

**UNITED KHASI-JAINTIA HILLS AUTONOMOUS DISTRICT
(ADMINISTRATION OF JUSTICE) RULES, 1953**

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UNITED KHASI-JAINTIA HILLS AUTONOMOUS DISTRICT (ADMINISTRATION OF JUSTICE) RULES, 1953

In exercise of the powers conferred under sub-paragraph (4) of paragraph 4 of the Sixth Schedule to the Constitution of India, the United Khasi-Jaintia Hills District Council, with the previous approval of the Governor of Assam, is pleased to make the following rules, namely :

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) These Rules may be called the United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953.

(2) These Rules shall apply to the whole of the United Khasi-Jaintia Hills Autonomous District excluding so much of the area thereof as is for the time being comprised within the municipality of Shillong.

(3) They shall come into force on such date as the Executive Committee may, by notification in the Gazette, appoint in this behalf.

2. Definitions :-

(1) In these Rules, unless there is anything repugnant in the context or otherwise requires,

(a) "adult" means a person belonging to a Scheduled Tribe who is not less than twenty-one years of age on such date as may be fixed in that behalf by the District Council ;

(b) "autonomous district" means a tribal area deemed as such under paragraph 1 (1) of the Sixth Schedule to the Constitution of India, and the term "district" shall be construed accordingly ;

(c) "Constitution" means the Constitution of India ;

(d) "District Council" means the District Council of the United Khasi-Jaintia Hills autonomous district constituted under the provisions of the Sixth Schedule to the Constitution and in accordance with the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951 ;

(e) "Executive Committee" means the Executive Committee of the Khasi-Jaintia Hills District Council constituted under the Assam

Autonomous Districts (Constitution of District Councils) Rules, 1951, and the terms "Chief Executive Member" and "Member of the Executive Committee" shall be construed accordingly ;

(f) "Gazette" means the Assam Gazette ;

(g) "Governor" means the Governor of Assam ;

(h) "High Court" means the High Court of Assam ;

(i) "Scheduled tribe or tribes" means such tribe or tribes as are specified by order by the President of India under Art. 342 (1) of the Constitution as modified by law made by Parliament from time to time in so far as the specification pertains to the autonomous districts of Assam ;

(j) "Village" means an entire area within the jurisdiction of each of the existing sirdars or dollois listed in Appendix I annexed and such other area within the siemships, lyngdohsbips, sirdarships or wadadarships listed in the Appendix II annexed as recognised by the siemship, lyngdohship, sirdarship or wadadarship as being an area within the jurisdiction of a court, whose decision is appealable to the court of the siem, lyngdoh, sirdar or wadadar concerned and such other areas as may be declared to be so by the District Council :

(k) "Village Court" means a Village Court constituted for a village. ;

(l) "Siemship, lyngdohship, sirdarship, wadadarship, or dolloiship" means an area under the administrative jurisdiction of the siem, lyngdoh, sirdar, wadadar or dolloi, as the case may be, recognised as such by the Governor of Assam, before the commencement of the Constitution and thereafter permitted to exercise customary tribal functions under the supervision and authority of the District Council ;

(m) "Khasi siemships" means an administrative area of the United Khasi-Jaintia Hills District known as the Khasi states prior to the commencement of the Constitution ;

(n) "Recognised" means recognised by the District Council.

(2) Any expression not defined in these rules but occurring therein, shall be deemed to have the same meanings in which they are used in the Constitution, or in the Indian Penal Code, 1860, as the case may be, in so far as they are consistent with the circumstances of

the particular case or cases.

3. Interpretation :-

Except where the context otherwise requires, the General Clauses Act, 1897 and the Assam General Clauses Act, 1915, shall apply for the interpretation of these rules, as they apply for the interpretation of an Act of Parliament or of the Legislature of the State of Assam, as the case may be.

CHAPTER 2

Constitution of Courts

4. Classes of Courts :-

There shall be three classes of Courts, as specified below, in the areas within the United Khasi-Jaintia Hills autonomous district, to be constituted by the District Council for the trial of suits and cases between the parties all of whom belonging to a Scheduled Tribe or Tribes other than suits and cases to which the provisions of sub-para (1) of para 5 of the Sixth Schedule to the Constitution apply

(i) Village Courts.

(ii) Subordinate District Council Courts and Additional Subordinate District Council Courts.

(iii) District Council Court.

5. Constitution of Village Court :-

(1) There shall be a Village Court for each village.

(2) Each Village Court shall be composed of

(a) the recognised dolloi, sirdar, siem raid (bhoi), basan, lyngdoh, lyngskor or headman of the village ;

(b) not less than two and more than six members as may be decided and elected by the majority of the village adults in an open Durbar if such a number has not been fixed by practice or custom ; but if the number has been fixed that number and these members shall continue even if the number be more than six :

Provided that until such time a Village Court is constituted under this rule, the Village Court recognised as such prior to the commencement of these Rules, shall exercise the powers of a Village Court under these Rules.

(3)

(a) There shall be a Chairman and a Vice-Chairman of each Village Court :

Provided that the Chief Executive Member or a Member of the Executive Committee or any other Member of the District Council shall not be entitled to be a Chairman or Vice-Chairman of the Village Court.

(b) The Chairman of the Village Court shall be the dolloi, sirdar, siem raid (bhoi), basan, lyngskor or headman, as the case may be, or any such person elected by the Village Court if there are more than one.

(c) The Vice-Chairman shall be one of the members of the Village Court elected by the majority of the members of the Court ; and he shall perform the duties of the Chairman in his absence.

(4) There shall be a Secretary of the Village Court to be appointed by the Court from amongst the members of the court.

(5) An elected member of the Village Court shall have a tenure of office of 5 years from the date of his first sitting in the Court but shall be eligible for re-election.

6. Quorum and jurisdiction of the Village Court :-

(1) The quorum of the Village Court constituted under R. 5 shall be 3 members or one-third of the total number of members of such court, whichever is greater.

(2) The Secretary of the Village Court shall record the proceedings of the court.

(3) The jurisdiction of a Village Court shall extend to the hearing and trial of suits and cases arising within the territorial limits of the village. II Subordinate District Council Court and Additional Subordinate District Council Court

7. . :-

(1) There shall be a Subordinate District Council Court at Jowai for the Jowai Sub-division and also Subordinate District Council Court or Courts at Shillong for Shillong Sub-division for the whole of the United Khasi-Jaintia Hills Autonomous District excluding Jowai Sub-division. Each Court shall be presided over by a Judicial Officer to be designated as Magistrate appointed by the Executive Committee with the approval of the Governor, and such Judicial Officer shall

also act as Recorder of the court :

Provided that the Chief Executive Member or a member of the Executive Committee or any other Member of the District Council shall not be eligible to hold office as Judicial Officer ;

(2) Notwithstanding anything contained in sub-R. (1), the Courts of the Siem, Lyngdohs, Wadadars or Sirdars listed in Appendix II annexed shall be the Additional Subordinate District Council Courts : their territorial jurisdiction being co-extensive with the siemship, lyngdohship, wadadarship or sirdarship, as the case may be. Each such Additional Subordinate District Council Court shall be presided over by the siem, lyngdoh, wadadar or sirdar, as the case may be, with, such number of myntries, or other customary elders as may be determined by the Executive Committee. Where there is more than one sirdar or wadadar any such elected by the members of the Additional Subordinate Court concerned shall be the Presiding Officer. The Presiding Officer shall also act as a Recorder of the court :

Provided that the Chief Executive Member or a Member -of the Executive Committee or any other member of the District Council shall not be entitled to be the Presiding Officer of such a Court ;

Provided further that until such time the Additional Subordinate District Council Court or Courts is or are constituted under this rule, the courts of the siems, lyngdohs, wadadars or sirdars, as the case may be, recognised as such by the competent authority prior to the commencement of these Rules, shall exercise the powers of the Additional Subordinate District Council Court under these Rules.

(3) The Executive Committee will provide each Subordinate District Council Court with necessary ministerial staff to keep all records and registers and to issue summons as in the name of the court. In the case of an Additional Subordinate District Council Court the siem, lyngdoh, wadadar or sirdar, as the case may be, shall appoint his own staff required by the court.

8. Subordinate District Council Court and Additional Subordinate District Council Court :-

(1) Subject to R. 16, the jurisdiction of Subordinate District Council Court at Jowai shall extend to suits and cases arising within the sub-division between parties residing within the jurisdiction of different Village Courts therein, and to cases which are not triable

by the Village Courts.

(2) Subject to R. 16, the jurisdiction of the Subordinate District Council Court or Courts at Shillong shall extend to

(a) suits and cases between parties residing within the jurisdictions of the different Village Courts on the whole of the United Khasi-Jaintia Hills Autonomous District excluding the siemships, lyngdohships, sirdarships or wadadarships listed in Appendix II annexed and the Jowai Sub-division and to suits and cases which are not triable by such Village Courts ;

(b) suits and cases between parties residing within the jurisdictions of the different Additional Subordinate District Council Courts.

(3) The jurisdiction of an Additional Subordinate District Council Court shall extend to suits and cases not triable by a village court in which all parties reside within its territorial jurisdiction.

9. Constitution of District Council Court :-

There shall be one District Council Court for the United Khasi-Jaintia Hills autonomous district which shall be called the United Khasi-Jaintia Hills District Council Court. The Court shall consist of one or more Judicial Officers to be designated as Judge or Judges appointed by the Executive Committee with the approval of the Governor :

Provided that the Chief Executive Member or Member of the Executive Committee or any other member of the District Council shall not be entitled to hold office as Judicial Officer of the District Council Court.

10. The District Council Court shall ordinarily sit at Shillong :-

But it may also sit at any other place or places within the jurisdiction of the District Council whenever it deems necessary for the public interest provided a tour programme shall be submitted within one week to the Executive Committee.

CHAPTER 3

Powers of Courts

11. Suits and cases to be tried by Village Courts :-

A Village Court shall try suits and cases of the following nature :

(a) Cases of civil nature ; Provided that if any immovable property is in dispute the property must be situated within the jurisdiction of

the Village Court and in all other cases all the parties must reside or hold land within such jurisdiction ;

(b) Criminal cases falling within the purview of tribal laws and customs and offences of petty nature, such as petty theft and pilfering, mischief and trespass of petty nature, simple assault and hurt, affront and affray of whatever kind, drunkenness or disorderly brawling, public nuisance and simple cases of wrongful restraint :

Provided that the parties reside within the jurisdiction of the Village Court and the offence occurs therein ;

Provided further that the Village Court shall not be competent to try offences in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.

12. Power of Village Courts to pass sentence in criminal cases and to award costs in civil cases :-

(1) A Village court shall not be competent to pass a sentence of imprisonment in any criminal case. It shall have power to impose a fine for any offence it is competent to try, up to a limit of Rs. 50 (Rupees fifty). It may award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(2) In a civil case a Village Court shall have power to award all costs, as also compensation to those against whom unfounded or vexatious suits and cases have been instituted before the Court.

(3) The fines and payments imposed and ordered under sub-Rr. (1) and (2) may be enforced by distraint of the property of the offender.

13. Power of Village Courts to order attendance of the accused and the witnesses :-

A Village Court shall have power to order attendance of the accused and the witnesses to be examined in the case and to impose a fine not exceeding Rs. 25 (Rupees twenty-five only) on any person wilfully failing to attend when so ordered or commit for contempt of such courts.

14. Realization of fine imposed under R. 13 :-

If any person on whom a fine imposed under R. 13 has been imposed by a Village Court fails to deposit the amount at once or within such time as the Village Court may allow, the Court shall

report the matter to the First Appellate Court for necessary action to realise the fine in such manner as it may deem fit unless the person gives notice to appeal against such decision.

15. Village Courts to refer certain cases to competent Court

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Where a Village Court is of opinion that the sentence it is competent to pass is insufficient in the circumstances of the case it shall, without delay, refer the case to the competent Court, and that Court shall dispose of the case in accordance with these rules.

16. Appeals to Subordinate District Council Courts and Additional Subordinate District Council Courts :-

Subject to R. 29 an appeal shall lie to the Subordinate District Council Court or Additional Subordinate District Council Court, as the case may be, from a village court within the jurisdiction of the Subordinate District Council Court or Additional Subordinate District Council Court concerned, against any order or sentence in a criminal case, or against any decision in any other case, provided the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court excluding the time for getting copies. The Subordinate District Council Court or Additional Subordinate District Council Court while hearing the appeal, may either decide the appeal after perusal of the records of the case or may try the case de novo.

17. Investment of Courts with powers :-

Save as otherwise provided in the Constitution and in these Rules, a Subordinate District Council Court or Additional Subordinate District Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as it may be invested with by the Executive Committee of the District Council with the prior approval of the Governor.

18. Subordinate District Council Court to try civil suits and criminal cases :-

Subject to Rr. 19, 20 and 21, a Subordinate District Council Court shall be competent to try (i) (a) all civil suits not triable by a village court in which all the parties reside or hold land within its jurisdiction and if any immovable property is in dispute the said property is also situated within the same ; (b) all criminal cases not triable by a village court in which the offence is committed within its jurisdiction ; and (ii) to hear appeal from village courts.

19. Additional Subordinate District Council Court to try civil suits :-

An Additional Subordinate District Council Court shall be competent to try all civil suits not triable by a village court in which all the parties reside or hold land within its jurisdiction and if any immovable property is in dispute the said property is also situated therein.

20. Additional Subordinate District Council Court to try criminal cases :-

Subject to R. 21, an Additional Subordinate District Council Court shall be competent to try all criminal cases not triable by a village court in which the offence is committed within its jurisdiction, and to hear appeals from village courts.

21. Courts not competent to try suits and cases in respect of certain offences :-

(1) A Subordinate District Council Court or an Additional Subordinate District Council Court shall not be competent to try suits and cases in respect of offences

(i) under Ss. 124-A, 127 and 153 of the Indian Penal Code,

(ii) under Chapter X of the same Code in so far as they relate to the contempt of a lawful authority other than an authority constituted by the District Council,

(iii) of giving or fabricating false evidence, as specified in S. 129 of the same Code, in any case triable by a Court other than a court constituted by the District Council under these rules.

(2) Unless specially empowered by the Governor by notification in the Gazette a Subordinate District Council Court or an Additional Subordinate District Council Court shall not be competent to exercise powers in

(a) cases relating to the security for keeping the peace and good behaviour similar to those contemplated under S. 107 of the Code of Criminal Procedure, 1898 ;

(b) cases relating to the security for good behaviour from persons disseminating seditious matter similar to those contemplated under S. 108 of the same Code ;

(c) cases relating to the security for good behaviour from vagrants

and suspected persons similar to those contemplated under S. 109 of the same Code ;

(d) cases relating to the security for good behaviour from habitual offenders similar to those contemplated under S. 110 of the same Code ;

(e) urgent cases of nuisance or apprehended danger similar to those contemplated under S. 144 of the same Code ;

(f) disputes as to immovable property of the nature similar to that contemplated under S. 145 of the same Code ;

(g) cases in which a public servant who is not removable from his office save by or with the sanction of the Government of Assam or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.

22. Court of Deputy Commissioner and his Assistants to try suits and cases executed under R. 21 :-

(1) Suits and cases referred to in R. 21 shall continue to be tried and dealt with by the existing Courts until such time as the Governor deems fit to invest the Subordinate District Council Court with such powers by notification in the Gazette.

(2) For the purposes of this rule the "existing Courts" mean the Courts of the Deputy Commissioner and his Assistants.

23. Security for keeping peace on conviction :-

Whenever there is any likelihood of breach of peace or whenever any person accused of any offence involving a breach of peace, or of abetting the same or any person accused of committing criminal intimidation is convicted of such offence by any Court of the District Council and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.

24. Court to refer all cases involving breach of peace, seditious matter, etc., to Deputy Commissioner :-

Whenever any Court of the District Council is informed that

(a) any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably

occasion a breach of the peace, or disturb the public tranquillity ;

(b) there is within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of

(i) any seditious matters, that is to say, any matter the publication of which is punishable under S. 124-A or S. 153-A of the Indian Penal Code ; or

(ii) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code ;

(c) any person is taking precautions to conceal his presence within the local limits of such Court's jurisdiction, and there is reason to believe that such person is taking such precautions with a view to committing any offence ; or there is any person within such limits who has no ostensible means of subsistence or who cannot give a satisfactory account of himself :

(d) any person within the local limits of the Court's jurisdiction

(i) is by habit a robber, house breaker, thief or forger, or

(ii) is by habit a receiver of stolen property knowing the same to have been stolen, or

(iii) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(iv) habitually commits, or attempts to commit or abets the commission of the offence of kidnapping, abducting, extortion, cheating or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under S. 489-A, S. 489-B, S. 489-C, or S. 489-D of that Code, or

(v) habitually commits, or attempts to commit or abets the commission of offences involving a breach of the peace, or

(vi) is so desperate and dangerous as to render his being at large without security hazardous to the community, the Court shall refer the matter to the Chief Executive Member for reference to the Deputy Commissioner, who shall, on such reference being made to him, deal with the case in accordance with law.

25. Court to refer all urgent cases of nuisance or

apprehended danger to Deputy Commissioner :-

In cases where, in the opinion of a Court of the District Council there is sufficient ground for proceeding under S. 144 of the Code of Criminal Procedure, 1898 and immediate preventive or speedy remedy is desirable, such Court shall refer the matter to the Chief Executive Member for making a reference to the Deputy Commissioner who shall on such a reference being made to him take such action as he considers necessary under the said section.

26. Procedure where dispute concerning land, etc., is likely to cause breach of peace :-

Whenever a Court of the District Council is satisfied that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such Court shall refer the matter to the Deputy Commissioner through the Chief Executive Member and the Deputy Commissioner, whenever such a reference is made to him, shall take such action as he considers necessary under law.

27. Court to pass sentence authorised by law :-

In criminal cases the Subordinate District Council Court or Additional Subordinate District Council Court may, subject to the provisions of the Constitution and of these rules, pass any sentence authorised by any law for the time being in force.

28. Appeal to District Council Court :-

An appeal shall lie to the District Council Court from the decision of a Subordinate District Council Court in any case, civil or criminal : Provided that such appeals are accompanied by a copy of the order appealed against and a clear statement of the grounds of appeal and are filed within 60 days of the date of the orders, excluding the time required for obtaining a copy of the order appealed against.

29. District Council Court to be a Court of Appeal :-

Subject to the provisions of Rr. 30 and 32, the District Council Court shall be a Court of Appeal in respect of all suits and cases triable by Subordinate District Council Courts and Additional Subordinate District Council Court ;

30. District Council Court may direct Subordinate Court to try civil suit not otherwise triable by it or may try the same itself :-

The District Council Court shall be competent to direct a Subordinate District Council Court or Additional Subordinate District

Council Court to try a civil suit which is not otherwise triable by such court, or may try the same itself.

31. Court to pass orders on appeal authorised by law :-

(1) The District Council Court may, subject to the provisions of these rules, pass any order on appeal authorised by any law for the time being in force.

(2) The District Council Court may call for and examine the records of any proceedings of a Subordinate District Council Court, an Additional Subordinate District Council Court or a Village Court and may enhance, reduce, cancel or modify any sentence or finding passed by such Court or remand the case for re-trial.

32. District Council Court may transfer case or itself try it :-

(1) If it appears to the District Council Court

(a) that a fair and impartial inquiry or trial cannot be had in any Village Court or Subordinate District Council Court or Additional Subordinate District Council Court, or

(b) that some question of law, Tribal or otherwise, of unusual difficulty is likely to arise ; it may order

(i) that any offence be inquired into or tried by another Village Court or Subordinate District Council Court or Additional Subordinate District Council Court ;

(ii) that any particular case or class of cases be transferred from one Village Court to another Village Court or from one Village Court to a Subordinate District Council Court, or Additional Subordinate District Council Court or from one Subordinate District Council Court or Additional Subordinate District Council Court to another Subordinate District Council Court or Additional Subordinate District Council Court ; or

(iii) that any particular case be transferred to and tried before itself.

(2) When the District Council Court withdraws for trial before itself any case from any Court it shall observe in such trial the same procedure which that Court would have observed, if the case had not been so withdrawn.

(3) The District Council Court may act either on the report of the

lower Court or on the application of a party interested or on its own initiative.

33. Power of Court to release certain offenders on probation of good conduct instead of sentencing to punishment :-

(1) When any person is convicted of an offence which the District Council Court is competent to try under these rules, and no previous conviction is proved against the offender, if it appears to that Court, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the Court may direct and in the meantime to keep the peace and be of good behaviour : Provided that, where any first offender is convicted by a Subordinate District Council Court or Additional Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect, and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such Court which shall dispose of the case in the manner provided by R. 34.

(2) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or an offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the District Council Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment release him after due admonition :

Provided that, where a person is convicted of such offence by a Subordinate District Council Court or Additional Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before

such Court which shall dispose of the case in the manner provided by R. 34.

(3) The provisions of Ss. 122, 126-A and 406-A of the Code of Criminal Procedure shall apply mutatis mutandis in the case of sureties offered in pursuance of the provisions of this rule.

34. . :-

Where proceedings are submitted to the District Council Court R. 33 such Court may thereupon pass such sentence or make such orders as it might have passed or made if the case had originally been heard by it, and if it thinks further inquiry or additional evidence on any point to be necessary, it may make such inquiry or take such evidence itself or direct such inquiry or evidence to be made or taken.

35. Provision of offender failing to observe conditions of his recognisance :-

(1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognisance, it may issue a warrant for his apprehension.

(2) An offender when apprehended on any such warrant shall be brought before the Court issuing the warrant as soon as may be within a period of twenty-four hours of apprehension excluding the time necessary for the journey from the place of apprehension to such Court and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

(3) A warrant for the apprehension of an offender under sub-R. (1) shall ordinarily be directed through the Chief Executive Member, to the Deputy Commissioner, but the Court may, if its immediate execution is necessary, direct it to any other person or persons, and such person or persons shall execute the same.

36. Condition as to abode of an offender :-

The court directing the release of an offender under sub-R. (1) of R. 33 shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place in which the Court acts or in which the offender is likely to live during the period

named for the observance of the conditions.

37. Appeal against acquittal in criminal cases. :-

(1) In a criminal case the Executive Committee may, on application or otherwise direct an appeal against acquittal to be presented to the District Council Court from any order passed by a Village Court, a Subordinate District Council Court or an Additional Subordinate District Council Court.

(2) An appeal under sub-R. (1) shall be presented within 90 days of the date of order appealed against, excluding the time needed for obtaining a copy of the order.

CHAPTER 4

Procedure

38. Village Court to try suits and cases in accordance with customary law :-

A Village Court shall try all suits and cases in accordance with the customary laws of the village.

39. . :-

A Village Court shall try all cases in open Darbar in the presence of at least three members and shall decide the issue by a simple majority of votes. After hearing both parties and their witnesses, if any, it shall pronounce a decision forthwith : Provided that the President or Vice-President shall have a casting vote where there is a tie.

40. Verbal notice to parties and time limit of such notice. :-

Except where a village court otherwise decides, only verbal notice is required to be given by the Village Court to parties to a suit and their witnesses and for a fixed day not exceeding eight days from the day it is given. If a case be postponed, it shall be fixed for a day not exceeding 15 days from the date of the order of postponement, and the case may be subsequently adjourned for a period not exceeding 7 days at a time on good cause shown. The order shall be made known to the person concerned or to some adult member of his family, and failing this, shall be openly proclaimed at the place where he is or was known to be, or shall be communicated to him or any member of his family by a written notice, in sufficient time to allow him to appear. A village court may pass ex parte decision if it is satisfied that the other party wilfully absents itself :

Provided that if the adjournment is given on the motion of a party that party shall pay the adjournment cost not exceeding Rs. 10 to be appropriated to the District Council.

41. Recording of proceedings :-

- (1) The proceedings of a Village Court shall be recorded in writing.
- (2) Registers of all suits and cases disposed of by a Village Court shall be kept by the Court in the forms in Appendix III.

42. Order of attachment of property by village court :-

A Village Court may carry out its decision or may, subject to the provisions of R. 55, order attachment of property as soon as judgment is pronounced, but in no case is property so attached to be sold, if the party concerned claims to appeal within 60 days, without the orders of the District Council Court.

43. Procedure in criminal cases :-

- (1) In criminal cases the procedure of the Subordinate District Council Court, Additional Subordinate District Council Courts and the District Council Court shall, subject to the provisions of this rule, be in the spirit of the Code of Criminal Procedure, 1898, so far as it is applicable to the circumstances of the district and not inconsistent with these rules. The chief exceptions are as hereinafter specified in the following sub-rules of this rule.
- (2) Wherever a Court constituted under these rules requires, in course of the discharge of its functions, the services of the regular police which is at the disposal of the Deputy Commissioner, that Court may send a requisition for such services to that officer who will generally comply with such requisition unless he considers the compliance to be not possible for any special reasons.
- (3) Summons on any person residing outside the jurisdiction of the United Khasi-Jaintia Hills autonomous district or on a person who does not belong to a Scheduled Tribe shall be issued by a Court other than the High Court, through the Deputy Commissioner of the district.
- (4) A note of the substance of all the proceedings in cases tried before them must be kept by the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the form prescribed in Appendix IV. In a case in which sentence of imprisonment of not less than three

months is imposed full note of the evidence and proceedings must be kept.

(5) Recognisance to appear need not be taken unless it seems necessary to the District Council Court or Subordinate District Council Court.

(6) Examinations and proceedings in the Subordinate District Council Court, Additional Subordinate District Council Court or District Council Court generally shall be in English or in any of the recognised languages of the District.

44. Maintenance of Registers by Courts :-

In addition to such other Registers as may be directed by the High Court, the following Registers shall be kept in the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the forms prescribed in Appendix V

(1) Register of Petitions.

(2) Register of Crimes.

(3) Register of Criminal Cases disposed of,

(4) Register of Fines.

45. Court to adjudicate according to law, justice, etc :-

(1) In all civil cases the District Council Court, the Subordinate District Council Court and the Additional Subordinate District Council Courts shall adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case.

(2) The witnesses shall be examined on oath or solemn affirmation in any form and shall be warned that they are liable to punishment for perjury if they state that which they know to be false.

46. Deposit of expenses by appellants in civil suits :-

Any Court before which an appeal in a civil suit is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgment-debtor, may also order security to be given for part or the whole of the decretal amount.

47. Procedure in civil cases :-

In civil cases, the procedure of the District Council Court or the Additional Subordinate District Council Court shall be guided by the spirit, but not bound by the letter, of the Code of Civil Procedure, 1908 in all matters not covered by recognised customary laws or usages of the District.

48. . :-

The decree of the Appellate Court in a civil case shall be transferred to the Court passing the original order for execution as a decree of its own.

49. No imprisonment for debt :-

There shall be no imprisonment for debt, except in cases where the District Council Court or the Subordinate District Council Court or the Additional Subordinate District Council Court is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.

50. Legal practitioners to appear in cases :-

Any legal practitioner may appear in any case before the District Council Court, Subordinate District Council Court or Additional Subordinate District Council Court :

Provided that in cases where an accused is not arrested the legal practitioner shall take previous permission of the District Council Court for such appearance.

51. Commission for examination of witnesses :-

Whenever, in the course of an inquiry, trial or other proceedings under these rules before any Court other than the District Council Court it appears that a commission ought to be issued for examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court shall apply to the District Council Court stating the reasons for the application, and the District Council Court may either issue a commission or reject the application.

Provided that when a commission is necessary to be issued for examination of a witness outside the jurisdiction of the District Council Court, the District Council Court shall apply to the Deputy Commissioner stating the reasons thereof and the Deputy

Commissioner may either issue the commission or reject the application.

CHAPTER 5

Execution of sentences, decrees and orders Execution

52. Provision for realization of fines and other moneys ordered by Village Court :-

(1) Whenever a village court has sentenced an offender to pay a fine in a criminal case or has passed an order for the payment of the money by a person in a civil suit the Court may, subject to the provisions of R. 41

(a) issue a Parwana for the payment of the amount by the offender or the person concerned ;

(b) may apply, in writing, to the Chief Executive Member to realise the amount of execution according to civil process against the movable or immovable property, or both, of the defaulter.

(2) Where an application is made, under Cl. (b) of sub-R. (1), to the Chief Executive Member, the application shall be deemed to be a decree and the Chief Executive Member to be the decree holder. He shall get the decree executed according to the spirit of the Civil Procedure Code.

(3) In the event of the non-recovery of the amount of execution the Chief Executive Member may, by an application, move the Subordinate District Council Court or the Additional Subordinate District Council Court for the arrest and detention of the offender or the person concerned in execution of the decree.

(4) Whenever an application is made under sub-R. (3) the said Court may order for the arrest and detention of the offender or the person concerned in execution of the decree according to the spirit of the Criminal Procedure Code.

53. Procedure for execution of sentence, or order and decrees passed by Court :-

(1) Subject to the provisions of Rr. 43 and 47, Subordinate District Council Court or Additional Subordinate District Council Court or the District Council Court shall cause a sentence, order or decree passed by it, to be carried into effect in accordance with the procedure prescribed by the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, as the case may be, references

therein to the "Collector of the District" being construed as referring to the "Chief Executive Member of the District Council".

(2) Every warrant for the execution of a sentence of imprisonment shall be directed to the Officer in charge of the Jail maintained by the State Government in which the prisoner is, or is to be confined through the Deputy Commissioner.

(3) When the prisoner is to be confined in Jail, the warrant shall be lodged with the Jailor through the Deputy Commissioner.

54. Attachment of property of person absconding :-

Whenever a Parwana (Warrant) is issued by a Court against a person who is absconding or is concealing himself in connection with any criminal proceedings, any property, movable or immovable, belonging to him is liable to attachment according to the civil process prescribed in R 55 of these rules. Attachment of property.

55. Procedure for attachment of property belonging to judgment-debtor :-

(1) Property, movable or immovable, belonging to the judgment-debtor over which or the profits of which he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf is liable to attachment and sale in execution of a decree :

Provided that the following shall not be liable to such attachment or sale namely :

(a) the necessary wearing apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usages, cannot be parted with by any woman ;

(b) tools of artisans and where the judgment-debtor is an agriculturist his implement of husbandry and such cattle and seed grains as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such ;

(c) books of account ;

(d) a mere right to sue for damages ;

(e) any right of personal service ;

(f) stipends and gratuities allowed to pensioners of the Government or payable out of any service Family Pension Fund notified in this behalf in the official Gazette by the Central Government or State Government, as the case may be, and Political Pension ;

(g) allowances (being less than salary) of any public officer or of any employee of a railway company or local authority while absent from duty ;

(h) the salary of any such public officer or employee as is referred to in Cl. (g) to the extent of the first hundred rupees and one half of the remainder of such salary or allowances :

Provided that where the whole or any part of the portion of such salary liable to attachment has been under attachment whether continuously or intermittently for a total period of twenty four months, such portion shall be exempted from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from the attachment in execution of that decree ;

(i) any allowance forming part of the emoluments of any public officer or employee as is referred to in (g) above, which the appropriate Government may by notification declare to be exempt from attachment and any subsistence grant or allowance, to any such person while under suspension ;

(j) the pay and allowances of person to whom the Indian Army Act, 1950, applies or any person other than Commissioned Officers to whom the Indian Navy (Discipline) Act, 1934, applies ;

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1925, for the time being applies in so far as they are declared by the said Act not to be liable to attachment ;

(l) not more than one-third of the wages of the labourers and domestic servants whether payable in money or in kind ;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(n) a right to future maintenance ;

(o) any allowance declared by any law in force to be exempted

from liability to attachment or sale in execution of a decree ; and where the judgment-debtor is a person liable for the payment of land revenue any movable property, which under any law for the time being applicable to him, is exempted from sale for the recovery of an arrear of such revenue.

Explanation. The particulars mentioned in Cls. (f), (g), (j), (I) and (o) are exempted from attachment or sale whether before or after they are actually payable.

(2) Subject to the provisions of Rr. 42 and 46, the procedure for the attachment of the property shall be in the spirit of the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be.

56. Criminal lunatic :-

Whenever any Court passes any order for the detention of a criminal lunatic the District Council Court shall refer the matter to the Deputy Commissioner, who shall deal with the case following the spirit of the Code of Criminal Procedure, 1898 and in accordance with rules made by the Government of Assam under the Indian Lunacy Act, 1912.

57. Presiding or Judicial Officer not to try cases in which he is party :-

No Presiding Officer or Judicial Officer shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party or personally interested, and no Judicial Officer shall hear an appeal from any judgment or order passed or made by himself.

Explanation. A Judicial Officer shall not be deemed to be a party or personally interested within the meaning of this rule to or in any case by reason only that he is a Member of any Town Committee (or a Municipal Board) or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

58. . :-

(1) The provisions in the Khasi State (Administration of Justice) Order, 1950, published in the Government of Assam's Notification No. SK 149/49/8, dated the 25th January, 1950, the Rules for the

Administration of Justice and Police in the Khasi and Jaintia Hills, published in the Government of Assam's Notification No.2618 AP, dated the 29th March, 1937 and the Assam Autonomous Districts (Administration of Justice) Regulation, 1952 (Regulation No. III of 1952) published in the Government of Assam's Notification No. TAD/R/51/106, dated the 3rd April, 1952, are hereby repealed in so far as they relate to the matters dealt with in these Rules.

(2) Notwithstanding such repeal every suit, appeal, application for revision, proceedings and other business relating to both civil and criminal justice pending on the date of commencement of these Rules before the Court of the Deputy Commissioner, Additional Deputy Commissioner, United KhasiJaintia Hills or his Assistants shall be transferred or deemed to have been transferred for disposal to the Court which would have been competent to entertain and dispose of such suit, appeal, application for revision, proceedings or business had these Rules been in force on the date of institution or commencement of the same and the latter Court shall deal with and dispose of the same in accordance with law.