

CHAPTER 179
MAGISTRATES PROTECTION ACT

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ACT

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CHAPTER 179
MAGISTRATES PROTECTION ACT

An Act to protect magistrates and justices for acts in the execution of their office.

[15th February, 1936.]

1. Short title

This Act may be cited as the Magistrates Protection Act.

2. Interpretation

In this Act, “magistrate” means a magistrate appointed under the Magistrates Act, Chapter 177, and a Justice of the Peace.

3. Action against magistrate to be brought in High Court

Every action to be brought against a magistrate for an act purporting to have been done by him or her in the execution of his or her office shall be brought in the High Court.

4. If plaintiff fails to prove malice or want of jurisdiction he or she shall be non-suited

The endorsement of the writ of summons in every such action shall allege either that such act was done maliciously and without reasonable and probable cause, or that it was done in a matter not within the jurisdiction of the magistrate, otherwise the writ shall be set aside on summons; and if the plaintiff fails at the trial to prove such allegation, a verdict shall be given for the defendant.

5. Where act is done without jurisdiction, malice need not be alleged but no action shall be brought until conviction is quashed

(1) A person injured by any act done by a magistrate in a matter not within his or her jurisdiction, or in excess of his or her jurisdiction, or by any act done in any such matter under a conviction or order made or warrant issued by him or her, may maintain an action against such magistrate without alleging that the act complained of was done maliciously and without any reasonable and probable cause.

(2) No such action shall be brought for anything done under such conviction or order, or for anything done under a warrant issued by such magistrate to procure the appearance of such party and followed by a conviction or order in the same matter, until after the conviction or order has been quashed by the High Court.

6. No action to be brought unless there has been a conviction or if there has been a summons

No action shall in any case be brought against a magistrate for anything done under a warrant which has not been followed by a conviction or order, or if, being a warrant upon an information for an alleged indictable offence, a summons was issued previously thereto, and served upon such person personally, or by its being left for him or her with some person at his or her usual or last known place of abode, and he or she has not appeared in obedience thereto.

7. Immunity of magistrates

Where a conviction or order is made by a magistrate and a warrant of distress or of commitment is granted thereon by some other magistrate *bona fide* and without collusion, no action shall be brought against such last-mentioned magistrate by reason of any defect in such conviction or order, or for any want of jurisdiction in the magistrate who made the same, but the action may be brought against the magistrate who made such conviction or order.

8. No action against a magistrate for granting warrant for enforcing rate

No action shall be brought against a magistrate who shall have granted a warrant of distress against a person for enforcing the payment of any tax or rate made, allowed, and published, by reason of any irregularity or defect in such tax or rate, or of such person not being liable to be rated.

9. No action in respect of exercise of a discretionary power

No action shall be brought against a magistrate for the manner in which he or she has exercised any discretionary power given to him or her by law.

10. Remedy where magistrate is refusing to do his or her duty

Where a magistrate refuses to do an act relating to his or her duties as a magistrate, the party requiring such act to be done may apply to the High Court, upon an affidavit of the facts, for a rule calling upon such magistrate, and also the party to be affected by such act, to show cause why such act should not be done; and if, after due service of such rule, good cause shall not be shown against it, the Court may make it absolute, with or without

costs and such magistrate, upon being served with such rule absolute, shall obey it, and do the act required, and no action or proceeding whatsoever shall be brought against him or her for having obeyed such rule and done such act so required.

11. No action on warrant where conviction or order affirmed on appeal

Where a warrant of distress or a commitment is granted by a magistrate upon a conviction or order, which either before or after the granting of the warrant has been or is affirmed upon appeal, no action shall be brought against him or her for anything which may have been done under it, by reason of any defect in such conviction or order.

12. Setting aside proceedings

In all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action is brought the High Court may, on the application of the defendant and on an affidavit of facts to set aside the proceedings, set aside the proceedings in such action, with or without costs as to it may seem met.

13. In what case plaintiff shall not recover substantial damages

Where the plaintiff in any such action is entitled to recover, and he or she proves the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he or she seeks to recover, or proves that he or she was imprisoned under such conviction or order and seeks to recover damages for such imprisonment, he or she shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond one cent as damages for such imprisonment, or any cost of suit whatsoever, if it is proved that he or she was guilty of the offence of which he or she was convicted, or that he or she was liable by law to pay the sum he or she was so ordered to pay, and that he or she had undergone no longer imprisonment than that assigned by law for the offence of which he or she was convicted, or for non-payment of the sum he or she was ordered to pay.

14. Limitation of actions

No action shall be brought against a magistrate for anything done by him or her in the execution of his or her office unless the action is commenced within six months next after the act complained of has been committed.

**CHAPTER 179
MAGISTRATES PROTECTION ACT**

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
