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**Code Of Criminal Procedure (Amendment) Act, 2006****11 of 2006****[04 April 2006]****CONTENTS**

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**Code Of Criminal Procedure (Amendment) Act, 2006****11 of 2006****[04 April 2006]**

An Act to amend the Code of Criminal Procedure, Samvat 1989. Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-Seventh Year of the Republic of India as follows:-

**1. Short Title And Commencement :-**

- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2006.
- (2) It shall come into force from the date of its publication in the Government Gazette.

**2. Amendment Of Section 417, Act Xxiii Of Samvat 1989 :-**

In Explanation to section 417 of the Code of Criminal Procedure, Samvat 1989 (hereinafter referred to as the Code), for the words "Additional Advocate General", the words "Additional Advocate General, Deputy Advocate General" shall be substituted.

**3. Substitution Of Sections 435 And 436, Act Xxiii Of Samvat 1989 :-**

For sections 435 and 436 of the Code, the following sections shall be substituted, namely:-

"435. Calling for records to exercise powers of revision.-(1) The

High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior criminal court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation: - All Magistrates whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purpose of this sub-section and of section 436.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by either of them.

436. Power to order inquiry. - On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made."

#### **4. Substitution Of Section 438, Act Xxiii Of Samvat 1989 :-**

Section 438 of the Code shall be substituted by the following, namely:-

"438. Sessions Judges powers of revision. - (1) In the case of any proceeding the record of which has been called for by him, the Sessions Judge may exercise all or any of the powers which may be

exercised by the High Court under sub-section (1) of Section 439.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 439 shall, so far as may be, apply to such proceedings and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Session Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

(4) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge."