

CHAPTER II
APPOINTMENT OF SPECIAL JUDGES

3. Power to appoint Special judges :-

- (1) The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely :-
 - (a) any offence punishable under this Act: and
 - (b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause(a)
- (2) A person shall not be qualified for appointment as a Special Judge under this Act unless he is or has been a Sessions Judge or a Additional Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the code of Criminal Procedure, 1973 (2 of 1974);

4. Cases triable by Spwcial judges:-

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), or in any other law for the time being in force, the offences specified in Sub-section(1) of Section 3 shall be tried by Special Judges only.
- (2) Every offence specified in Sub-section (1) of Section 3 shall be tried by the Special Judge for the area within which it was committed, or as the case may be, by the Special Judge appointed for the case, or where there are more Special judges that one for such area, by such one of them as may be specified in this behalf by the Central Government.
- (3) When trying any case, a Special Judge may also try any offence, other than an offence specified in Section 3, with which the accused may, under the Code of Criminal Procedure, 1973, (2 of 1974), be charged at the same trial.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) a Special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

5.. Procedure and power of special judge :-

(1). A special judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973, (2 of 1974), for the trial or warrant cases by Magistrates.

- (3) A Special Judge may, with view to obtaining the evidence of nay person supposed to have directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor , in the commission thereof and any pardon so tendered shall, for the purposes of Sub-sections (1) to (5) of Section 308 of the code of criminal Procedure, 1973, (2 of 1974), be deemed to have been tendered under Section 307 of that Code. (3). Save as provided in Sub-section (1) or Sub-section (2), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as

they are not inconsistent with this Act, apply to the proceedings before a special judge; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Judge shall be deemed to be a public prosecutor.

- (4) In particular and without prejudice to the generality of the provisions contained in Sub-section (3), the provisions of Sections 326 and 475 of the code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be apply to the proceedings before a special judge and for the purposes of the said provisions, a Special Judge shall be a Magistrate.
- (5) A Special Judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.
- (6) A Special judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944).

6. Power to try summarily :-

(1) Where a Special Judge tries any offence specified in Sub-section(1) of Section 3, alleged to have been committed by a public servant in relation to the contravention of any special order referred to in Sub-section (1) of Section 12A of the Essential Commodities Act, 1955 (10 of 1955) or of an order referred to in clause (a) of Sub-section (2) of that Section, then notwithstanding anything contained in Sub-section (1) of Section 5 of this Act or Section 260 of the Code of Criminal Procedure, 1973 (2 of 1974) the Special Judge shall try the offence in a summary way and the provisions of Sections 262 to 265 (both inclusive) of the said code shall, as far as may be apply to such trial :

Provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Special judge to pass a sentence of imprisonment for a term not exceeding one year :

Provided further that the when at the commencement of, or in the course of a summary trial under this section, it appears to the Special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.

(2) Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) there shall be no appeal by a convicted person in any case tried summarily under this section in which the Special Judge passes a sentence of imprisonment not exceeding one month, and of fine not exceeding two thousand rupees whether or not any order under Section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the Special Judge.