

# **POWERS AND FUNCTIONS OF REVENUE OFFICERS AS EXECUTIVE MAGISTRATES**

## **CRIMINAL PROCEDURE CODE, 1973:**

**BACK GROUND:** The law relating to Criminal Procedure applicable to all Criminal Proceedings in India (except those of state of Jammu & Kashmir and Nagaland and the tribal areas of Assam) is contained in the Criminal Procedure Code, 1898. This code has been amended from time to time by various Acts of the Central and State Legislatures. Apart from several Amendments, the provisions of the Code of 1898 have remained practically unchanged through the decades and no attempt was made to have a comprehensive revision of this old Code till the Central Law Commission was set up in 1955.

A comprehensive report for the revision of the Code, namely the Forty First Report, was presented by the Law Commission in the year 1969. One of the main recommendations of the Commission is to provide for the separation of the Judiciary from the Executive on all India basis in order to achieve the uniformity in this matter.

Basing on the recommendations of Law Commission, the Code of Criminal Procedure 1973 was enacted extending to the whole of India except the State of Jammu & Kashmir. It came into force on the 1<sup>st</sup> day of April, 1974.

In the present Code, there is an allocation of magisterial functions between two categories of Magistrates, "Judicial" under the control of High Court and "Executive" under the control of State Government.

### **The following Sections deal with powers and functions of Executive Magistrates:**

| <b><u>Section</u></b> | <b><u>Subject</u></b>  |
|-----------------------|--|
| 20                    | - Appointment of Executive Magistrates by Govt.,   |
| 21                    | - Appointment of Special Executive Magistrates by Government for particular area or for the performance of particular functions. |
| 22                    | - Local jurisdiction of Executive Magistrates  |
| 23                    | - Subordination of Executive Magistrates   |
| 37                    | - Public when to assist Magistrate   |
| 39                    | - Public to give information of certain offences like  |

against public tranquility etc.,

44 - Arrest by Magistrate

**Search Warrants :**

94 - Authorizing Police Officer to search the place suspected to contain stolen property, forged documents etc.,

97 - Search for persons wrongfully confined.

98 - Power to compel restoration of abducted females.

**Security for keeping peace and for good behaviour :**

107 - Security for keeping the peace.

108 - Security for good behaviour from persons disseminating seditious matters.

109 - Security for good behaviour from suspected persons.

110 - Security for good behaviour from habitual offenders.

111 - Order to be made when Magistrate acting under Sections 107, 108, 109 & 110.

112

to

124



Procedure and implementation of Sections 107 to 110

**Unlawful assemblies :**

129 - Dispersal of unlawful assembly by use of civil force.

130 - Use of Armed Forces to disperse unlawful assembly.

131 - Power of certain armed force officers to disperse unlawful assembly.

132 - Protection against prosecution for acts done under Sections 129, 130 & 131.

**Public nuisance:**

- 133 - Conditional order for removal of nuisance.
- 134 - Service of notification or order.
- 135 - Person to whom order is addressed to obey or show cause.
- 136 - Consequences of his failing to do so.
- 137 - Procedure where existence of public right is denied.
- 138 - Procedure where he appears to show cause.
- 139 - Power to Magistrate to direct local investigation and examination of an expert.
- 140 - Power of Magistrate to furnish written instructions etc.,
- 141 - Procedure on order being made absolute and consequences of disobedience.
- 142 - Injunction pending inquiry.
- 143 - Magistrate may prohibit repetition or continuance of public nuisance.

**Urgent Cases of Nuisance or Apprehended Danger:**

- 144 - Power to issue order in urgent cases of nuisance or apprehended danger.

**Disputes as to immovable property:**

- 145 - Procedure where dispute concerning land or water is likely to cause breach of peace.
- 146 - Power to attach subject of dispute and to appoint receiver.
- 147 - Dispute concerning right of use of land or water.
- 148 - Local Inquiry.

**Inquests and inquiries into unnatural deaths:**

- 174 - Police to enquire and report on suicide etc., to the nearest Executive Magistrate.

- 175 - Powers to summon persons.  
 176 - Enquiry by Magistrate into cause of death.

**Withdrawal of Cases:**

- 411 - Making over or withdrawal of cases by Executive Magistrates.  
 412 - Reasons to be recorded.

**ANALYSIS OF IMPORTANT SECTIONS:**

**Section 20 Cr.P.C. (Executive Magistrates) :**

In every District, the following Officers are appointed as Executive Magistrates by the Government U/S 20 Cr.P.C.

1. Collector
2. Joint Collector
3. District Revenue Officer
4. Revenue Divisional officer
5. Tahsildar

The above Officers are appointed as Magistrates by virtue of the Offices held by them as noted against each.

| <b><u>Designation of the Officer</u></b><br>(1) | <b><u>Appointed as</u></b><br>(2) | <b><u>Local Jurisdiction</u></b><br>(3) |
|---|-----------------------------------|---|
| 1. Collector                                    | District Magistrate               | Entire District                         |
| 2. Joint Collector                              | Addl. Dist. Magistrate            | Entire District                         |
| 3. Dist. Rev. Officer                           | Addl. Dist. Magistrate            | Entire District                         |
| 4. Rev. Divil. Officer                          | Sub Divisional Magistrate         | Entire Revenue                          |
| 5. Tahsildar                                    | Mandal Executive Magistrate       | Entire Mandal                           |

Additional District Magistrates shall have such of the powers of a District Magistrate under this code or under any other law for the time being in force.

Additional District Magistrates are not empowered to issue detention order under NASA and Preventive Detention Act.

All Executive Magistrates other than the Addl. District Magistrate shall be subordinate to the District Magistrate. And every executive Magistrate (other than S.D.M), exercising powers in a sub-division shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate.

District Magistrate may from time to time give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

In Andhra Pradesh, in the cities of Hyderabad and Secunderabad, Vijayawada and Visakhapatnam, the Commissioners of Police have been conferred the powers of Executive Magistrates.

**Section 21 Cr.P.C. (Special Executive Magistrates) :**

Under Section 21 Cr.P.C. the State Government may appoint, for such term as they may think fit to be known as “Special Executive Magistrates” for particular areas or for performance of particular functions and confer on such Special Executive Magistrates, such of the powers as are conferrable under the code. Generally, Deputy Collectors and Tahsildars and Deputy Tahsildars are appointed as Special Executive Magistrates to handle urgent Law and Order problems on the special occasions.

**Section 22 Cr.P.C. (Local Jurisdiction of the Executive Magistrate) :**

Under Section 2 of the Cr.P.C. the local jurisdiction of the Executive Magistrate is determined by the District Magistrate, subject to the control of the State Government, within which the Executive Magistrate may exercise all or any of the powers invested under the code. Unless so determined, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

**Section 23 Cr.P.C. (Subordinate of Executive Magistrates) :**

The Executive Magistrates, other than the Addl. District Magistrates, shall be Subordinate to the District Magistrate and every Executive Magistrate (other than the Sub Divisional Magistrate) exercising powers in a Sub Division shall also be subordinate to the Sub Divisional Magistrate, subject to the general control of the District Magistrate. The District Magistrate may make rules or give orders, from time to time, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

**OBJECT OF 107 Cr.P.C.:**

The main object of this Section is “Preventive and not Punitive”. This Section is to enable the Executive Magistrate to take measures with a view to prevent commission of offences, involving breach of the peace or disturbance to public tranquility.

**PROCEDURE:**

When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, he should go through the FIR (First Information Report) along with the relevant material placed before him and if he is of the opinion that there are sufficient grounds to initiate action U/s 107 Cr.P.C., he should pass orders, record the same on the right side corner of the first page of FIR stating:

*“I have perused the FIR along with the relevant material placed before me and I am satisfied that there are sufficient grounds to initiate action U/s 107 Cr.P.C. Taken on file. Issue Order U/s 111 Cr.P.C with summons U/s 113 Cr.P.C”.*

Before initiation of action U/s 107 Cr.P.C., it should be ensured that the FIR contains the brief facts of the case, persons involved, their addresses etc., along

with the list of PWs and also the property particulars to decide the quantum of surety to be fixed. When all these things are available and on satisfaction by the Executive Magistrate as stated above, he shall make an order in writing U/s 111 Cr.P.C., setting forth the substance of the information received, the amount of the bond to be executed and directing the Respondents to show cause as to why they should not be ordered to execute a bond for of Rs. .... (amount to be specified herein) with or without sureties (to be decided and indicated herein) for like-sum each for keeping the peace for such

Period not exceeding one year.

Summons U/s 113 Cr.P.C., shall be accompanied by a copy of the order made U/s 111 Cr.P.C.

On the appointed date and time, when all the Respondents are present, the contents of Section 111 Cr.P.C., are read over or explained U/s 112 Cr.P.C., and inquiring / questioning each of the Respondents whether he admits the offence / wrongful act having been committed by him and if he denies the committal of offence / wrongful act as charged against him, then it should be recorded in writing in the form prescribed and his signature is taken duly attested by the Executive Magistrate. Thereafter, summons shall be issued to the PWs as per the list of witnesses, Inquiry U/s 116 (1) Cr.P.C., commences the moment all the respondents present, they are examined to ascertain the truth of the allegation by taking evidence or otherwise. When the Executive Magistrate considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility, for reasons to be recorded in writing, pass an order U/s 116 (3) Cr.P.C., directing the Respondents to execute bonds for the amounts and with sureties as indicated in the other U/s 111 Cr.P.C., for keeping the peace until the conclusion of the inquiry and may detain him in the custody until such bond is executed or in default of execution until the inquiry is concluded. The interim Bonds cannot be ordered to be executed before the commencement of the inquiry.

### **DOCKET SHEET – HOW TO WRITE:**

#### **EXAMPLE:** **13.03.2002**

Case called. All the Respondents present. P.C 2002 of Yemmiganur Rural P.S present. All the Respondents have been examined under Sec. 112 Cr.P.C., and they have denied the offences / wrongful acts having been committed by them and refused to execute the bonds as directed. As it is considered immediate measures are necessary for the prevention of a breach of the peace or disturbance of public tranquility, an order U/s 116(3) Cr.P.C., is passed and pronounced in open Court, directing the Respondents to execute the Interim Bonds keep the peace until the conclusion of the inquiry and accordingly they have executed the Interim Bonds. Case adjourned to 26.03.2002 at 11 A.M., at Yemmiganur. Bind over the Respondents present. P.C. informed. Issue summons to P.W. 1 and 2.

### **COURT DIARY – HOW TO WRITE:**

Case called. All the Respondents present. P.C 2002 of Yemmiganur Rural P.S present. All the Respondents have been examined under Sec. 112 Cr.P.C., and they have denied the offences / wrongful acts having been committed by them and refused to execute the bonds as directed. As it is considered immediate measures are necessary for the prevention of a breach of the peace or disturbance of public tranquility, an order U/s 116(3) Cr.P.C., has been passed and pronounced in open Court directing the Respondents to execute the Interim Bonds to keep the peace until the conclusion of the inquiry and accordingly they have executed the Interim Bonds. Case adjourned to 26.03.2002 at 11 A.M., at Yemmiganur. P.C. informed. Respondents present are bound over. Summons Issued to P.W. 1 and 2.

### **IMPORTANT:-**

It should be borne in mind that the inquiry should commence when all the Respondents are present only and if not after exhausting all efforts i.e., to secure the presence of the absentee Respondents by issuing BWs (Bailable Warrants), NBWs (Non-Bailable Warrants), and after recording deposition from the Police Officers, not



below the rank of Sub Inspector of Police, that efforts made to execute the NBWs to produce the absentee Respondents in the Court Proved futile, then the case should be split up and the case against the absentee Respondents registered separately and dealt with. PWs should be inquired in the form of Depositions. The exhibits admitted in evidents shall be marked as follows:

1. If filed by the prosecution with the capital letter "P" followed by a numeral P1, P2, P3 and the like.
2. If filed by Defence with the capital letter "D" followed by a numeral D1, D2, D3 and the like.
3. In case of Court exhibits with the capital letter "C" followed by a numeral C1, C2, C3 and the like.
4. All the exhibits filed by the several Respondents shall be marked consecutively.

Normally, prosecution is to be conducted by the A.P.P. Grade – II, and in his absence Police Officer not below the rank of Sub-Inspector.

After the completion of evidence of Prosecution Witnesses, and at the request of the Defence counsel, the Executive Magistrate may examine the Defence Witnesses also. Arguments are to be heard from both sides before passing final order. After taking into consideration all the material facts of the case, the evidence adduced by the PWs and DWs, if any, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, the Executive Magistrate shall make an order in writing U/s 117 Cr.P.C., directing the Respondents to execute bonds as directed in the order U/s 111 Cr.P.C. And if, on an inquiry U/s. 116 Cr.P.C., it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, the Executive Magistrate, shall make an order releasing them, if they are in custody only for the purposes of inquiry, or if they are not in custody, shall discharge them U/s 118 Cr.P.C.

Orders passed U/s. 117 Cr.P.C., or 118 Cr.P.C., should invariably be pronounced in open Court.

**Appellate authority:** Court of Sessions.

**BREACH OF PEACE AND DISTURBANCE TO PUBLIC TRANQUILITY:**

**It arises due to:**

1. Religious Processions
2. Festivals
3. Elections
4. Political Movements
5. Supremacy in the Village
6. Disputes due to factions
7. Group Rivalry etc.,

**IMPORTANT POINTS TO BE KEPT IN MIND WHILE DEALING THE CASES U/S 107 Cr.P.C.**

1. The information need not be from the Police only. It may be from the public also.
2. Only fresh incidents of breach of the peace or disturbance of public tranquility such as astray, hurt etc., should be taken into account. Old incidents are useful only to prove the existence of enmity between the opposite parties, but they do not give support to the theory that there is imminent danger to peace. Convictions on fresh incidents, strengthens the case U/s 107 Cr.P.C.
3. When FIR along with its enclosures are received, the Executive Magistrate has to put his initial with date and time of receipt and how it was received. i.e., either in person or in post. The FIR and enclosures., received for action U/s 107 to 110, 145 to 147 should be examined immediately and if there are no defects, take it on file under the relevant provisions of Cr.P.C. If there are defects it may be returned for rectifications and re-submission.
4. Magisterial cases should be registered in Register No. 6 and numbered serially and continued annually.
5. An order U/s 107 Cr.P.C. is passed when the Executive Magistrate is of the opinion that the information, received by him to the effect that any person was likely to commit breach of the peace or to disturb public tranquility is credible.
6. Summons U/s. 113 Cr.P.C. accompanied by order U/s. 111 Cr.P.C. should be got served through the concerned Police.

7. No person should be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the Order made U/s 111 Cr.P.C.
8. The amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive, Imposition of excessive amount is not justified and bad in law. For this purpose the property particulars statement should be insisted.
9.
  - a. It is desirable that instead of holding the case in the Headquarters, as far as practicable, to post it to interior places within his jurisdiction where there are no transport facilities available to make the Respondents realize their sufferings and readily come forward to execute bonds to keep the peace as directed.
  - b. While conducting the Court there is need for maintaining decency, decorum, discipline and strict silence.
  - c. The A.P.P Grade II or in his absence Police Officer not below the rank of S.I. should conduct the prosecution and examination of witnesses as is being done in judicial courts.
10. When all the Respondents are present, they should be examined U/s 112 Cr.P.C. and inquiry commenced. The case should not be casually treated and adjourned without any valid reasons.
11. When the inquiry is adjourned, an order of the court in writing giving the reasons therefor shall be recorded. The reason for which an adjournment can be granted may be either due to the absence of the witness or any other reasonable cause.
12. The case should not be adjourned for more than 14 days at a time.
13. Hearing Book should be maintained.
14. Defence Counsel should file Vakalathnama. One Vakalathnama is enough for all the Respondents. This Vakalathnama is to be signed by all the Respondents and accepted by the Defence Counsel.
15. Whenever the Respondents are absent, issue of summons is to be resorted to first.
16. If summons proves to be not effective, then BWs should be issued.

17. Issue of NBWs should be resorted to as a last resort to procure the presence of Respondents.
18. The Executive Magistrate, if he sees sufficient cause, dispense with the personal attendance of any Respondent and may permit him to appear by a pleader.
19. The persons against whom the proceedings have been started are called "Respondents" and not "Accused".
20. The Proceedings before the Executive Magistrate are only "**Inquiries**" but not "**Trials**".
21. From the date of taking on file a docket sheet should be maintained indicating the proceedings on each date of posting and the date of next posting, any orders of issue of summons etc., to any witness. The docket sheet should also indicate the final disposal of the matter in brief though the detailed order may be on a separate paper.
22. Whenever the Court is held, the Executive Magistrate should write the Docket sheet in his own handwriting. It should not be allowed to be written by the clerk dealing with the subject.
23. Court Diary should be written on the same date of hearing itself and attested by the Executive Magistrate.
24. Court fee stamps affixed to the petitions presented in the Court should be punched and the amount of it should be entered in the relevant register.
25. **Forfeiture for Breach of Bonds:-** Forfeiture of Bond is justified only in a Breach of the undertaking specified in the bond and no other reason. In such cases action can be taken U/s 446 Cr.P.C. and orders passed after observation of necessary formalities under this section for forfeiting the Bond and levying Penalty / Fine. The Court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only. The Penalty / Fine amount should also be collected, entered in the Register and got remitted and entry attested by the Executive Magistrate. This procedure may also be followed in respect of cases where the Respondents fail to attend Court after having bound over themselves on the earlier date of hearing.
26. After pronouncement of either interim order U/s 116(3) Cr.P.C. or final order U/s 117 Cr.P.C. if any Respondent fails to execute bond as directed, he may be detained to custody until such bond is executed or in default of execution until the inquiry is concluded.

27. When the person in respect of whom the inquiries will be made is a minor, only his sureties shall execute the bond.
28. The inquiry U/s 116 (1) Cr.P.C. should be completed within a period of 6 (six) months from the date of commencement and if such inquiry is not completed, then the proceedings on the expiry of the said period stands terminated, unless for special reasons to be recorded by the Executive Magistrate, saying that in the circumstances of the case, the proceedings are to be kept alive, though the case is over 6 months. (Sec 116(6) Cr.P.C.)
29. To issue order terminating the proceedings U/s 116(6) Cr.P.C. if there are no special reasons to keep alive the Proceedings beyond six months as illustrated below:-

**Order:-**

The proceedings were started on the report of Station House Officer ..... Dated ..... The Respondents appeared on ..... the order U/s 111 Cr.P.C. was read over to them and explained the substance explained thereof U/s 112 Cr.P.C. Though 6 months have elapsed no progress is made in the case. No fresh incidents are reported after the initiation of Security Proceedings. Hence, there are no reasons to keep alive these proceedings and as such they stands terminated U/s 116 (6) of Cr.P.C. and the Respondents are discharged U/s 118 Cr.P.C.

30. The Executive Magistrate has powers to refuse to accept any surety offered or reject any surety accepted previously on the ground that such surety is an unfit person for the purpose of the bond (Section 121 Cr.P.C.)

**SECTION 108 Cr.P.C.:**

Security for good behaviour from person disseminating seditious matters.

1. Commission of a single or isolated offence at a particular time does not justify action U/s 108 Cr.P.C.
2. It should be shown that there is an intention of disseminating seditious matters or continuing his activities in the immediate future.

**SECTION 109 Cr.P.C.:**

- a. It deals with a person who is coming within the limits of an Executive Magistrate jurisdiction and is taking precaution to conceal his presence with a view to committing a cognizable offence.
- b. The object is to enable an Executive Magistrate to proceed against Suspicious stranger lurking within his jurisdiction.

### **ESSENTIAL CONDITION BEFORE APPLYING SECTION 109 Cr.P.C.:**

Before applying Sec. 109, the Executive Magistrate should see two necessary things:-

- a. The person is taking precaution to conceal his presence; and
- b. His concealment must be with a view to committing an offence.

### **OBJECT OF SECTION 110 Cr.P.C.:**

To protect the public against hardened and habitual criminals.

### **PROCEDURE:**

In respect of the above Sections, the Executive Magistrates should direct the Respondents to execute bonds for a period not exceeding one year with or without sureties for the cases initiated U/s 108, 109 and for a period not exceeding 3 years in respect of section 110 Cr.P.C.

The procedure as laid down U/s 107 Cr.P.C. is applicable in these cases also i.e., issue of Order U/s 111 Cr.P.C. etc.,

### **SECTION 129 Cr.P.C.:**

(Unlawful Assemblies – Dispersal of Assembly by use of Civil Force).

1. Any Executive Magistrate or Officer-in-charge of Police Station or in the absence of such Officer-in-charge, any Police Officer, not below the rank of a Sub-Inspector of police, may command any unlawful assembly or any **assembly of five or more** persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.
2. If, upon being so commanded, any such assembly does not disperse, or if without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or Police Officer referred to in Sub Section (1) may proceed to disperse such assembly by force and may require the assistance of any male person, not being an Officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting confining the persons who form part of it, in order to disperse such assembly or that they may be punished to law.

### **UNLAWFUL ASSEMBLY DISPERSAL: POINTS TO BE REMEMBERED:**

1. The police must secure the presence of an Executive Magistrate where a breach of peace is anticipated.

2. The Executive Magistrate has got powers to give an order to police to assist him in handling the situation.
3. The senior most Police Officer shall assist the Executive Magistrate.
4. The Police shall act as ordered by the Executive Magistrate.
5. The Executive Magistrate is responsible to take a decision as to when the unlawful assemblies have to be dispersed.
6. The Executive Magistrate shall wear armed band in red colour with letter "M".
7. The Executive Magistrate shall have definite opinion for the dispersal of unlawful assembly.
8. If the force is not adequate, the use of force should be attempted to control the unlawful assembly.
9. The Executive Magistrate shall order the kind of force to be used.
10. Firing shall be ordered only as a last resort.
11. Police party to be formed with 2 or more for dispersing unlawful assembly.
12. Firing order shall be done by the order in command of the party.
13. The Executive Magistrate shall communicate orders to the force.
14. The police will give order when necessary.
15. To disperse the mob, the officer shall give clear warning before use of tear gas or lathis.
16. If the mob fail to disperse, inspite of warning, firing may be given.
17. The Police Officer shall decide the minimum rounds to be fired.
18. Firing aim should be kept low and directed against the most threatening part of the crowd.
19. Files or sections ordered to fire shall unload immediately after firing without further word of command until the order to cease firing is finally given.
20. Firing should be ceased the movement the mob disperses from the scene.
21. Firing should be carried out from a distance sufficient to obviate the risk of being rushed on and to enable restrict fire control to be maintained.

22. Permission of Executive Magistrate is necessary in case the police are compelled to disperse the mob in different places of the same village.
23. Riot flags should be taken when Armed Reserves are called out in apprehension of disturbance and before firing or any other means of dispersal is resorted to should be hoisted before the mob in a position in which the inscriptions on them are clearly visible.
24. The Executive Magistrate or Police Officer shall make adequate arrangements to shift the wounded persons to the Hospital for Medical Aid. Dead persons should be sent to Mortuary.

**The following points should also be kept in mind while initiating action U/s 129 Cr.P.C.:-**

1. Conduct and behaviour of the assembly is to be determined.
2. Mere physical presence of all persons cannot make them members of unlawful assembly.
3. Unlawful assembly refusing to disperse can be dispersed by force.
4. An Order to disperse an assembly can be passed even when the assembly is not unlawful but is likely to cause breach of peace i.e. potential unlawful assembly.

**SECTION 133 Cr.P.C.: (PUBLIC NUISANCE):**

Section 133 of Cr.P.C. enables a District Magistrate / Sub Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government to deal with public nuisances. This power can be exercised either on receipt of a police report or other information. Public nuisances which can be dealt with under this section fall under the following six categories.

**CATEGORIES OF PUBLIC NUISANCE:**

1. Any unlawful obstruction or nuisance from any public place or from any way, river or channel, which is or may be lawfully used by the public.
2. The conduct of any trade or occupation, or keeping of any goods or merchandise, is injurious to the health or physical comfort of the community.
3. The construction of any building or disposal of any substance, as is likely to occasion conflagration or explosion.



4. Any building, tent, structure, or tree which is likely to fall and thereby cause injury to persons.
5. Any tank, well or excavation adjacent to any such way or public place.
6. Any dangerous animal, which requires to be destroyed confined or otherwise disposed of.

U/s 133(1) Cr.P.C., such Executive Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning or possessing or controlling such building, tent, structure, substance, tank well or excavation or owning or possessing such animal or tree, within a time to be fixed in the order to remove such obstruction or nuisance etc., to destroy, confine or dispose of such dangerous animal as mentioned above or if he objects to do so, to appear before him or some other Executive Magistrate Subordinate to him at a time and place to be fixed by the order and show cause in the manner provided why the order should not be made absolute.

No order duly made by an Executive Magistrate under this Section shall be called in question in any Civil Court. (Sec. 133(2) Cr.P.C)

The order passed U/s 133(1) Cr.P.C., if practicable, is served on the person against whom it is made in the manner herein provided for service of summons. If it cannot be so served, it shall be notified by proclamation and the copy thereof shall be stuck up at a conspicuous place (Sec. 134 Cr.P.C.,). If after passing conditional order, the Executive Magistrate finds that his direction is not complied with nor cause shown the order shall be made absolute making him liable to a penalty prescribed in Section 188 IPC. (Punishment U/s 188 is simple imprisonment for one month or fine of Rs. 200/- or both.

If the person against whom an order U/s 133 Cr.P.C is made appears and denies the existence of any Public right as alleged, the Executive Magistrate shall inquire into the matter and if he finds that there is any reliable evidence in support of such denial he shall stay the proceedings until the matter is decided by a competent

Court and if he, finds that there is no such evidence in support of such denial, he shall proceed U/s. 138 Cr.P.C., and inquire to the matter. (Sec. 137(2) Cr.P.C) And if the person, against whom an order under section 133 is made, appears and shows cause against the order, and under taking evidence, if the Executive Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper the order shall be made absolute without modification or, as the case may be with such modification, and if he is not so satisfied, no further proceedings shall be taken in the case (U/s 138 Cr.P.C.,).

**N.B:-** No order duly made by the Executive Magistrate U/s 133 Cr. P.C. shall be called in question in any Civil Court. (Sec. 133(2) Cr.P.C.,).

**SECTION 143 Cr.P.C.: (EXECUTIVE MAGISTRATE MAY PROHIBIT REPETITION OR CONTINUANCE OF PUBLIC NUISANCE):**

An Executive Magistrate can prohibit repetition or continuation of public nuisance U/s 143 Cr.P.C.

A District Magistrate OR Sub Divisional Magistrate or any other Executive Magistrate empowered by the State Government in this behalf, may order any person not to repeat or continue a public nuisance as defined in IPC (45 of 1860) or any special or Local Law.

**SECTION 144 Cr.P.C.: (Power to issue orders in urgent cases of nuisance and apprehended danger):**

Section 144 Cr.P.C. intended to be availed of for preventing disorders, disturbances and annoyances and with a view to secure the public weal. The restraints envisaged in Section 144 Cr.P.C. is anticipatory. Anticipatory restrictions are imposed upon particular kind of activities in an emergency. If the Executive Magistrate on receipt of requisition from the police, is of the opinion that there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, he may by a written order stating the material facts of the case, direct any person to abstain from a certain act etc., if such Executive Magistrate considers that such direction is likely to prevent, or tends to prevent,

obstruction, annoyance or injury to any person lawfully employed causing danger to human life, health or safety or a disturbance of public tranquility or a riot or an astray.

Preservation of the public peace and tranquility is the primary function of the Government and aforesaid power is conferred on the Executive Magistrate to enable him to perform that function effectively during the emergent situations.

An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed be passed "Ex-Parte". (Sec. 144(2) Cr.P.C) the order issued by the Executive Magistrate is directed to a particular individual or to the public in general or the specified groups of the particular place or area. (Sec. 144(3) Cr.P.C.,) The order is proclaimed by public announcement and display at important places.

The order will specify the period for which it will remain in force and the area covered by it. This order may be kept in force for a maximum period of TWO MONTHS and if the State Government is satisfied from the prevailing condition, direct that the order made by the Executive Magistrate shall remain in force for such further period not exceeding six months from the date on which the order made by the Executive Magistrate would have, but for such extension, expired, as it may specify in the said notification. (Sec 144(4) Cr.P.C.) Any Executive Magistrate that issued the order or the Magistrate subordinate to him or the State Government may rescind the order on its own motion or on the application of the person aggrieved. (Sec. 144(6) Cr.P.C)

This is the provision normally made use of to prevent trouble and maintain public peace and effective Law and Order during the celebrations of Moharum or other festivals or holding meetings processions passing along the public street, prohibiting the assembly of 5 or more persons carrying any arms or lethal weapons

including knives, sticks, stones, bricks etc., When the situation is very serious apart from Section 144 order, prohibiting the assemblies etc., armed forces are called out to maintain Law and Order. **In some situations CURFEW restricting the movement of public is also imposed and legal provision under which the prohibitory orders of CURFEW are issued also to be only U/s 144 Cr.P.C.**

#### **SECTION 145 Cr.P.C.:- DISPUTE AS TO IMMOVABLE PROPERTY:**

**(Procedure when dispute concerning land or water is likely to cause Breach of Peace.)**

When there is a dispute between two parties / groups over the possession of land, water or the boundaries thereof and if the dispute is likely to cause a breach of the peace and on receipt of report of Police Officer or upon other information, the Executive Magistrate having jurisdiction in the matter, should take action U/s 145 Cr.P.C. The Police report / information should contain the nature of dispute, the detailed description of the property, and the parties to the dispute and the nature of threat to the public peace it poses. On being satisfied from such report / information, the Executive Magistrate make an order in writing U/s 145 (1) Cr.P.C., stating the grounds of his being so satisfied and requiring the parties concerned to appear before him on a specified date and time and put in written statements of their respective claims regarding the fact of actual possession of the subject of dispute. This order is served on the parties in the manner provided for the service of summons. (145 (3) Cr.P.C.). On the appearance of the concerned parties and on filing of the written statements and other documents, on their behalf, the Executive Magistrate peruses the statements so put in, hear the parties, receive all such evidences that may be produced by them, take such further evidence, if any, as he thinks necessary and if possible decide whether any and which of the parties was at the date of the order made by him under sub-section (1), in possession of the subject of dispute, without reference to the fact as to who is the owner or who had right to possession (Section 145 (4) Cr.P.C.,)

If, the Executive Magistrate decides that one of the parties was or should be treated as being in such possession, he shall declare that possession in his favour,

and if that party was forcefully and wrongfully dispossessed within two months next before the date on which the report of a Police Officer or other information was received or after that date and before the date of his order under sub-sec.(I), he may restore to possession the party forcibly and wrongfully dispossessed. (U/s 145 (6) Cr.P.C.,) whenever, possession of a party is decided and declared U/s 145 (6), such party is entitled to continue in possession until otherwise ordered by an order from a competent Court. If the Executive Magistrate is not satisfied himself as to which of the Party was in possession as aforesaid, he may pass orders transferring the case to the District Judge for further proceedings as per Law.

If any standing crop or other produce of the property in dispute, is subject to speedy and natural decay, the Executive Magistrate may make an order for the proper custody or sale of such property and after the completion of the inquiry, shall make such order of the disposal of such property or the sale proceeds thereof as he thinks fit. (U/s 145(8) Cr.P.C.)

If, the Executive Magistrate at any time, after making the order U/s 145(1) Cr.P.C., considers the case to be one of the emergency or if he decides that none of the parties was then in such possession as is referred to in section 145 Cr.P.C. or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may U/s 146(1) Cr.P.C. attach the subject of dispute until a competent Civil Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof. Provided further, that he may withdraw the attachment any time, if he is satisfied that there is no longer any likelihood of Breach of the peace with regard to the subject of dispute.

**NOTE :**

- a. The mere pendency of a civil suit regarding the subject matter of dispute will not deprive the jurisdiction of the Executive Magistrate to take action U/s 145 Cr.P.C.
- b. Simultaneous proceedings U/s 107 Cr.P.C. & 145 Cr.P.C. between the same parties not barred.

- c. An order U/S 145 pronounced in open Court must be deemed to be duly promulgated so far as the parties to the case are concerned. Therefore, disobedience of an order passed under Section 145 would be punishable under Section 188 of I.P.C.

**SEC. 147 Cr.P.C. (Dispute concerning right of use of land and water)**

Whenever an Executive Magistrate is satisfied from the report of a Police Officer or upon other information that a dispute likely to cause a Breach of the Peace exists, regarding any alleged right of user of any land, or water, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such disputes to attend his court in person or by Pleader on a specific date and time and to put in written statements of their respective claims.

On the date of inquiry and filing of written statements etc., the Executive Magistrate shall peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, consider the effect of such evidence and if possible, decide whether such right exists and the provisions of Section 145 Cr.P.C. shall so far as may be, apply in the case of such inquiry. (Sec.147(2) Cr.P.C.). If it appears to him that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right. (Sec. 147(3) Cr.P.C.)

Proceedings started U/s 147 Cr.P.C. can be converted to one U/s 145 Cr.P.C. in appropriate cases and those started U/s 145 can be converted to one U/s 147 Cr.P.C., after recording reasons.

For the purpose of Section 145, 146 or 147 Cr.P.C., if the local inquiry is felt necessary, the District Magistrate or Sub-Divisional Magistrate may depute any subordinate Executive Magistrate to conduct such inquiry and submit report and that report can be read as evidence in the case. (Section 148 Cr.P.C.)

**SECTION 174 Cr.P.C.: (INQUIRY INTO CASES OF SUDDEN UNNATURAL DEATHS, SUICIDES ETC.):-**

The following Executive Magistrates are empowered to hold inquests:-

1. District Magistrate
2. Additional District Magistrate
3. Sub-Divisional Magistrate
4. Mandal Executive Magistrate

**INQUEST:** The important points to be borne in mind in holding inquest.

Inquest is the inquiry made U/s 174 Cr.P.C. to ascertain apparent cause of death. In all cases of sudden and unnatural deaths, like suicide or accident or death due to any machinery or animal or under circumstances raising reasonable suspicion that some other person has committed an offence, the Station House Officer or some other Police Officer specially empowered by the State Government who receives the information of committal of suicide, death etc., shall immediately give intimation of the nearest Executive Magistrate, empowered to hold inquest he shall proceed to the place immediately where the body of such deceased person is. On reaching the spot, the presence of two or more respectable inhabitants of the locality to serve as panchayatdars, and the blood relations of the deceased (if identity is known) and any witnesses that are aware of the circumstances surrounding the death, are secured and start the inquest to ascertain the apparent cause of death. The following points are to be noted as accurately as possible.

1. The Nature of the surroundings where the body lies.
2. The exact position of the dead body.
3. Accurate description of all various injuries, fractures etc. seen on the body.
4. The probable weapon with which the injuries might have been inflicted.
5. The details of the properties found on the body.
6. The marks of identification and other special features that go to establish the identity of the body.

All the relevant columns of the inquest report should be accurately filled up by the Executive Magistrate in his own hand and opinion of the Panchayatdars regarding the apparent cause of death should be mentioned in the relevant column.

In cases of death of married woman within 7 years of her marriage, Executive Magistrate should conduct inquest. After drawing up the inquest report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument, such marks appear to have been inflicted. (Sec.174(1) Cr.P.C). This inquest report should be signed by Police Officer and also other persons present. Thereafter, the body is to be forwarded to the nearest Civil Surgeon for conducting Post-Mortem Examination in the following cases:-

1. In cases of suicide by a marriage woman within 7 years of her marriage.,
2. In all cases of death of a woman within 7 years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman.
3. In all cases of death of married woman within 7 years of her marriage where the relative of the woman requests of a Post-Mortem.
4. In all cases where there is any doubt regarding the cause of death.
5. In all cases where the police officer for any reason thinks it necessary.

If the condition of the body or other circumstances do not permit the body from being transported to the place where the Medical Officer is stationed, a requisition can be given to the Medical Officer to visit the spot and conduct the autopsy at the site.

**NOTE:** The purpose of inquest is only to ascertain outward (apparent) cause of death. The question as to how the deceased was assaulted or who assaulted him or under what circumstances will not fall within the ambit and scope of the proceedings U/s 174 Cr.P.C.,

As per the decision of the Supreme Court, and several High Courts, the inquest report need not be burdened with all details ranging from motive and the manner in which the offence was committed. Whatever is mentioned in the columns of inquest



report should be covered by the statements of witnesses examined at the inquest. The statements/answers in inquest cannot be taken as statement of any single person as the answers mentioned therein are only the gist of versions given by several witnesses.

**SECTION 176 Cr.P.C. (INQUIRY BY EXECUTIVE MAGISTRATE INTO CAUSE OF DEATH):-**

In all cases of death in police custody either actual or constructive and in all cases where a married woman dies within 7 years of her marriage either by suicide or other circumstances raising a reasonable, suspicion that some other person committed an offence in relation to such woman, inquest has to be held by an Executive Magistrate. Usually, in practice all cases where FIR is issued u/s 174 Cr.P.C., the FIR is sent to the Executive Magistrate with a request to hold inquest at times what started as a case U/s 174 will turn out as one U/s 302 IPC (Murder) or some other serious offence. In view of the statutory functions, inquest should be held with the least possible delay.

The original should be filed along with the FIR that was earlier received. A copy of it should also be furnished to the concerned SHO or the investigating officer, apart from sending copies to District Magistrate and Sub-Divisional Magistrate.

**EXHUMATION / DISINTERMENT U/S 176 (3) Cr.P.C. :-**

In cases where the dead body is buried (interned) and it is considered that the body has to be dug out (Exhumed/Disinterred) for the purposes of examining it, the Executive Magistrate, having jurisdiction, in order to discover the cause of the death make an order in writing permitting the body to be exhumed / disinterred. The Executive Magistrate is to be present at the exhumation. When inquiry is to be held under this section, the Executive Magistrate wherever practicable should inform the relatives of the deceased whose names and addresses are known and shall allow them to remain present at the inquiry. He should get the grave properly identified by the relatives or other persons before ordering the opening of the grave.

It may be noted that opening a grave is interference with the dead and will amount to an offence, if a wrong grave is opened. It will be useful if the sample of the top soil of the grave is taken and preserved. After the grave is carefully opened and body exposed, the exact position of the body in the grave should be noted in the record. The soil immediately in contact with the body should also be sampled and preserved. The items of clothing etc. should be noted, and the body then got lifted out of the grave and inquest after the body is identified by someone to the satisfaction of the Executive Magistrate.

The exhumation is a Magisterial function performed under the statutory provisions of Sec. 176(3) Cr.P.C. The main requirement of which is the subjective satisfaction of the Executive Magistrate based on inquiry. Such being the case, when the Executive Magistrate after inquiry has refused to exhume, it is not open to a superior Executive Magistrate to order the exhumation without making any independent inquiry or recording grounds of satisfaction.

#### **DYING DECLARATION ADMISSIBLE IN EVIDENCE:**

A dying declaration is a statement made by a person as to the cause of his death or as to any of the circumstances of the transaction which resulted in his death. It is admissible in evidence under clause (1) of Section 32 of Indian Evidence Act in cases in which the cause of that person's death comes into question. Such a statement is relevant whether the person who made it was or was not at the time when it was made under expectation of death.

#### **WHO CAN RECORD:**

1. There is no hard and fast rule that a competent Executive Magistrate alone should record a dying declaration. It can be recorded by any Executive Magistrate, Medical Officer or under special circumstances by Police Officers.
2. Since a dying declaration, which is free from doubt, can be the sole basis of Conviction, it is the bounder duty of the Investigating Officer to request a

Competent Executive Magistrate to record the dying declaration of the victim.

Such dying declaration recorded by Executive Magistrate forms a part of the record of investigation.

**Sections 411 & 412 Cr.P.C. (Withdrawal and making over of Cases) :**

The District Magistrate or Sub-Divisional Magistrate may, for the reasons recorded, make over for disposal any proceedings started before him to any Magistrate subordinate to him and also withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him and dispose of such proceedings himself or refer it for disposal to any other Magistrate.

\* \* \* \* \*

**MODEL ORDERS :**

**IN THE COURT OF THE MANDAL EXECUTIVE MAGISTRATE, PRESENT:**

M.C.NO.

DATED:

(U/s 107 Cr.P.C)

Compliant:- Person Incharge,

The Kurnool Dist. Govt. Class IV Employees Coop. House Building Society, Kurnool.

Vs

Respondents:-

- |     |                  |                    |          |
|-----|------------------|--------------------|----------|
| 1.  | Narauana Reddy   |                    |          |
| 2.  | J. Parameswardu, | S/o Pedda Ayyanna  | 35 Years |
| 3.  | J. Pulla Reddy   | -do-               | 32 Years |
| 4.  | J. Rajasekhar    | -do-               | 28 Years |
| 5.  | J. Sreenivasulu  | S/o Nagi Reddy     | 38 Years |
| 6.  | J. Venkateswarlu | -do-               | 32 Years |
| 7.  | J. Siva Reddy    | -do-               | 33 Years |
| 8.  | J. Mallikarjuna  | S/o Chinna Ayyanna | 30 Years |
| 9.  | J. Maheswar      | do-                | 32 Years |
| 10. | J. Eswaraiah     | -do-               | 40 Years |
| 11. | J. Galenna       | S/o Rosanna        | 74 Years |
| 12. | K Ramudu         | S/o K Yellaiah     | 70 Years |

(All are residents of Kurnool)

**Order Under Section 111 Cr.P.C.,**

Where as information has been laid before me by the person-in-charge of the Kurnool Dist. Govt. Class IV Employees Co-Operative House Building Society Limited, Kurnool that an extent of 80.21 acres of private land in S.No.692/A1 etc., of Kallur Village situated within the local jurisdiction of this court was acquired by the R.D.O./L.A.O/Kurnool on the requisition of Kurnool Dist. Govt. Class IV Employees Co-Operative House Building Society Limited, Kurnool in Award No. 1/84, dt. 2.3.84 for the purpose of providing House sites to the members of the said Class-IV Employees, that the possession of the land in-question was also taken on 12-09-86 and the same was handed over to the said society, that subsequently some of the Ex-land owners i.e., J. Parameswardu and 12 other filed Writ Petitions, appeal and suit in the High Court of A.P. Hyderabad and in Dist. Munsif Court, Kurnool respectively and obtained interim Injunction which was vacated on 29-07-88 in 1/A No. 860/88 in O.S. 501/88 on the file of District Munsif Court, Kurnool and that even the writ petitions and Writ appeal filed by them before the orders of the High Court were also dismissed (Vide W.P.No. 6404/88 Dt. 30-6-88), that pursuant to the order

of the High Court and District Munsif Court, the Kurnool Dist. Govt. Class IV Employees Coop. House Building Society Limited, Kurnool entered in the said acquired lands and tried to lay roads by engaging labourers and private surveyor through contractor, by name T. Sreenivasulu. But it could not do so, due to unlawful assembly illegal trespassing and obstruction from the said ex land owners. It has further been reported that, the said Ex-land Owners (Respondents) forcibly seized the material from the labourers and detained them in their custody preventing them from proceeding ahead with their proposed work. The following incident in which the respondents noted above shows that they have clearly indulged in acts of violence endangering breach of peace and public tranquility in and around the acquired area in S.No.692/A1 etc., of Kallur Village.

Incident:- That on 12-10-1988, when the Kurnool District Govt. Class IV Employees Coop. House Building Society Limited, Kurnool. Attempted to lay roads etc., in the acquired land of 80-21 acres in S.No. 692/A1 etc., of Kallur village for the purpose of providing house sites of the Class IV Employees, the respondents shown above (Ex-owners of some of the acquired lands) unlawfully assembled, Trespassed into the acquired lands, obstructed the laborers and private surveyor engaged by the Contractor (T. Sreenivasulu) of the said House-Building Society and also seized the material from the labourers and detained them in the fields under their custody.

Whereas I, Mandal Executive Magistrate, Kallur satisfied from the above incident, that there is likely hood of imminent breach of peace and Public Tranquility in the area and initiation of proceedings against you all respondents U/s 107 Cr.P.C. to prevent the breach of peace and public tranquility is quite essential. I therefore do hereby require you all the Respondents to appear before me on 14-11-88 at 10:30 am in the court of Mandal Executive Magistrate, Kallur and to show cause as to why you should not be ordered to execute bonds for Rs. 50,000/- (Rupees fifty thousand only) with two sureties for a like sum each for keeping the peace for a period of one year.

Given under my hand and seal of this court on this 8<sup>th</sup> day of November, 1988.

Sd/-  
Mandal Executive Magistrate,

To

All Respondents (in duplicate) through S.H.O Kurnool III Town P.S for Service & return of served copy.

Copy to the Station House Officer III Town P.S. Kurnool.

Copy to the Inspector of Police, Kurnool (Rural).

Copy to the S.D.P.U Kurnool.

Copy to S.P. Kurnool.

Copy submitted to the sub Divisional Magistrate, Kurnool.

Copy submitted to Collector & District Magistrate, Kurnool.

**IN THE COURT OF MANDAL EXECUTIVE MAGISTRATE, MANDAL**

**PRESENT:**

M.C.No.

Dt:

State: Station House Officer,

P.S.Complainant

Respondent:

U/s 109 Cr.P.C.

Order U/s 111 Cr.P.C.

Whereas the following information on laid before me by S.H.O. Town P.S. in his P.S. Cr.No. that the above respondents has ostensible means of livelihood.

It is stated that the information that on the intervening night of the above respondents were found near the and meddling with the lock of a and concealing their presence near it with a view to commit cognizable offence. They were caught by. On search of the persons certain implements like burnt candle, cycle spork,, matchbox with some sticks one blade and needle were seized, under cover of proceedings. He has requested to bind over the respondents- for keeping good behaviour as they have not given satisfactory replies on their presence during the odd hours at that place.

Whereas on the above information I am satisfied that the respondents were suspicious characters livelihood of them is to commit cognizable offence, if they are allowed to be left large with out any proper surety and security.

I  
Mandal Executive Magistrate,  
Mandal do here by required the respondents as to why they should not be ordered to execute a bond each to maintain good behaviour for a period of one year.

Given under my seal and hand of this office court on this

**MANDAL EXECUTIVE MAGISTRATE,**

**Orders requiring parties concerned in Dispute to put in Written Statements of their claims.**

(Section 145 (I) Criminal Procedure Code).

**IN THE COURT OF THE MANDAL EXECUTIVE MAGISTRATE OF**

Miscellaneous case No.                      of 1999                      (Cr. No.                      )

To,

Where as it has been made to appear to me and I am satisfied for the reasons set out below that a dispute likely to cause a breach of the peace exists concerning Situate                      within the local limit of my jurisdiction;

I do hereby require you to attend at my court in person or by pleader within                      Days from the receipt of this notice and to put in a written statement of your claim as such documents or to adduce by putting in affidavits, the evidence of such persons, as you rely upon in support of such claim.

Given under my hand and the seal of the Court, this                      day of 199                      .

(Seal)

MAGISTRATE

Reasons:

**PROCEEDINGS OF THE MANDAL EXECUTIVE MAGISTRATE,  
PRESENT:-**

Rc.

Dt.

ORDER UNDER SECTION 144 Cr.P.C.

WHEREAS information has been laid before me by the Inspector of Police, that the Elections for members of P.A.C.S., at                      Mandal and Village will be held on                      , that the contest in all the above three places is keen and the representatives of the Political parties namely the Congress and Telugu Desam Party have filed nominations for the said Elections and that Tension is prevailing in the town and the concerned villages and there is every possibility of groups coming to a clash on the day of Elections. Therefore he has requested for the promulgation of order under section 144 Cr.P.C. to prevent any lawless activities, untoward incidents and in the interest of maintenance of Law and Order effectively on the day of Elections in the above places, from (10:00 AM) to                      (10:00 AM).

Where as I am satisfied from the material placed before me that there are sufficient grounds for proceedings under section 144 Cr.P.C., and that immediate prevention is desirable and the situation if not properly checked immediately may lead to undesirable consequences paralyzing the peaceful atmosphere.

I                      Mandal Executive Magistrate,                      do hereby prohibit under section 144 Cr.P.C., that taking out of any unauthorized processions or unlawful assemblies of five or more persons and also carrying of an arms or other weapons including sticks, bricks, stones, chains etc., within a radius of 500 yards from the following premises where elections are scheduled to be held on

And whereas the circumstances do not admit of service and the order is directed against the public in general and the contesting candidates/their agents and followers in particular and whereas the case of emergency as arisen, this order is passed exparte and it will be inforce from                      (10.00 A.M) to (10.00 A.M) (Both days inclusive).

GIVEN UNDER MY HAND AND SEAL OF THIS COURT THIS THE DAY OF                      199

MANDAL EXECUTIVE MAGISTRATE,

To

The General public

The contesting candidates / their Agents / followers.

Copy to the Inspector of Police

Copy to the S.I of Police

Copy to the D.S.P.

Copy to the S.P.

To The District Munisiff Magistrate.



**PROCEEDINGS OF THE MANDAL REVENUE OFFICER & MANDAL EXECUTIVE  
MAGISTRATE.**

PRESENT :: Sri

M.C.No.

Dt:

Sub:- Exhumation – Exhumation of body of Sri. Aged about  
Years – of Village of Mandal – Conduct of  
Post Mortem – Regarding.

Ref:- Requisition of Sub-Inspector of Police, Police Station  
Dt: in Cr.No. Under section 174 Cr.P.C.

\* \* \*

The Sub-Inspector of Police, Police Station has given a requisition to exhume the body of Sri S/o Resident of Village of this Mandal who died on the buried by his wife and other relatives on stating that the wife of the deceased has now given a written complaint on that her husbands death is suspicious. According he has booked as case Under section – 174 Cr.P.C. in Cr. No. . The F.I.R. was sent to this office along the requisition letter.

I have enquired the complaint i.e., the wife of the deceased, on She has stated that her husband was called by one Sri on at and took him with them. Later after one hour it was bought to her notice that her husband was found dead near the dead body was bought to their house and body was buried on in the presence of Villagers and her Relatives. Now she is suspecting the death of her husband. Hence requested to exhume the body and conduct Post Mortem to know the cause of the death. Duly satisfied I have given requisition to the Professor, Forensic Department, Kurnool Medical College to send team to Doctors to the spot to conduct autopsy over the dead body of Then proceeded to the spot where the body was buried along with Smt. Wife of the deceased, Sri brother of the Village Sarpanch Ex.Village Administrative Officer, Village Elders and the thoties who buried the body i.e., Sub-Inspector of Police, Police Station and Doctors of Forensic Department. The spot where the body was buried was identified by the relatives and thoties. Then it was ordered to exhume the body. The process started at on . The spot where the body was buried is in Sy.No. Village. The boundaries of the spot are as follow:

North :- Sy.No. Village  
South :- Sy.No. Village  
East :- Sy.No. Village  
West :- Sy.No. Village

After digging pit for ft in depth one dead body was found in the pit in deteriorated stage. The wife of the deceased and have identified the body as that of , Later the body was handed over to the Sub-Inspector of Police, Police Station at to conduct inquest and to assist the forensic doctors for conduct of Post Mortem. The inquest was completed by . The post Mortem was conducted for from to (time)

After completion of Post-Mortem, the Sub-Inspector of Police, Police Station was directed to bury the body again in the same pet. All the above process was conducted under Panchanama.

**MANDAL EXECUTIVE MAGISTRATE  
& MANDAL REVENUE OFFICER,  
KURNOOL DIST.**

To  
The Sub-Inspector of Police.  
Copy to all Concerned.

Police Station.

-oOo-