

## Review Article

### POWERS OF MAGISTRATES (In India and in Maharashtra)

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**Abstract**

There is discrepancy in various text books of Forensic Medicine available India regarding the powers of Magistrates as per section 29 of Cr. P.C. The author went through several text books as well as the “The Code of Criminal Procedure (Amendment) Act 2005” to satisfy his query. The author found that the powers of the magistrates in India have been amended & only two textbooks have been updated. On continuing research, he found that The State Governments may change these powers of Magistrates as they may deem fit and incidentally the Govt. of Maharashtra has done so.

**Keywords:** Magistrate; Cr P C; Powers; Amendment

**Introduction:**

The easiest way for a medical professional to know the powers of magistrates is to open any of the textbooks of Forensic Medicine, used commonly by the undergraduate students, and read the relevant portion. After going through several textbooks, the author found the discrepancies in several textbooks regarding The Powers of magistrates in India. So to satisfy the query, the author further researched the subject.

The authors went through several Forensic Medicine textbooks as well “The Code of Criminal Procedure (Amendment) Act 2005” and “Maharashtra Act No. XXVII of 2007” to clarify the subject matter.

**Indian Forensic Medicine Books:**

Several books commonly referred by the undergraduate students mention that the Chief Judicial Magistrate has the powers of imprisonment upto 7 years and to impose unlimited fine, those of Judicial Magistrate of first class to imprisonment upto 3 years and to impose fine upto Rs. 5000/- and those of Judicial magistrate of second class to imprison upto 1 year and to impose fine upto Rs. 1000/-. Whereas other books though similarly mention the powers of the magistrates to imprison for specified years, however they differ in the powers of these magistrates to impose fine. According to them, the powers to impose fine by Chief, First Class and Second Class judicial magistrates are Unlimited, Rs. 10,000/- and Rs. 5000/- respectively. <sup>[10 &11]</sup>.

**Table 1:** Powers of magistrates to imprison and impose fine as mentioned in various books.

Class of Judicial Magistrates	As per textbooks of Forensic Medicine		Other books including CrPC	
	Imprisonment	Fine	Imprisonment	Fine
Chief	Up to 7 years	Unlimited	Up to 7 years	Unlimited
First Class	Up to 3 years	Up to Rs. 5,000/-	Up to 3 years	Up to Rs. 10,000/-
Second Class	Up to 1 year	Up to Rs. 1,000/-	Up to 1 year	Up to Rs. 5,000/-

This discrepancy / difference cited in various books led to search the source of this information. The Powers of Magistrates are given in Section 29 of Cr.PC.

**The Code of Criminal Procedure (Amendment) Act 2005:**

It was revealed that there was an amendment in Cr.PC. in 2005. As a result, “The Code of Criminal Procedure (Amendment) Act, 2005”; No. 25 of 2005 dated 23rd June, 2005<sup>[12]</sup>, came into existence.

The said amendment being:

**5. Amendment of section 29-**

In section 29 of the principal act-

(a) in sub-section (2), for the words “**five thousand rupees**”, the words “**ten thousand rupees**” shall be substituted;

(b) in sub-section (3), for the words “**one thousand rupees**”, the words “**five thousand rupees**” shall be substituted.

Thus it was incontrovertibly concluded that the powers of magistrates shall be

**Table 2:** Powers of Magistrate as per The Code of Criminal Procedure (Amendment) Act, 2005

Class of Magistrate	Imprisonment	Fine
Chief Judicial Magistrate	Up to 7 years	Unlimited
Judicial Magistrate First Class	Up to 3 years	Upto 10,000/- rupees
Judicial Magistrate Second Class	Up to 1 years	Upto 5,000/- rupees

In addition to the above cited amendment, there was another amendment too; cited in para 2; which we found relevant to our query. This being:

2. **Amendment of section 20<sup>[13]</sup>** – In section 20 of the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the principal Act), after sub-section (4), the following sub-section shall be inserted, namely:-

“(4A) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.”

This subsequently led us to the search of whether in Maharashtra these changes were incorporated verbatim or whether Maharashtra has availed of the amended sub-section 4(A) of section 20 and made certain other changes in the powers of the magistrates.

**Maharashtra Act No. XXVII of 2007:**

Whereby, we came across “Maharashtra Act No. XXVII of 2007” dated 1st October, 2007<sup>[14]</sup>. (An Act further to amend the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra)

In this Act, we found the following two sections relevant to us:-

1. (1) – This Act may be called the Code of Criminal Procedure (Maharashtra Amendment) Act, 2007.

2. In section 29 of the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra,-

a. In sub-section (2), for the words “**ten thousand rupees**” the words “**fifty thousand rupees**” shall be substituted;

b. In sub-section (3), for the words “**five thousand rupees**” the words “**ten thousand rupees**” shall be substituted.

Thus we incontrovertibly concluded that the powers of magistrates in the State of Maharashtra shall be:

**Table 3:** Powers of magistrates as per the Maharashtra Act No. XXVII of 2007

Class of Magistrate	Imprisonment	Fine
Chief Judicial Magistrate	Upto 7 years	Unlimited
Judicial Magistrate First Class	Upto 3 years	Upto 50,000/- rupees
Judicial Magistrate Second Class	Upto 1 years	Upto 10,000/- rupees

### Discussion:

Among the referred textbooks, only two textbooks updated the Powers of Magistrates according to “The Code of Criminal Procedure (Amendment) Act 2005”. No textbook mentioned the state wise changes in the powers of magistrates. There are several questions regarding this subject matter being asked at many examinations including undergraduate & post-graduate entrance examinations. So it is necessary to update these textbooks by respective authors so as to avoid confusion among students as well as teachers.

### Conclusion

The powers of magistrate prescribed by the Central Government and those by the Government of Maharashtra are:

**Table 4:** Powers of magistrates as per the central and state acts

Class of Magistrate	Central Government		Government of Maharashtra	
	Imprisonment	Fine	Imprisonment	Fine
Chief Judicial Magistrate	Upto 7 years	Unlimited	Upto 7 years	Unlimited
Judicial Magistrate First Class	Upto 3 years	Upto Rs. 10,000/-	Upto 3 years	Upto Rs. 50,000/-
Judicial Magistrate Second Class	Upto 1 years	Upto Rs. 5,000/-	Upto 1 years	Upto Rs. 10,000/-

### References

1. Ramchandran A., A short textbook of Forensic Medicine and Toxicology, First Edition, Reprint, 2006:5.
2. Narayan Reddy K.S., The essentials of Forensic Medicine and Toxicology, 29<sup>th</sup> Edition, K. Suguna Devi, 2010: 6.
3. Singhal S.K., Singhal’s Forensic Medicine and Jurisprudence, 3<sup>rd</sup> Edition, The National Book Depot, 2005:4.
4. Karmakar R.N., Forensic Medicine and Toxicology, First Edition, Academic Publishers, 2006:205.
5. Sharma R.K., Concise textbook of Forensic Medicine and Toxicology, First Edition, Elsevier Publishers, 2005:7.
6. Vij Krishnan, Textbook of Forensic Medicine and Toxicology, Principles and Practice, 3<sup>rd</sup> Edition, Elsevier Publishers, 2005:8.
7. Nandy Apurb, Principles of Forensic Medicine, 2<sup>nd</sup> Edition, New Central Book Agency, 2005:6.
8. Parikh C.K., Parikh’s textbook of Medical Jurisprudence, Forensic Medicine and Toxicology, 6<sup>th</sup> Edition, CBC Publishers, 2006:1.9.

9. Mathiharan K. & Patnaik A. K., Modi's Medical Jurisprudence and Toxicology, 23<sup>rd</sup> Edition, LexisNexis Butterworths Publishers, 2007:29.
10. Aggrawal Anil, Self-assessment and review of Forensic Medicine and Toxicology, First Edition, PeePee Publishers, 2006:12.
11. Ajay Kumar, Textbook of Forensic Medicine (Medical Jurisprudence and Toxicology), First Edition, APC, 2011:7.
12. The Code of Criminal Procedure (Amendment) Act, 2005, No.25 of 2005 dated 23/06/2005:2
13. The Code of Criminal Procedure (Amendment) Act, 2005, No.25 of 2005 dated 23/06/2005:1
14. Maharashtra Act No. XXVII of 2007, published in Maharashtra Government Gazette on 01/10/2007:269-270.