

Repealed by Act 36 of 1957.

**THE CODES OF CIVIL AND CRIMINAL PROCEDURE  
(AMENDMENT) ACT, 1951**

**No. XXIV of 1951**



**An Act further to amend the Code of Civil Procedure, 1908  
and the Code of Criminal Procedure, 1898**

[1st May, 1951]

**B**E it enacted by Parliament as follows:—

**1. Short title.**—This Act may be called the Codes of Civil and Criminal Procedure (Amendment) Act, 1951.

**2. Amendment of Act V of 1908.**—In the Code of Civil Procedure, 1908,—

(i) to section 113, the following proviso shall be added, namely:—

‘Provided that where the court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the opinion of the High Court.

*Explanation.*—In this section, “Regulation” means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.’;

(ii) in Order XLVI of the First Schedule,—

(a) after rule 4, the following rule shall be inserted, namely:—

“4A. The provisions of rules 2, 3 and 4 shall apply to any reference by the court under the proviso to section 113 as they apply to a reference under rule 1”; and

(b) in rule 5, after the words and figure “under rule 1” the words and figures “or under the proviso to section 113” shall be inserted.

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3. **Substitution of new section for section 432 in Act V of 1898.**—For section 432 of the Code of Criminal Procedure, 1898, the following section shall be substituted, namely:—

'432. *Reference to High Court.*—(1) Where any court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

*Explanation.*—In this section, "Regulation" means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(2) A presidency magistrate may, if he thinks fit in any case pending before him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.'