	Alter or add to any charge	349
6.31	To add a new accused on evidence.....	349

6.32	Clubbing of two or more complaints — [Sections 242, 243 of BNS (Sections 219, 220 of Cr.P.C.)]	350
6.33	Some Practical Tips on Criminal Trial	353
6.34	Rights of an Accused during Trial	355

CHAPTER 7

CROSS-EXAMINATION AND DEFENCE

7.1	Provisions Concerning Production and Admission of Evidences in Bharatiya Nyaya Sanhita, 2023 [Indian Evidence Act, 1872]. [Sections 140 to 168 of BNS (Section 135 to 165) Indian Evidence Act]	368
7.2	Examination of Witnesses	372
7.3	Chief Examination of Witnesses	372
7.4	Effect of Non-examination of Prosecution Witnesses and Necessary Documentary Evidence	373
	[A] Cross-examination	375
7.5	Scope, Objective and Purpose of Cross-examination	375
7.6	Cross-Examination: How to Prepare	375
7.7	Do's and Don'ts in the Cross-examination	376
7.8	Nature and Scope of Questions to be Asked	378
7.9	Contradiction: How to Prove	378
7.10	Example of Contradiction	379
7.11	Questions of Suggestions in Criminal Cases.....	380
7.12	Practical Tips to Tackle Various Types of Witnesses	380
7.13	Consequences of Failure of Cross-examination	387
7.14	Re-Examination of Witnesses	388
7.15	Power and Jurisdiction of Court to Examine a Witness	389
7.16	Leading Case-Laws for Guidance on Cross-examination	390
7.17	Model Questions for Cross-Examination	393
	[B] Successful Defence in Criminal Cases :.....	394
7.18	Relevant Provision Governing Defences in Bharatiya Nyaya Sanhita [Indian Penal Code] and General Exceptions	394

[A] Rights of Private Defence [Sections 34 to 44 of BNS (Sections 96 to 106, IPC)]	397
7.19 Theory of Defence in Criminal Cases	399
7.20 Defences in Law and General	400
7.21 Act done by Mistake of Fact in Good Faith [Section 17 of BNS (Section 79, IPC)	401
7.22 Act done by Mistake or Misfortune without Criminal Intent or Knowledge [section 18 of BNS (Section 80, IPC)]	401
7.23 Act done to Prevent Harm to Others: [section 19 of BNS (section 81, I.P.C.)]	402
7.24 Act of Child of Tender Age (7 to 12 Years)	403
7.25 Act Done by An Insane or Person of Unsound Mind	403
7.26 Act Done while in a state of Induced Intoxication	404
7.27 Act Done with Consent (Expressed or Implied or Constructive) ..	405
7.28 Act Done under Compulsion	406
7.29 Act of Committing Trivial Offences	406
7.30 Right of Private Defence [sections 34 to 44 of BNS (sections 96 to 106, IPC)]	407
7.31 General Defences	408
7.32 Important Case-Laws on Defence Pleas.....	410

CHAPTER 8

COMPOUNDING, WITHDRAWAL OF CASES, EXEMPTION FROM PERSONAL APPEARANCE & TRANSFER OF CASES

8.1 Compounding: Definition and Scope section 359 of BNSS [S. 320, Cr.P.C.]	420
8.2 Classes of Cases Compoundable	421
8.3 Compromise.....	422
8.4 Who may Compound a Case	423
8.5 Stages When Compounding may be Permitted	424
8.6 Power of Courts with regard to Composition of Offences	424

8.7	Composition of Offences in Non-compoundable Cases	425
8.8	Practice and Procedure for Filing Application Memo and Conducting Enquiry	427
8.9	Relevant Provisions for Withdrawal of Cases.....	435
8.10	Withdrawal of Complaint	437
8.11	Dismissal of Criminal Cases	438
8.12	Exemption from Personal Appearance	439
8.13	Consequences of Non-appearance or Death of Complainant	441
8.14	Transfer of Cases : Relevant Provisions	443
8.15	Principles and Grounds of Transfer of Criminal Cases	444
8.16	Cases : Not Permissible for Transfer.....	445
8.17	Cases : Permissible for Transfer.....	447
8.18	Exercise of Powers of Transfer.....	447
8.19	<i>Locus Standi</i> to File an Application for Transfer	449
8.20	Stage for Transfer.....	449
8.21	Procedure for Filing Transfer Application.....	450

CHAPTER 9

DISPOSAL OF PROPERTY AND LIMITATION POINTS

9.1	Disposal of Property : Relevant Provisions	452
9.2	Property : Meaning thereof	455
9.3	Non-production of Seized Property before Court.....	456
9.4	Disposal of Perishable Property	458
9.5	Custody of Property Pending Enquiry and Trial [Section 503 of BNSS (<i>Section 457, Cr.P.C</i>)]	458
9.6	Disposal of Property after Conclusion of Trial.....	459
9.7	Compensation for Loss or Destruction of Seized Property.....	460
9.8	Appeal and Revision against an Order [Section 498 or 499 of BNSS (<i>Section 452 or 453, Cr.P.C</i>)]	460
9.9	Relevant Provision of Limitation	461

9.10	Aim and Objective of Limitation.....	462
9.11	Cognizance and Bar of Limitation	463
9.12	Extension of Period of Limitation : Opportunity of Hearing to Accused is Mandatory	464
9.13	Limitation : Starting Point	465
9.14	Non-applicability of Period of Limitation	466
9.15	Limitation for Continuing Offences	467
9.16	Defence Pleas on Limitation Points	468

CHAPTER 10

JUDGMENT, REVISION AND APPEALS

10.1	Judgment : End of Trial.....	471
10.2	The Expression “Judgment” : Meaning and Scope	472
10.3	“Reference” : Provision and Scope	473
10.4	Determination of Civil and Criminal Liabilities.....	474
10.5	Quashing / Civil or Criminala	476
10.6	Revision against Conviction, Acquittal or Other Orders.....	477
10.7	Orders : Interlocutory in Nature-Revision shall not lie	479
10.8	Orders : Not Interlocutory in Nature—Revision shall lie	481
10.9	Appeals : By Whom and Where.....	484

CHAPTER 11

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

11.1	Relevant provisions concerning Execution, Suspension and Commutation of Sentences [Sections 453 to 477 of BNSS (<i>Sec. 413 to 435 Cr.P.C.</i>).....	490
11.2	Some Aspects on Execution of Sentence	496
11.3	Suspension of sentence [Section 430 of BNSS (<i>Section 389, Cr.P.C.</i>)]	497
11.4	Remission of Sentence	500
11.5	Set-off Against sentence awarded to Accused	502
11.6	Commutation of Sentence [Section 474 of BNSS (<i>Section 433, Cr.P.C.</i>)]	504

11.7	Compounding of Offences.....	505
11.8	Conversion of death sentence into life imprisonment.....	506

CHAPTER 12

MERCY PETITIONS AND DELAY IN EXECUTION OF SENTENCE

[A]	Mercy Petitions for Grant Pardon or Suspend, Remission and Commute Sentences.....	508
12.1	Mercy Petition : Relevant Provisions.....	508
12.2	Power of the Governor.....	509
12.3	General Rules Governing Mercy Petitions	509
12.4	<i>Locus Standi</i> to File a Mercy Petition.....	511
12.5	Presidential Clemency and Death Sentence : Some Aspects.....	512
[B]	Delay in Execution of Sentence: Legal Remedies	513
12.6	Delay in Trial and Execution of Sentence: Consequences thereof...	513
12.7	Delay in Disposal of Appeal and Bail application.....	514
12.8	Legal Aid to Poors Facing Criminal Trial and Legal Remedies.....	515

CHAPTER 13

JUDGMENT, APPEAL AND REFERENCE

[A]	Judgments.....	518
13.1	Judgment : Definition and Scope	518
13.2	Relevant Provisions Governing the Judgment.....	520
13.3	Judgment : Powers to Pronounce.....	520
13.4	Manner of Pronouncing Judgment	522
13.5	Presence of Accused on the Date of Judgment	523
13.6	The Language and Contents of Judgment.....	523
13.7	The language and contents of judgment.....	524
13.8	Payment of Compensation.....	524
13.9	Major steps to be taken on the Date of Judgment.....	525
13.10	Sentence : Some Important Aspects.....	526
13.11	Sentence: Some important aspect.....	527

[B] Appeals.....	527
13.12 Relevant Provisions Governing “Appeals”	527
13.13 <i>Locus Standi</i> to File an Appeal.....	533
13.14 Manner and Form of Appeal	534
13.15 Appeal : Before whom to File	535
13.16 Appeals : Situation when maintainable or not.....	535
13.17 Appeals – Situation where Maintainable and not Maintainable....	536
13.18 Hearing and Disposal of Appeals	536
13.19 Appeals Against Orders	537
13.20 Limitation for filing an Appeal.....	538
13.21 Abatement of Appeal.....	539
[C] Reference.....	540
13.22 Relevant Provisions Governing Reference	540
13.23 Necessary Conditions for Making ‘Reference’	541

CHAPTER 14

MEDICO LEGAL ASPECTS

14.1 Medical Certificate: Nature and Scope.....	543
14.2 Abdominal Injuries	545
14.3 Alcoholic Death	545
14.4 Asphyxia.....	546
14.5 Drowning.....	548
14.6 Strangulation.....	549
14.7 Suffocation Death	549
14.8 Death by Throttling.....	550
14.9 Death by Hanging	551
14.10 Injuries: Accidental, Suicidal or by Criminal Act	552
14.11 Danger to Life due to an Injury	553
14.12 Nature of Wounds: Incised and Lacerated Wounds	554
14.13 Burn Injuries and Wound Injuries	555
14.14 Injuries by Fire-arms	556
14.15 Identity of a Person	557

14.16	Finger Print: Evidentiary Value.....	559
14.17	Dog Tracking Evidence.....	559
14.18	Evidence of Handwriting Expert	560
14.19	Post-mortem Report: Its Contents, Admissibility and Importance.	562
14.20	Autopsy: Its Evidentiary Value	564
14.21	Determination of Time of Death & Duration of Injury	565
14.22	Determination of Cause of Death	567
14.23	Decomposition of Body	568
14.24	<i>Rigor Mortis</i>	569
14.25	Poisoning	570
14.26	Blood and its Examination.....	571
14.27	Disputing Blood and Paternity Test.....	572
14.28	Pregnancy	573
14.29	Miscarriage	574
14.30	Concept of Rape/ Sexual Assault	574
14.31	Blood Group of Semen	578
14.32	Medical Examination of Accused.....	579
14.33	Weapons used in Offence	579
14.34	Explosive Substance : Evidentiary Value.....	580
14.35	Ballistic Report.....	581
14.36	Report of Chemical Examiner.....	582
14.37	Inquest Report : An inquest is a judicial inquiry in common law jurisdictions, particularly one held to determine the cause of person's death	582
14.38	Infanticide.....	584
14.39	Intoxication.....	585
14.40	Defence pleas on Medico-legal and other Aspects:.....	586

CHAPTER 15

OFFENCES AGAINST PUBLIC JUSTICE

15.1	Offences Against Lawful Authority and Public Justice : Nature and Scope	587
------	--	-----

15.2	Objective of the Provision	588
15.3	Bar of Cognizance (Sub-sec. (1)).....	589
15.4	The Expression "Court" : scope and Ambit	589
15.5	Non-production of forged documents : Effect of.....	590
15.6	No Cognizance on Police Report	591
15.7	<i>Locus Standi</i> to file a Complaint.....	592
15.8	Authorities being "Courts" : Some Illustrations.....	593

CHAPTER 16

PROBATION OF OFFENDERS

16.1	The Probation of Offenders Act, 1958 : Objective & Scope.....	594
16.2	Power to Release Certain Offenders After Admonition (S.3): Circumstances thereof	596
16.3	Power of Court to Release Offenders on Probation of Good Conduct (S. 4).....	596
16.4	Benefit of Release Under the Act : Not to be Claimed as a Right....	597
16.5	The Word "Expedient" : Meaning of.....	598
16.6	Applicability of the Act : Some Circumstances.....	598
16.7	Factors to be Considered by the Court.....	599
16.8	Age of Offender : An Important Consideration.....	600
16.9	Case Laws : Where Benefits were Allowed	601
16.10	Cases when benefits were allowed	602
16.11	Case Laws : Where Benefits were Disallowed	602
16.12	Provisions under Sections 401 and 402 of BNSS [<i>u/ss 360 and 361,</i> <i>Cr.P.C</i>]: Mandatory in Nature	603
16.13	Release of an Employee on Probation: Effect on Departmental Proceeding.....	605
16.14	Reasons must be Assigned for Not Giving the Benefit under Section 401 of BNSS [<i>u/s 360, Cr.P.C.</i>] or Sec. 4 of P.O. Act.....	606

CHAPTER 17

TRIAL OF JUVENILE CASES

17.1	Juvenile: Definition and Scope	607
------	--------------------------------------	-----

17.2	The Juvenile Justice (Care and Protection of Children) Act, 2000 : An Introductory Note	608
17.3	Bail to Juvenile or Child Accused of an Offence	611
17.4	Determination of Age of a Juvenile Offender.....	612
17.5	Duties and Functions of Juvenile Justice Board.....	613
17.6	Role of Special Home, Child Welfare Committee, etc.....	614
17.7	Rehabilitation and Social Reintegration under the Act	615
17.8	Procedural Aspects in a Trial	617
17.9	Appeal and Revision under the Act	618

CHAPTER 18

INHERENT POWERS OF HIGH COURT

18.1	Inherent Power of High Court : Provisions and Scope.....	619
18.2	Principles Governing Exercise of Inherent Powers	620
18.3	Principle Governing Exercise of Inherent Power	623
18.4	Nature and Scope of Exercising Inherent Powers	624
18.5	Circumstances of Exercising the Power	627
	[A] Petition to Expunge Remarks	627
	[B] Petition to Quash an FIR or Complaint or, an Order of Cognizance	628
	[C] Petition to Appoint a Receiver	629
	[D] FIR Lodged Beyond Territorial Jurisdiction	629
	[E] Petition to Alter Sentence	630
	[F] Petition for Cancellation of Bail	630
	[G] Exercise of Power to Review or Revise Own Order	631
	[H] To Release a Prisoner on Parole	631
	[I] To Compound the Offence	631
	[J] Exercise of Powers Against Interlocutory Orders	632
	[K] Prosecution based on illegal search and seizure.....	633

18.6	Situations when Inherent Powers cannot be Exercised	638
18.7	Other Instances of Exercise of Inherent Power	638

CHAPTER 19

REVISION, SPECIAL LEAVE APPEAL (S.L.P.) AND OTHER APPEALS TO SUPREME COURT

[A]	Revision	642
19.1	Relevant Provisions Governing Revision	642
19.2	<i>Locus Standi</i> to File Revision	643
19.3	Circumstances when Revision shall lie and shall not lie.....	644
19.4	The Orders which are Revisable	646
19.5	The Orders which, being Interlocutory, are not Revisable.....	648
19.6	High Court's Power of Revision.....	650
19.7	Procedural Aspects in Revision.....	652
19.8	Limitation Points in Revision	653
[B]	Special Leave Appeal (SLP).....	654
19.9	Relevant Provisions Governing Special Leave Petition (S.L.P.).....	654
19.10	Procedural Aspects Relating to Special Leave Petition (S.L.P.).....	656
19.11	Other Appeals to Supreme Court	657
19.12	Limitation to File Special Leave Petition (S.L.P.).....	658
19.13	Other Appeal to S.C.	658

CHAPTER 20

PAROLE, FURLOUGH AND JAIL RULES

20.1	Parole : Meaning and Scope.....	659
20.2	Furlough : Meaning and Scope	661
20.3	Difference between "Parole" and "Furlough"	662
20.4	Difference between "Bail" and "Parole"	663
20.5	Scope of a Writ Petition under Section 528 of BNSS [u/s 482, Cr.P.C.] for Parole or Furlough	664

20.6 Jail Rules : An Introductory Note.....	665
20.7 Judicial Pronouncements on Jail Reforms and Prisoners' Rights....	669

CHAPTER 21

RIGHTS OF AN ACCUSED

Introduction.....	673
(1) Right against illegal arrest and detention.	673
(2) The rights of accused to know the grounds of arrest and also protection against arbitrary arrest.....	676
(3) Right to know power of arrest.	676
(4) The Right of accused to be defended by an Advocate of his choice.....	677
(5) Right of arrested persons to be brought before Magistrate within 24 hours of such arrest	677
(6) Right of an accused/arrested person to be examined by Medical practitioner.....	679
(7) Right of accused/arrested person against handcuffing or fettering with rope or iron bars, etc.....	680
(8) Right of Accused regarding speedy Investigation and Trial.	681
(9) Rights of accused regarding speedy investigation and trial:	682
(10) Right of accused to get copies of statement and relevant papers relating to accusation.....	682
(11) Right of accused to get copies of statements and relevant police papers relating to accusation.....	683
(12) Right of accused to have an open and fair trial.	683
(13) Right of Speedy Trial and Hearing of the case	684
(14) Right of accused to enter upon defence or to examine witnesses	684
(15) Right of Accused to insist recording of evidence in his presence.....	685
(16) Right of cross-examination and/or Right to Test the evidence by means of cross-examination	685
(17) Right to be heard on the question of sentence.....	686
(18) Accused is entitled to fair opportunity after award of conviction and prior to award of sentence [Section 258 of BNSS (S. 235, Cr.P.C.)].....	686
(19) Accused has right to bail in case Section 35 of BNSS [Section 41-A, Cr.P.C.] is violated in offences punishable upto 7 years.....	687
(20) Rights of accused not to be prosecuted twice for the same offence or against Double Jeopardy	687

(21) Right of accused to get free legal aid at the expenses of State	688
(22) Right of accused regarding limitation for taking cognizance and raise defence at enquiry or investigation stages.....	688
(23) Right to get bail in offences	689
(24) Right as to deposit of expenses incurred on witness.....	690
(25) Closure of evidences in case of delayed trial	691
(26) Hearing of accused in appeal is imperative.....	691
(27) Right of not to be prosecuted and punished twice for the same offence [Article 20(2) & Section 337 of BNSS (<i>section 300, Cr.P.C.</i>)	691

CHAPTER 22

DEFENCE PLEAS IN CRIMINAL TRIAL

22.1 First Information Report (FIR): Introductory Note	694
22.2 F.I.R. : Effect of lapses	694
22.3 Second and subsequent F.I.R. : Bad in law	695
22.4 Delay in lodging F.I.R. : Consequences thereof	696
22.5 Delay in Dispatching F.I.R. to the Court [Section 176 of BNSS (<i>Section 157, Cr. P.C.</i>)]	698
22.6 Place of Occurrence (P.O.) : Duty of I.O.	699
22.7 Inquest Report : Consequences of lapses	701
22.8 Procedural Lapses at Place of Occurrence (P.O.)	702
22.9 Forensic Science Laboratory (F.S.L.) Report	703
22.10 Medical Evidence	704
22.11 Murder Trials : Situations of Acquittal and benefits of doubts	705
22.12 Dying declaration : Consequences of Irregularities	706
22.13 Test Identification Parade : Effect of delay & laches	707
22.14 Testimony of Solitary Witness	708
22.15 Delay in recording statements of witnesses	709
22.16 Non-Production of Independent Witnesses	709
22.17 Inordinate delay in investigation & conclusion of trial	710
22.18 Non-explanation of injuries on the accused	712
22.19 Previous enmity	713
22.20 Plea of Alibi	713
22.21 Lapses in Recording Statements Accused under section 351 of BNSS [<i>u/s 313, Cr. P.C.</i>].....	714
22.22 Investigation : Benefits of Infirmities to Accused	715

22.23	Non-examination of Investigating Officer (I.O.)	717
22.24	Non-examination of material witnesses	718
22.25	Exercise of Right of Private Self Defence [Sections 34 to 44 of BNS (<i>Sections 96 to 106, IPC</i>)]	718
22.26	Vicarious Liability of the Accused	719
22.27	Delay in sending seized materials to FSL/Chemical Analyser/Ballistic Experts, etc.	720
22.28	Consequence of illegal search and seizure	720
22.29	Consequences of illegal search and seizure	721
22.30	Prosecution of public servant without sanction	723
22.31	Appreciation of Evidences	724
22.32	Procedural Laws : At a Glance	725
22.33	Benefits of Probation of Offenders	726
22.34	Infancy [Sections 20, 21 of BNS (<i>Sections 82, 83 of IPC</i>)]	727
22.35	Act done by mistake [Section 17 of BNS (<i>Section 79, IPC</i>)]	727
22.36	Plea of Intoxication [Sections 23, 24 of BNS (<i>Sections 85, 86 of IPC</i>)]	727
22.37	Plea of Insanity [Section 22 of BNS (<i>Section 84, IPC</i>)]	728
22.38	Situation of multiple offences against an accused	729

CHAPTER 23

Words and Phrases	730
-------------------------	-----

CHAPTER 24

NOTABLE EXCERPTS

24.1	End of Justice	741
24.2	Duty of Police	741
24.3	Importance of Reasons	742
24.4	Access to Justice.....	742
24.5	Long Delay in Justice	742
24.6	Right to Life.....	742

CHAPTER 25

IMPORTANT MODEL FORMS OF DRAFTING

25.1	Petition under section 228 of BNSS [u/s 205, Cr.P.C.] to Dispense with Personal Attendance of Accused:	744
25.2	Petition under section 254 of BNSS [u/s 231, Cr.P.C.] to defer Cross-Examination of Witnesses:	745
25.3	Petition under section 355 of BNSS [u/s 317, Cr.P.C.] to Dispense with Personal Attendance of Accused/Petitioners:	746
25.4	Petition for Anticipatory Bail before High Court [under section 482 of BNSS (u/s 438, Cr.P.C.)]	747
25.5	Model Form of Complaint filled under section 223 of BNSS [u/s 200 Cr.P.C.]	749
25.6	Model Form of Petition Under section 144 of BNSS [u/s 125, Cr.P.C.] for Claiming Maintenance:	750
25.7	Petition for Regular Bail [Section 480 of BNSS (S. 437, Cr.P.C.)]	752
25.8	Petition for Anticipatory Bail before Session Court [Section 482 of BNSS (S. 438, Cr.P.C.)]	753
25.9	Petition for Exemption from Personal Attendance of the Accused [Section 228 of BNSS (S. 205, Cr.P.C.)]	755
25.10	Petition for Grant of Special Leave to Appeal [Section 419 of BNSS (S. 378, Cr.P.C.)]	756
25.11	Petition of Criminal Revision [Section 438/442 of BNSS (S. 397/401, Cr.P.C.)]	759
25.12	Criminal Appeal Against Acquittal [Section 419 of BNSS (Section 378, Cr.P.C.)]	762
25.13	Criminal Appeal Against Conviction [Section 415 of BNSS (Section 374, Cr.P.C.)]	766
25.14	Petition of Criminal Writ [Section 528 of BNSS (S. 482, Cr.P.C.)]	770
25.15	Petition for Condonation of Delay	773
25.16	Petition for Examination of Witness on Commission [section 319 of BNNS (S. 284, Cr.P.C.)]	774
25.17	Petition u/s 4 of the Probation of Offender Act, 1958	775

25.18	Petition under section 364 of BNSS [u/s 424, Cr.P.C.] for Allowing the Fine to be Paid in Instalments	776
25.19	Petition for withdrawal of Prosecution [Section 360 of BNSS (S. 321, Cr.P.C.)]	777
25.20	Petition to the Session Judge for Transfer of a Case [Section 448 of BNSS (S. 408, Cr.P.C.)]	778
25.21	Petition for Release of Property Attached [Section 85 of BNSS (S. 83, Cr.P.C.)]	779
25.22	Petition for Discharge of the Accused [Section 268 of BNSS (S. 245, Cr.P.C.)]	780
25.23	Petition to Proceed Against other Person Appearing to be Guilty of Offence [Section 358 of BNSS (S. 319, Cr.P.C.)]	782
25.24	Petition for Compromise the Case [Section 359(2) of BNSS (S. 320(2), Cr.P.C.)]	783
25.25	Petition for Custody of Property Pending Trial [Section 497 of BNSS (S. 451, Cr.P.C.)]	784
25.26	Mercy Petition Filed before the Governor (under Article 161 of Constitution)	785
25.27	Mercy Petition Filed before the President of India (under Article 72 of Constitution)	786
	Comparative Table of Cr.P.C. with BNSS, 2023	787
	Classification of Offences.....	815
	Bibliography	875
	Subject Index.....	877