

ACT No. XXXVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
3rd August, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, for certain purposes.

V of 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

V of 1898.

2. In section 364 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 364, Act V of 1898.

(a) in sub-section (3) the words “ unless he is a Presidency Magistrate,” shall be omitted; and

(b) in sub-section (4), for the words and figures “ or section 362, sub-section (2A) ” the following shall be substituted, namely:—

“ or in the course of a trial held by a Presidency Magistrate.”

3. For section 388 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 388, Act V of 1898.

“ 388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment Suspension of execution of sentence of imprisonment.

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(*Second Amendment*).

ment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and, if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.”

4. After sub-section (1) of section 562 of the said Code, the following sub-section shall be inserted, namely:—

“(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation,

Amendment
of section
562, Act V
of 1898.

Conviction
and release
with admo-
nition.

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misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom 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 the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

5. In Schedule V to the said Code, in Form Amendment
of Schedule
V, Act V
of 1898.
XXXVIIA,—

(a) the words "until the day of ,"
shall be omitted; and

(b) for the words "on that day;" and for the
words "on the said day of
next," and for the words "on the
day of next;" the words "on the
following date (*or* dates), namely:— "
shall be substituted.

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1923.

6. Sections 98 and 104 of the Code of Criminal Repeal.
Procedure (Amendment) Act, 1923, are hereby
repealed.