

# THE POLICE ACT, 1983 (1927 A.D.)

(Act No. II of 1983)

[Sanctioned by Highness the Maharaja Bahadur in Council, vide State Council Resolution No. CXII, dated 29th January, 1927 and published in Government Gazette dated 22nd Chet, 1983.]

Whereas it is expedient to re-organize the police and to make it a more efficient instrument for the prevention and detection of crime; It is hereby enacted as follows:—

**1. Short title**

This Act may be called the Police Act, 1983.

**2. Commencement**

This Act shall come into force on and from the date<sup>1</sup> of its third publication in the Jammu and Kashmir Government Gazette.

**3. Repeal**

The police Act No. 1 of 1905 is hereby repealed.

**4. Interpretation clause**

The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,—

the words "District Magistrate" shall mean the chief officer charged with the executive administration of a district and exercising the powers of an Executive Magistrate, by whatever designation the chief officer charged with such executive administration is styled;

the word "Magistrate" shall include all persons within the general police district, exercising all or any of the powers of a Magistrate;

<sup>1</sup> The Act came into force from 6th Baisakh, 1984.

the word "police" shall include all persons who shall be enrolled under this Act;

the word "general police district" shall embrace the local area within the State, in which this Act shall be ordered to take effect;

The words "superintendent" and "superintendent of police" shall include any assistant superintendent or other person appointed by general or special order of the Government to perform all or any of the duties of a superintendent of police under this Act in any district or part of a district;

The word "property" shall include any movable property, money or valuable security;

Words importing the singular number shall include the plural number and words importing the plural number shall include the singular number;

Words importing the masculine gender shall include females;

The word "person" shall include a company or corporation;

The word "month" shall mean a Hindi calendar month;

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

### 5. Constitution of the force

The entire police establishment under the general police district, shall, for the purposes of this Act, be and deemed to be one police force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the Government.

### 6. Superintendence in the Government

No person, Court or officer shall have authority to appoint, supersede, or control any police functionary except as authorised by this Act:

Provided that, nothing herein contained shall be deemed to effect in any way the powers of superintendence and control vested in the Government.

### 7. Inspector General of Police, etc.

(1) The administration of the police throughout the general police district shall be vested in an officer to be styled the Inspector General of police and in such Deputy Inspectors General and Assistant Inspectors General as the Government may specify in this behalf.

The administration of the police throughout the local jurisdiction of the District Magistrate shall, under the general control and direction of such Magistrate, be vested in a Superintendent and such Assistant and Deputy Superintendents, as the Government shall consider necessary.

The Inspector General and the Superintendents of police shall from time to time be appointed by the Government and may be removed by the same authority.

The Assistant Superintendents and Deputy Superintendents shall from time to time be appointed by the Government and may be removed by the same authority.

(2) The Government may from time to time appoint one or more officers to be designated as Deputy Inspectors General of Police or Assistant Inspectors General of Police for the discharge of such functions under this Act as may be assigned to them by the Inspector General of Police.

### COMMENTS

The post of Inspector General of Police stands upgraded w.e.f. 25-05-1982, as such administration of the police throughout the general police district is now vested in an officer styled as Director General of Police and in such Additional Directors General of Police, Inspectors General of Police, Deputy Inspectors/Assistant Inspectors General of Police as the Government may specify from time to time.

### 8. Appointment, dismissal, etc., of inferior officers

Subject to the provisions of section 126 of the Constitution of Jammu and Kashmir and to such rules as the Government may from time to time make under this Act, the Inspector General, Deputy Inspectors General, Assistant Inspectors General and Superintendents of Police may at any time dismiss, suspend or reduce any Police

erred by him

ed from office  
suspension the  
Officer shall  
responsibil-  
s, as if he had

onstituted from  
cruited through  
ks selection is  
the concerned  
as to surrender  
responsibilities  
ever, remain in  
responsibilities,  
ing suspended

two months

self from the  
the Superin-  
a permission  
office, unless  
, for a period

ment  
office what-  
ly permitted

**COMMENTS**

No police officer can whether on leave or in active service can engage in other employment than his own duties. Rule 10 of the J&K Government Employees (conduct) Rules, 1971 lays restrictions on private trades or employment by the Government servant. Similarly Section 13 of the J&K Public Men & Public Servants Act, 1983 also imposes restrictions on carrying on any trade or business, practice or profession. Violation of these statutory provisions makes the employee liable for punishment under section 168 of Ranbir Penal Code.

**12. Power of Inspector General to make rules**

The Inspector General of Police may, from time to time subject to the approval of the Government frame such orders and rules as it shall deem expedient relative to the organisation, classification and distribution of the Police force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

**COMMENTS/Case Law.**

Police force admittedly has a special significance in the administration of the State and the intent of the framers of our Constitution to empower the State Government to make rules therefore has its due significance rather than being governed under a general omnibus rules framed under the provisions of Article 309. When there is a specific provision, unless there is specific repeal of the existing law, question of an implied repeal would not arise. In any event, the general rules are only prospective in nature as such could not have affected the selection process which commenced in the year 1993 and it is on this score the parties advanced quite a lengthy submissions but in our view question of further consideration there of would not arise by reason of the commencement of the selection process in 1993. [Chander Prakash Tiwari vs. Shakuntala Shukla, AIR 2002 SC 2322.]

**13. Additional Police Officer employed at cost of individuals**

It shall be lawful for the Inspector General of Police or any Deputy Inspector General or for the Superintendents, subject to the general direction of the District Magistrate, on the application of any person showing the necessity thereof, to depute any additional number of

Police Officers to keep the peace at any place within the general police district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the Superintendent, and shall be at the charge of the person making the application:

Provided that, it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General or any Deputy Inspector General or to the Superintendent, to require that the Police Officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

**14. Appointment of additional force in the neighbourhood of railway and other works**

Whenever any railway, canal or other public works, or any manufactory or commercial concern shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional police force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector General, with the sanction of the Government to depute such additional force to such place and employ the same so long as such necessity shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of extra force so rendered necessary and such person shall thereupon cause payment to be made accordingly.

**15. Quartering of additional police in disturbed or dangerous districts**

(1) It shall be lawful for the Government, by proclamation to be notified in the Jammu and Kashmir Government Gazette, and in such other manner as the Government shall direct, to declare that area within the state has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector General of Police, or other officer authorised by the Government in this behalf, to employ any police force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police force shall be borne by the inhabitants of such area described in the proclamation.

(4) The District Magistrate, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgement of the respective means within such area of such inhabitants.

(5) It shall be lawful for the Government by order to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Government may in each case think fit to direct.

*Explanation.* — For the purposes of this section, 'inhabitants' shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents, direct from ryots or occupiers in such area, notwithstanding that they do not actually reside therein.

#### **16. Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land**

(1) If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensured from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to

make, within one month from the date of injury or such shorter period as may be prescribed, an application for compensation to the District Magistrate or to the Sub-Divisional Magistrate within the local limits of whose jurisdiction such area is situated.

(2) It shall thereupon be lawful for the District Magistrate with the sanction of the Government after such enquiry as he may deem necessary, and whether any additional police force has not been quartered in such area under the last preceding section, to:—

- (a) declare the persons to whom injury has been caused by or has ensured from such misconduct;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and
- (c) assess the proportion in which the same shall be paid by the inhabitant of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section:

Provided that, the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of the opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area and that the persons who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for the Government, by order, to exempt any person or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the District Magistrate under sub-section (2) shall be subject to revision by the Government but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

*Explanation.* — In this section the word "inhabitants" shall have the same meaning as in the last preceding section.

**17. Recovery of moneys payable under sections 13,14,15 and 16 and disposal of same when recovered**

(1) All moneys payable under sections 13, 14, 15 and 16 shall be recoverable by the District Magistrate in the manner provided by section 386 and 387 of the Code of Criminal Procedure, for the recovery of fines, or by suit in any competent Court.

(2) All moneys paid or recovered under sections 13, 14, 15 shall be credited to a fund to be called "The General Police Fund" and shall be applied to the maintenance of the Police force under such orders as the Government shall pass.

(3) All moneys paid or recovered under section 16 shall be paid by the District Magistrate to the persons to whom and in the proportions in which the same are payable under that section.

**18. Special Police Officers**

When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police Officer may require to act as Special Police Officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall unless he see cause to the contrary comply with the application.

**19. Powers of Special Police Officers**

Every Special Police Officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary officers of Police.

**20. Refusal to serve as Special Police Officers**

If any person being appointed a Special Police Officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the

performance of his duties, he shall be liable, upon conviction before a Judicial Magistrate to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

**21. Authority to be exercised by Police Officers**

Police Officers enrolled under this Act shall not exercise any authority, except the authority provided for a Police Officer under this Act and any Act or law for the time being in force, for regulating criminal procedure.

**22. Village Police Officers**

Nothing in this Act shall affect any hereditary or other Village Police Officer, unless such officer shall be enrolled as a Police Officer under this Act. When so enrolled such officer shall be bound by the provisions of the last preceding section. No hereditary or other Village Police Officer shall be enrolled without his consent and the consent of those who have the right of nomination.

**23. Police Officers always on duty and may be employed in any part of district**

Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police Officer in any part of the general police district.

**24. Duties of Police Officers**

It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every Police Officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaming house or other place of resort of loose and disorderly characters.

**25. Police Officers may lay information, etc**

It shall be lawful for any Police Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence.

**26. Police Officers to take charge of unclaimed property, and be subject to Magistrate's orders as to disposal**

(1) It shall be the duty of every Police Officer to take charge of all unclaimed or ownerless property, and to prepare and furnish an inventory thereof to the District magistrate or the Sub-Divisional Magistrate or other Executive Magistrate of the 1st class having jurisdiction, empowered by the Government in this behalf.

(2) Such inventory shall, if possible, be prepared when the Police Officer takes charge of such property in the presence of two respectable persons of the locality.

**27. Magistrate may detain property and issue proclamation**

(1) Such Magistrate may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

(2) The provisions of section 525 of the Code of Criminal Procedure, 1989, shall be applicable to property referred to in this section.

(3) If within the period limited in such proclamation any claim is preferred to such property or proceeds thereof such Magistrate may make such order as he thinks fit respecting the disposal of such property or proceeds or the delivery of such property or proceeds to the person, entitled to the possession thereof.

**28. Confiscation of property if no claimant appears**

If no person shall, within the period allowed, claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2) of the preceding section, be sold under the orders of such Magistrate.

(2) The sale proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 27 to which no claim has been established shall be kept in deposit in the State Treasury for a period of two years. If within the above mentioned period of two years, a suit is brought claiming such property or the sale proceeds thereof, the order of the civil Court competent to entertain and determine such suit regarding the disposal of such property or proceeds thereof shall be complied with. If no such suit is

brought the deposit shall lapse to and remain at the disposal of the Government.

**29. Persons refusing to deliver up certificate etc., on ceasing to be Police Officer**

Every person having ceased to be an enrolled Police Officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable on conviction before a Judicial Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment for a period not exceeding six months, or to both.

**<sup>1</sup>30. Penalties for neglect of duty, etc**

Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police duty, shall be guilty of cowardice, or shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Judicial Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months, or to both.

**31. Regulation of public assemblies and processions, and licensing of same**

(1) The Superintendent or Assistant Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(2) He may also, on being satisfied that it is intended by any person or class of person to convene or collect an assembly in any such

<sup>1</sup> See also Ordinance III of 2005.

road, street or thoroughfare, or to form a procession which would, in the judgement of the District Magistrate or of the Sub-Divisional Magistrate, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a licence.

(3) On such application being made, he may issue a licence specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section; provided that, no fee shall be charged on the application for, or grant of, any such licence.

(4) *Music in the streets:* — He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.

#### COMMENTS/Case Law

Public meetings. -Total prohibition is invalid. Restrictions can be imposed and the police can take preventive measures. [*Anindaya Copal Mitra and another vs. State of West Bengal and other, 1993 Cri.L.J 2096 (Cal.)*.]

The performance of Tandava dance in public procession form part of the Ananda Margis religion and is also a matter of religion within the meaning of these articles and that the Ananda Margis cannot be deprived of their right to practice their religion in the manner prescribed by their religion preceptor, except on the grounds of public order, morality and health.

If one religion denomination is allowed to carry its religious practice but another religious denomination is restraint from carrying on religious practice and almost similar religious practices, the same makes out a clear case of discrimination in violation of the principles of Art.14 of the Constitution. [*Paras 45,48 -AIR 2004 SC 2984*]

#### **32. Power with regard to assemblies, processions violating conditions of licence**

(1) Any Executive Magistrate or Superintendent of Police or Assistant Superintendent of Police or Deputy Superintendent of Police or Inspector of Police or any Police Officer in charge of a station may stop any procession which violates the conditions of a licence granted under the last forgoing section, and may order it or any assembly which violates any such conditions as foresaid to disperse.

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.

#### **33. Police to keep order in public roads, etc**

It shall be the duty of the police to keep order on the public roads, and in the public streets, thoroughfares, ghats and landing places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and procession on the public roads and in public streets, or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghat or landing place may be thronged or may be liable to be obstructed.

#### **34. Penalty for disobeying orders issued under last three sections, etc**

Every person opposing or not obeying the orders issued under the last three preceding sections, or violating the conditions of any licence granted by the Superintendent or Assistant Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Judicial Magistrate to a fine not exceeding two hundred rupees.

#### **35. Saving of control of District Magistrate**

Nothing in sections 31, 32 and 33 shall be deemed to interfere with the general control of the District Magistrate over the matters referred to therein.

#### **36. Punishment for certain offences on roads, etc., Powers of Police Officers**

Any person who, on any road or in any open place or street or thoroughfare within the limits of any town to which this section shall be specially extended by the Government, commits any of the following offences, to the obstruction, in convenience, annoyance, risk, danger or damage of the residents or passengers shall, on conviction before a Judicial Magistrate be liable to a fine not exceeding two hundred Rupees, or to imprisonment not exceeding 8 days; and it shall be lawful for any Police Officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely:-

*First: — Slaughtering cattle, furious riding, etc.* — Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle or vehicle recklessly or furiously, or trains or breaks any horse or other cattle;

*Second: — Cruelty to animals:* — Any person who wantonly or cruelly beats, abuses or tortures any animal;

*Third: — Obstructing passengers:* — Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public;

*Fourth: — Exposing goods for sale:* — Any person who exposes any goods for sale;

*Fifth: — Throwing dirt into streets:* — Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials; or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heap or the like;

*Sixth: — Being found drunk or riotous.* — Any person who is found drunk or riotous or who is incapable of taking care of himself;

*Seventh: — Indecent exposure of person.* — Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose;

*Eighth: — Neglect to protect dangerous places.* — Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure.

#### COMMENTS

Provisions of section 36 have been extended to certain towns/Cities under the Govt" order No., date as shown against each in the below table:—

S.No.	Order/Resolution No.	Cities/Towns
1.	State Council Resolution no. 7 DT. 4 9 1925	Jammu, Srinagar, Anantnag, Baramulla Sopore, Tangmarg, Gulmarg and Udhampur

2.	Foreign & Political Secy. No. 15 Dt. 24-04-1931.	Banihal Cart Road and all its branches.
3.	Prime Minister's Office no. 15 Dt. 24-014-1931	Srinagar-Ganderbal and Sopore Handwara roads.
4.	Prime Minister office no. 2/PB Dt. 12-12-1934.	Anantnag-Pahalgam road.
5.	Council order no. 95 dated. 7-2-1935	Jammu cantonment area; Ramnagar road from the office of Sericulture Department to the Railway Station; Jammu-Akhnoor road up to Talab Tiloo on one side and Wazir house (at present occupied by the Hon'ble Chief Justice) on the other.
6.	Prime Minister office no. 266 Dt. Of 1938	Jammu-Akhnoor road, Jammu- Suchetgarh road, Jammu-Samba road, Mirpur-Rambari road, Domel- Katra road, and Gulmarg-Tangmarg road.
7.	Chief Secretariat (GD) orders no. 390-C of 1938.	Pahalgam-Amarnath Ji road.
8.	Chief Secretariat (GD) order dated 26th Phagun, 1995.	Srinagar-Harwan road.
9.	C.O.No. 653 of 1950 dated 10-6- 1950.	Jammu-Lakhanpur road.
10.	C.O. No. 1125-C of 1950 Dt. 14-10- 1950.	Whole of Frontier District of Ladakh.
11.	MHA No. Plice-56/57 dated 30-4- 1957.	Road leading from Anantnag-Dooru- Verinag-Lower Monda-Nehru Tunnel up to the North portal where it joins the B.C road, Gardens of Achhabal & Verinag towns.



12.	Home Deptt. No. Police-97/59 dated 16-5-1959.	Batote-Bhaderwah road; Doda-Kishatwar road, Arnia, Bishnah (Jammu), Batote, Banihal, Bhaderwah, Doda, Kishatwar, Ramban (Doda), Reasi, Katra, Chenani, Ramnagar (Udhampur), Mandi, Mendhar, Nowshera, Rajouri (Poonch), Kathua, Hiranagar & Samba (Kathua).
13.	Home (police) SRO no.40 dated 23-3-1962.	R.S. Pura and Miran Sahib towns.

**37. [Omitted by Act XIV of 1960]****38. Power to prosecute under other law not effected**

Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Act or law for any offence made punishable by this Act, or from being liable under any other Act or law or any other or higher penalty or punishment than is provided for such offence by this Act; Provided that no person shall be punished twice for the same offence.

**39. Rewards to police and informers**

Rewards payable by law to informers shall, when the information is laid by a Police Officer, be paid to the credit of the State under the Head "Police", but rewards payable by law for arrests shall, when the arrest is made by a Police Officer, be paid to such officer.

**40. Plea that act was done under warrant**

When any action of prosecution shall be brought or any proceedings held against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of warrant issued by a Magistrate.

Such plea shall be proved by the production of a warrant directing the act, and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be effected by anything contained in this section.

**41. Police Officers to keep diary**

It shall be the duty of every officer-in-charge of a police station to keep a general diary in such form as shall, from time to time, be prescribed by the Government and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of witnesses who shall have been examined.

The District Magistrate shall be at liberty to call for and inspect such diary.

**42. The Government may prescribe form of return**

The Government may direct the submission of such returns by the Inspector General and other Police Officers as may be deemed advisable and may prescribe the form in which such returns shall be made.

**43. Scope of the Act**

This Act shall not by its own operation take effect in any province or place. But the Government by an order to be published in the Jammu and Kashmir Government Gazette may extend the whole or any part of this Act to any province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such province or place.

(2) When the whole or any part of this Act shall have been so extended, the Government may, from time to time, by notification in the Jammu and Kashmir Government Gazette, make rules consistent with this Act;

- (a) to regulate the procedure to be followed by the Magistrate and Police Officers in the discharge of any duty imposed upon them by or under this Act;
- (b) to prescribe the time, manner and conditions within and under which claims for compensation under section 16 are to be made, the particulars to be stated in such claims, the

manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon; and

(c) generally, for giving effect to the provisions of this Act.

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Government.

#### **COMMENTS/Case Law.**

Police Surveillance- No evidence to show that surveillance of petitioner was necessary -Order cancelled being illegal. [*Mohammed Shafi vs. State of M.P and others, 1993 Cri.L.J 505 (M.P)*]

#### **44. Authority of Superintendent of police over village police**

It shall be lawful for the Government in carrying this Act into effect in any part of the State to declare that any authority which now is or may be exercised by the District Magistrate over any village watchman or other village Police Officer for the purposes of police, shall be exercised, subject to the general control of the District Magistrate, by the Superintendent of police.

#### **FORM**

[See Section 9]

A.B. has been appointed a member of the Police force under Act II of 1983 and is vested with the powers, functions and privileges of a Police Officer.

---