

CHAPTER XXX.

APPEALS.

No appeal in cases of acquittal.

407. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

408. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

Appeals from Magistrates.

409. Any person convicted on a trial held by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or required by such Magistrate or other Officer under Section 295 or Section 296 of this Act to give security for good behaviour, may appeal to the Court of Session to which such Magistrate or other Officer is subordinate.

Appeals from Justices of the Peace.

410. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under the Statute 53 George III, c. 155, s. 105, or under Act VII of 1853 (to extend the jurisdiction of Magistrates under the 53 George III, c. 155, s. 105 in cases of assault, forcible entries, and other injuries accompanied with force, not being felonies), or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari*. Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a

writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

411. In all cases in which a Court of Session or the Magistrate of a District or other Officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding Fifty Rupees, no appeal shall be allowed.

No appeal in certain criminal cases.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.

Appeals from Officers exercising powers less than those of a Magistrate.

413. Any person convicted by any Civil Court under Chapter X of this Act, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, and 421 of this Act. Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder and District Courts may admit an appeal after the time herein provided on sufficient cause shown.

Appeals from orders under Chapter X.

414. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

415. Petitions of appeal to the Court of Session or to any Court subordinate to the Court of Session must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder Court and the Court of Session may admit an appeal after the time herein provided on sufficient cause shown.

Period of presenting petitions of appeal.

Copy of judgment to accompany petition.

416. Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Appellate Court may reject petition of appeal.

417. It shall be competent to the Appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

Appeal by party in Jail.

418. If the party appealing be in Jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other Officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Appellate Court may call for the proceedings of lower Court.

419. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the plaintiff or his counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

The signature of two Judges necessary.

420.* The sentence or order of the Sudder Court, modifying, amending, or reversing the sentence or order of a lower Court on appeal or revision, shall be signed by at least two Judges of such Sudder Court.

Appellate Court may suspend sentence pending appeal and release defendant on bail.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable he may order that he be released on bail.

* See Act XV, 1862, Section 2, with regard to extensions of this Act to any Non-Regulation Provinces.

422. In any case in which an appeal has been allowed, it shall be competent to the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, to direct such enquiry to be made and additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to pass such judgment, sentence, or order as to such Court shall seem right.

Appellate Court may direct further enquiry, &c.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by a carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, or of criminal breach of trust, as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, or the offence of theft in a building tent or vessel under Section 380 of the said Code, or the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the said Code.

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building, tent or vessel under the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the

Finding of theft not reversible on the ground of the offence proved being dishonest misappropriation.

offence of such dishonest misappropriation under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the offence of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of power of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case, within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the accused person shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect; and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Appellate Court may reduce punishment.

Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction.

427. When a Court subordinate to a Court of Session shall have convicted a person of an offence not triable by such Court, it shall be competent to the Appellate Court to annul the conviction and sentence of such Court, and to direct the trial of the case by a Court of competent jurisdiction.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

Finality of orders
on appeal.