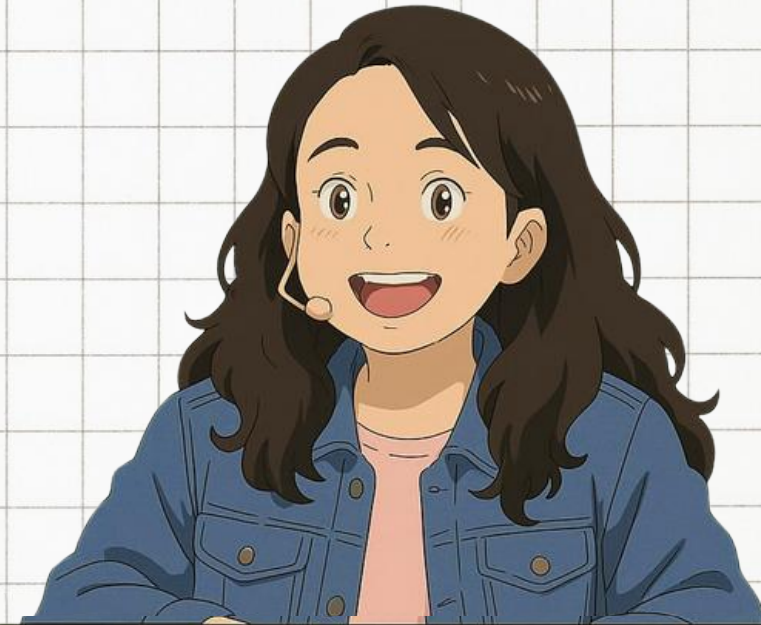


June 2025
Attempt

Chapter 06:

Adjudication and prosecution

Handwritten Notes



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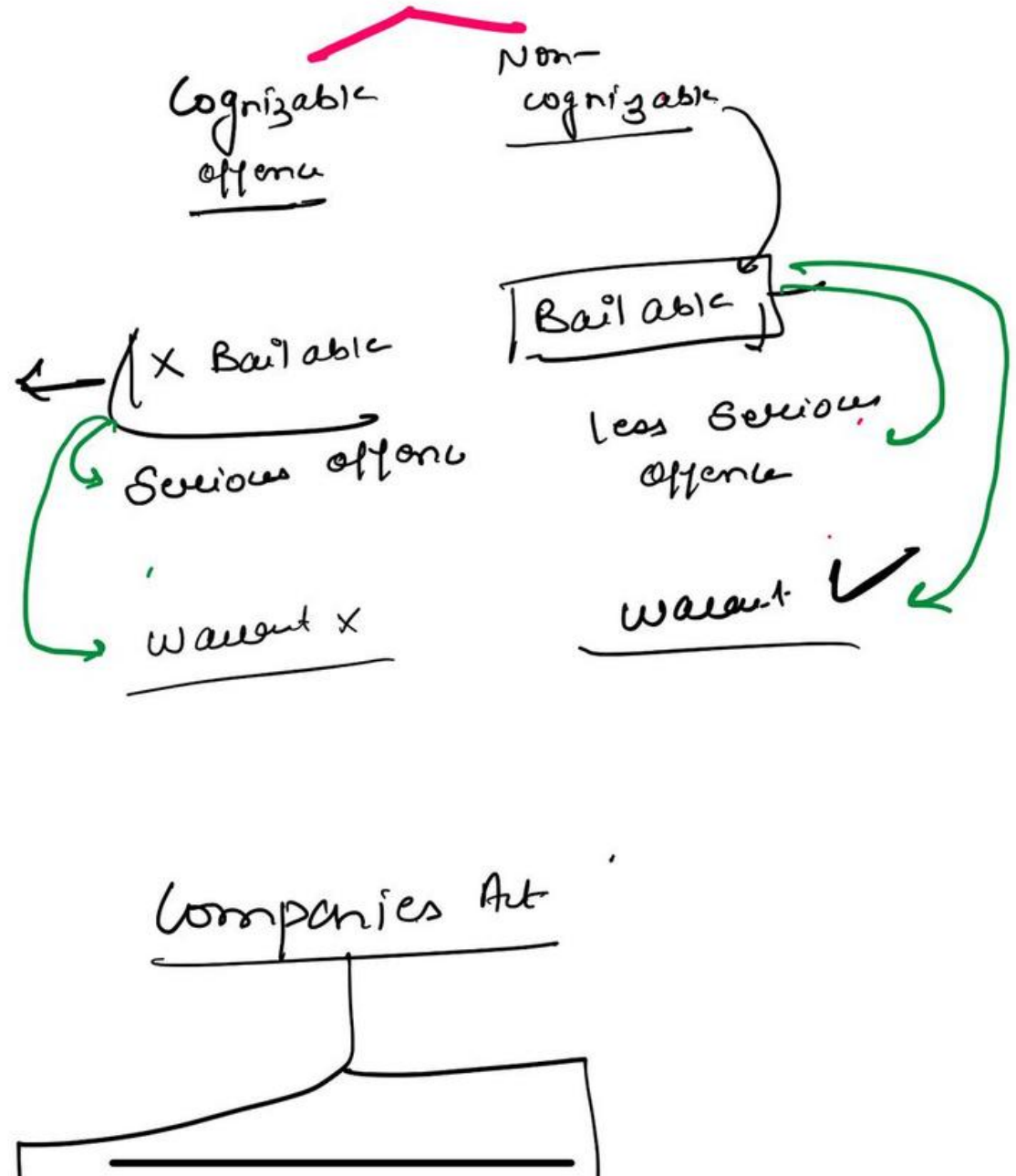
npany

6.3

Prosecutor will be given a right to defend.

Exception

- Sick
- Infirm
- women
- Below 16



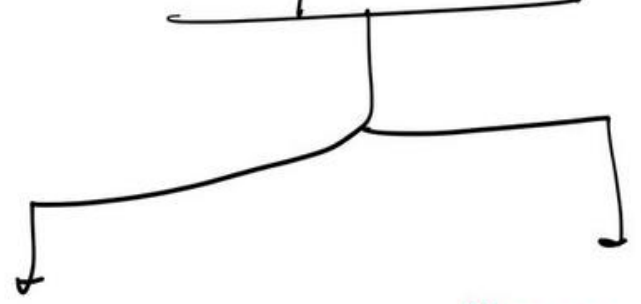
Companies Act



writing, by
 by a company
 6.3
 y the Central
 shall not be
 liquidator of a
 of any of the
 of companies.
 (6)
 means an
 dule or under
 ct, 2013 shall
 e released on
 such release;
 at there are
 e is not likely

- women
- Below 16

Companies Act



Offences involving fraud

offences not involving fraud

Non Cognisable

Bailable
 warrant ✓

BF 70

Fraud

Fraud

Cognisable offence

Non Bailable

warrant ✗



warrant ✓

Non Bailable

↳ warrant X

Exception →

Cognitive
offence

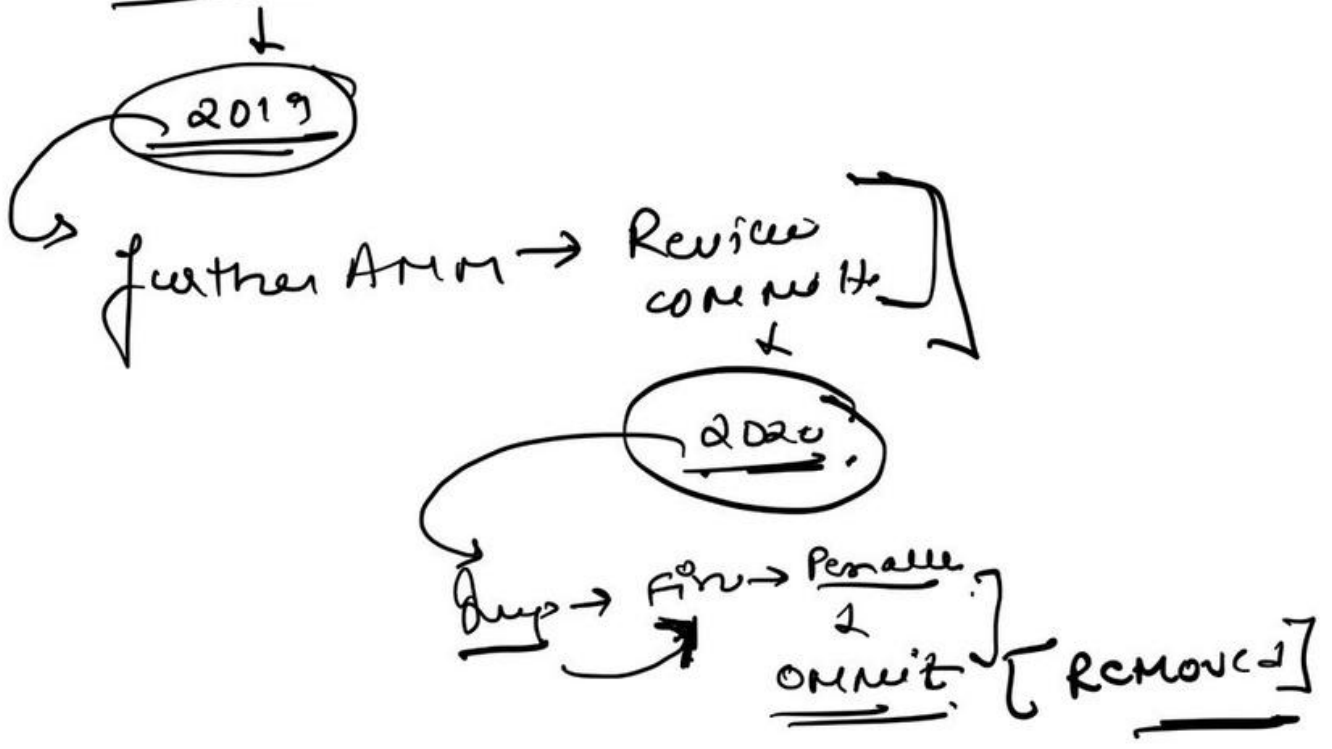
→ Fraud

↓
Nobody can be
arrested without the
warrant

Topic 2

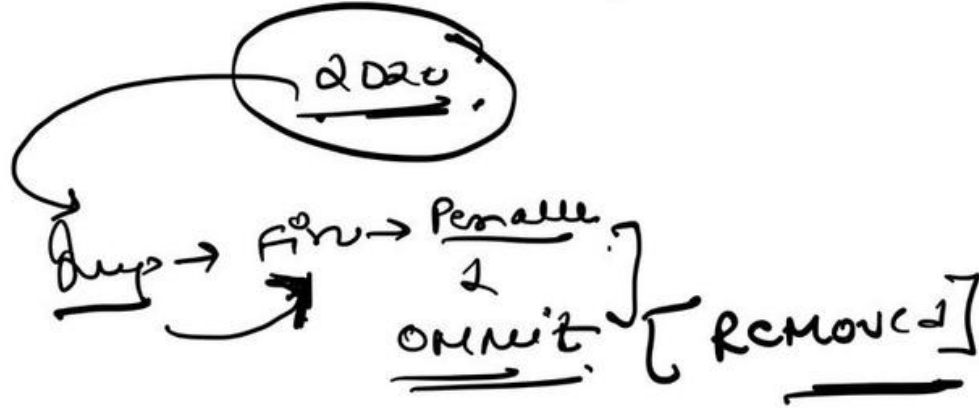
Decriminalisation Ease of Doing Business

Inici Sevinva



↓ del default / non compliance → will lead to withdrawal of benefits

Further AMM → Revised
conclude



default / non compliance → will lead to withdrawal of benefits

- ① withdrawal of Exemptions of Pvt Co.
- ② Buy Back
- ③ Disqualification of Director
- ④ Inactive Co.

Stakeholders

Topic 3

447

* act

OMM

COF

Abuse

Intention

deceive

injury → w.o.

stakeholder

Irrespective of

wrongful

gain/loss

* by Amt Inv in fraud

10% or 1% of T/O

[WEL]

limit x

- 1
- 2
- 3
- 4
- 5

of Amt on the

10% or 1% of T/O

[WEL]

Limit X

Sup → 6M - 10y
&

Fin → upto 3x Amt
of Fin

Sup → upto 5y
or

Fin → upto 50L
or

Both

of PI inv → Sup → 3y → 10y
&

Fin → Amt → 3x
Amt

Non

undall

Fin → Amt →

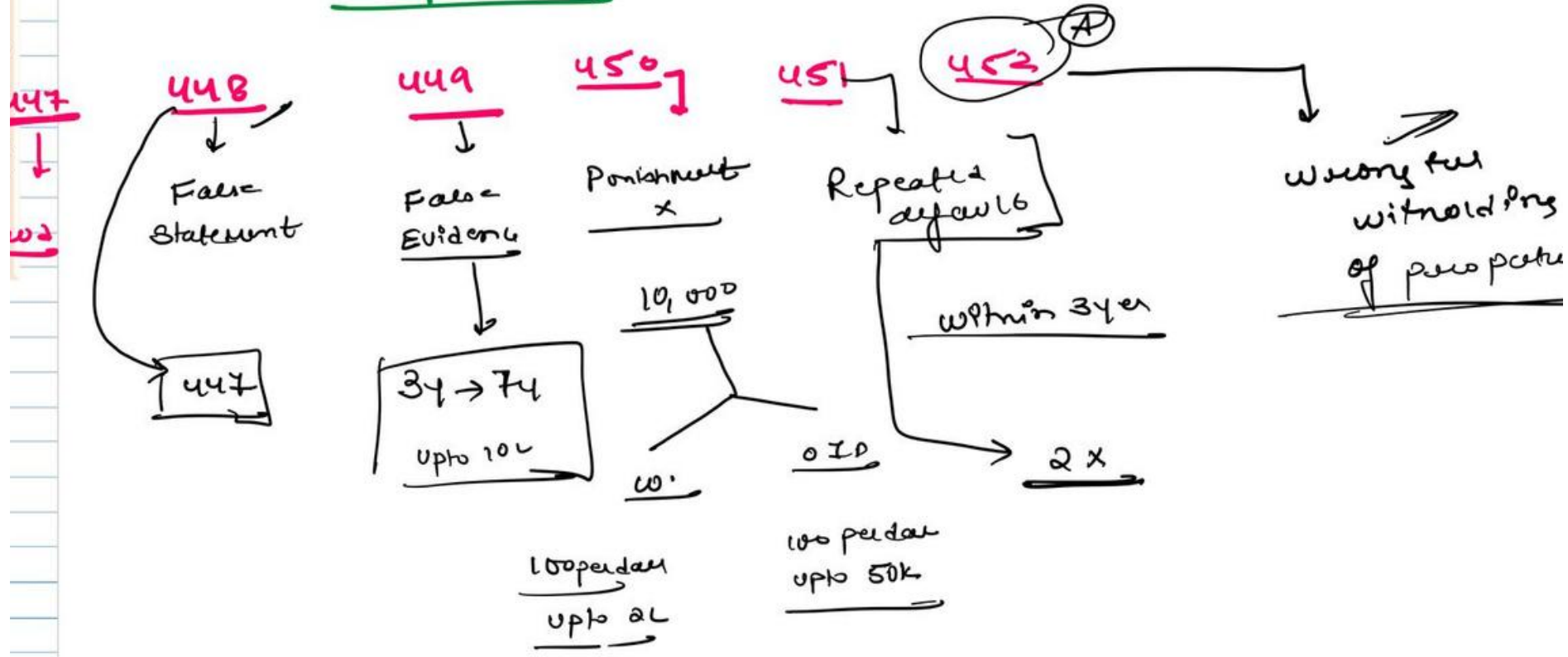
upto 3x Amt of flow

Imp → upto 5y
or
Firu → upto 50L
or
Both

By PI inv → Imp → 3y → 10y
or
Firu → Amt → 3x Amt

Non
composadall
Firu → Amt → 3x

Topic 4



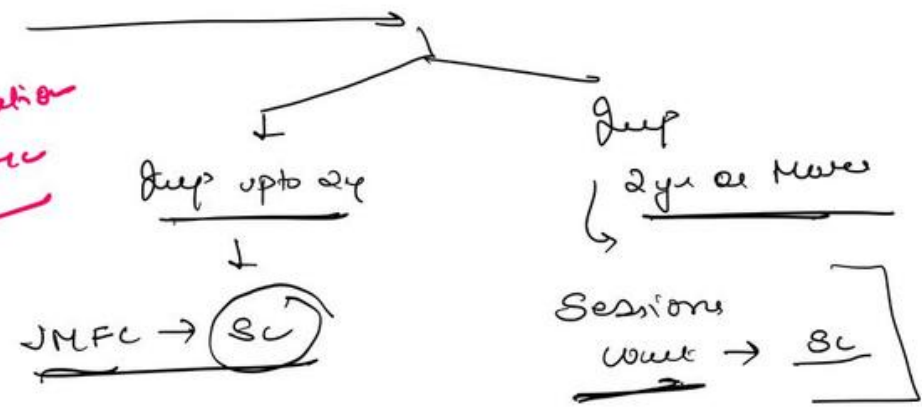
Speedy Trial

Topic 5

435 → Special Court
↓
Speedy Trial

Existing courts → designate as Special Court

CJI +
in consultation
with CJGHC



is such
y have to
the case
an order
ave been
with the

6.13

(P.) Ltd.
scused of offenses
ade for the same
dings, the Special
even if they fall
prevents confusion

dered to SFIO is
not completed on
time whether it
to complete the
e to time by the



436 → Power of special court

Concepts

SUMMONS case

warrant case

SUMMONS

warrant

Jmp upto 24

Jmp 2 y ↑

Power

Jmp = up

Tu

but of SC =

Roe
FD





Power of SC

Imp = upto 3 year



Warrant case

but if SC desires

tried as
as summons case

but

Imp orders is not
more than 2 year



to simplify the legal process.
vested with the Central Government

COMPANIES ACT, 2013

**Step 1
NOTICE TO COMPANY AND OFFICER
IN DEFAULT**

will issue a show cause notice to the company
within 15 days and maximum 30 days, to show cause
the nature of non-compliance or default under the
company or officer in default and draw attention
to the maximum penalty which can be imposed
with specified date (in electronic mode only,
if received by 15 days, there is a sufficient cause)

**Step 2
OFFICER'S NOTICE FOR HEARING**

if in default the adjudicating officer is of the
company shall issue a notice, within a period of ten
days, fixing a date for the appearance of such
officer of such company, or any other person.

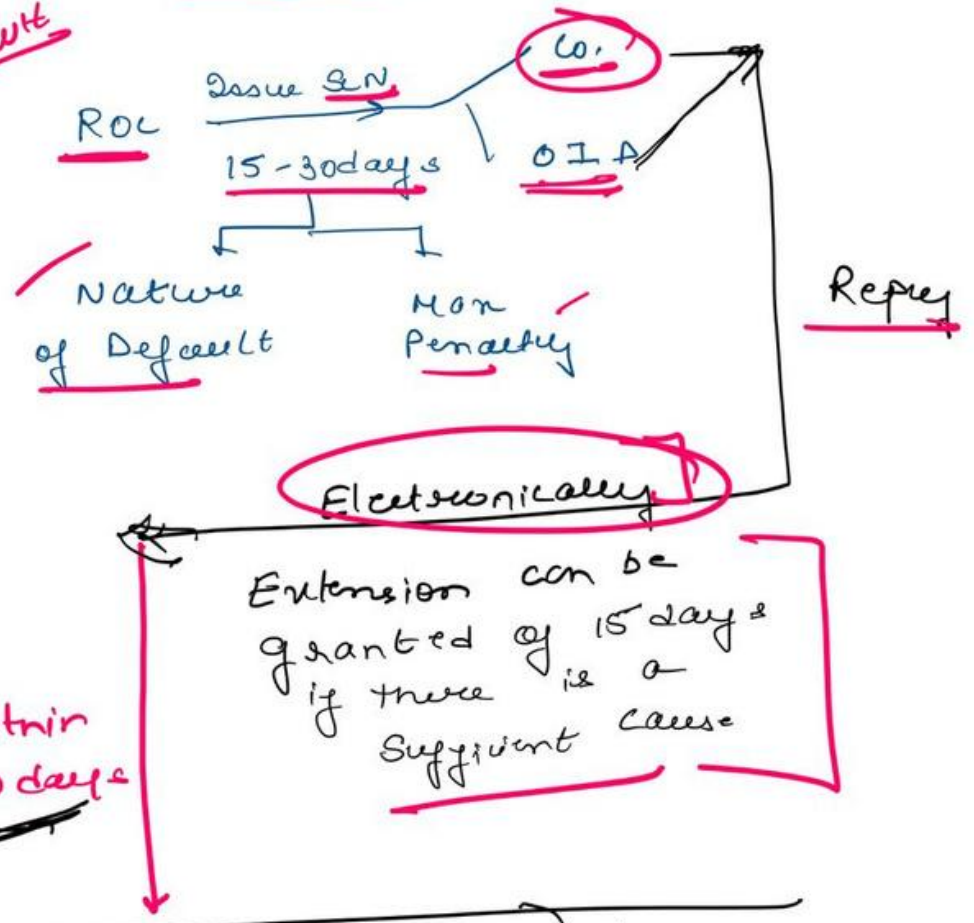
6.15

shall allow such person to make such
oral representation, whether
and has indicated the same while submitting
the notice shall allow such person to make such

is an Artificial Intelligence initiative under
to make compliance process easier and to

Topic 6

default



but
gap period is more than 1 year

Date of Hearing

- 1) OOBM
 - 2) SUMMON < call for documents & records
- Enforce the attendance of



Date of Hearing

- 1) OOBH
- 2) SUMMON

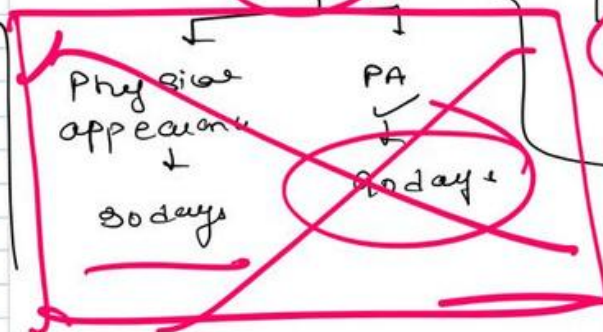
call for documents & records.

Enforce the attendance of any witness

ROC

Nat

3) Order



→ copy to both the parties

Imposed Penalty

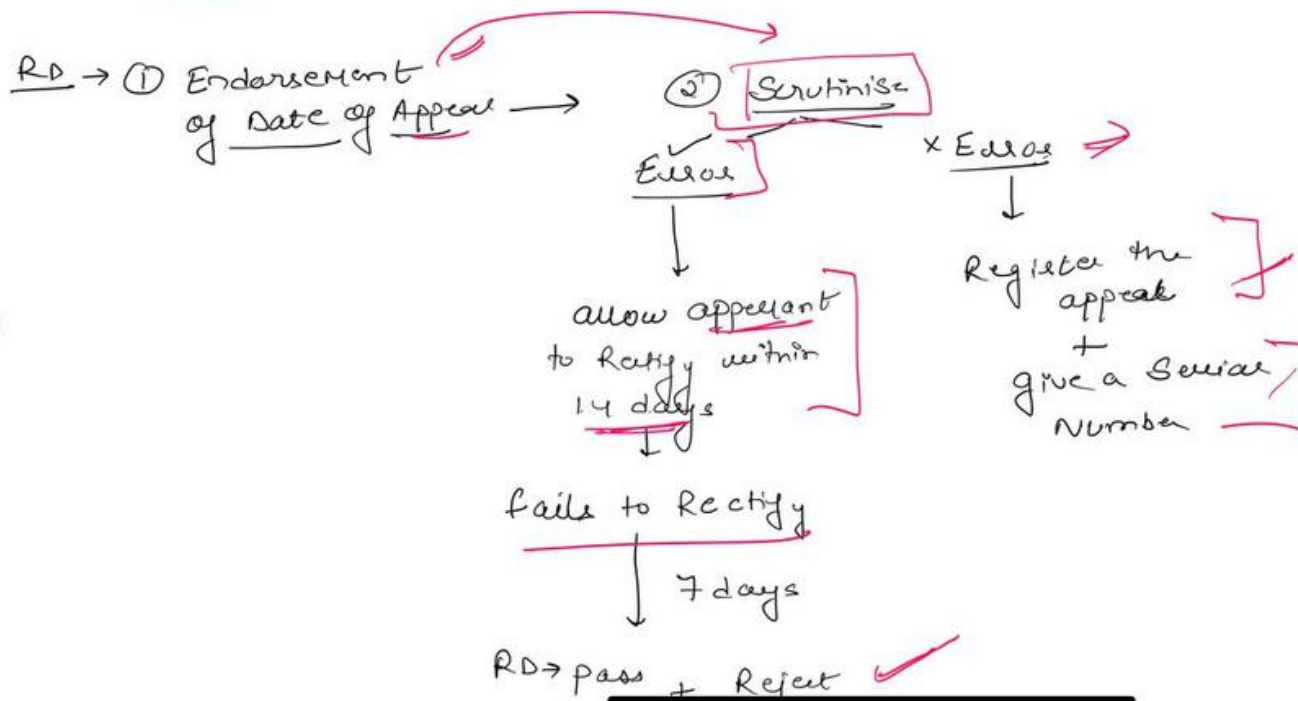
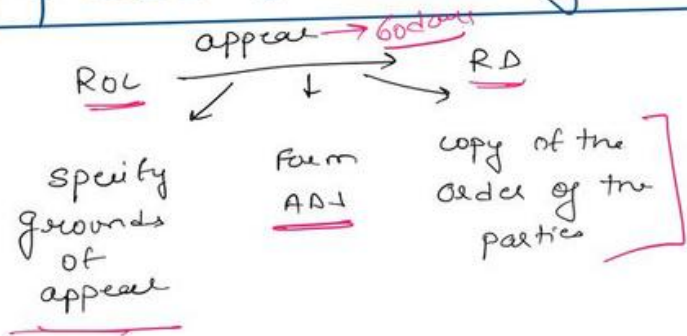
- a) Imposed by A0
- b) Paid on MCA Portal
- c) Tax to Consolidated Fund of India
- d) Factors:
 - Nature of default
 - Size of Co.
 - Amt of loss
 - Amt of Gain
 - Repetitive Nature of Default

]



Topic 7

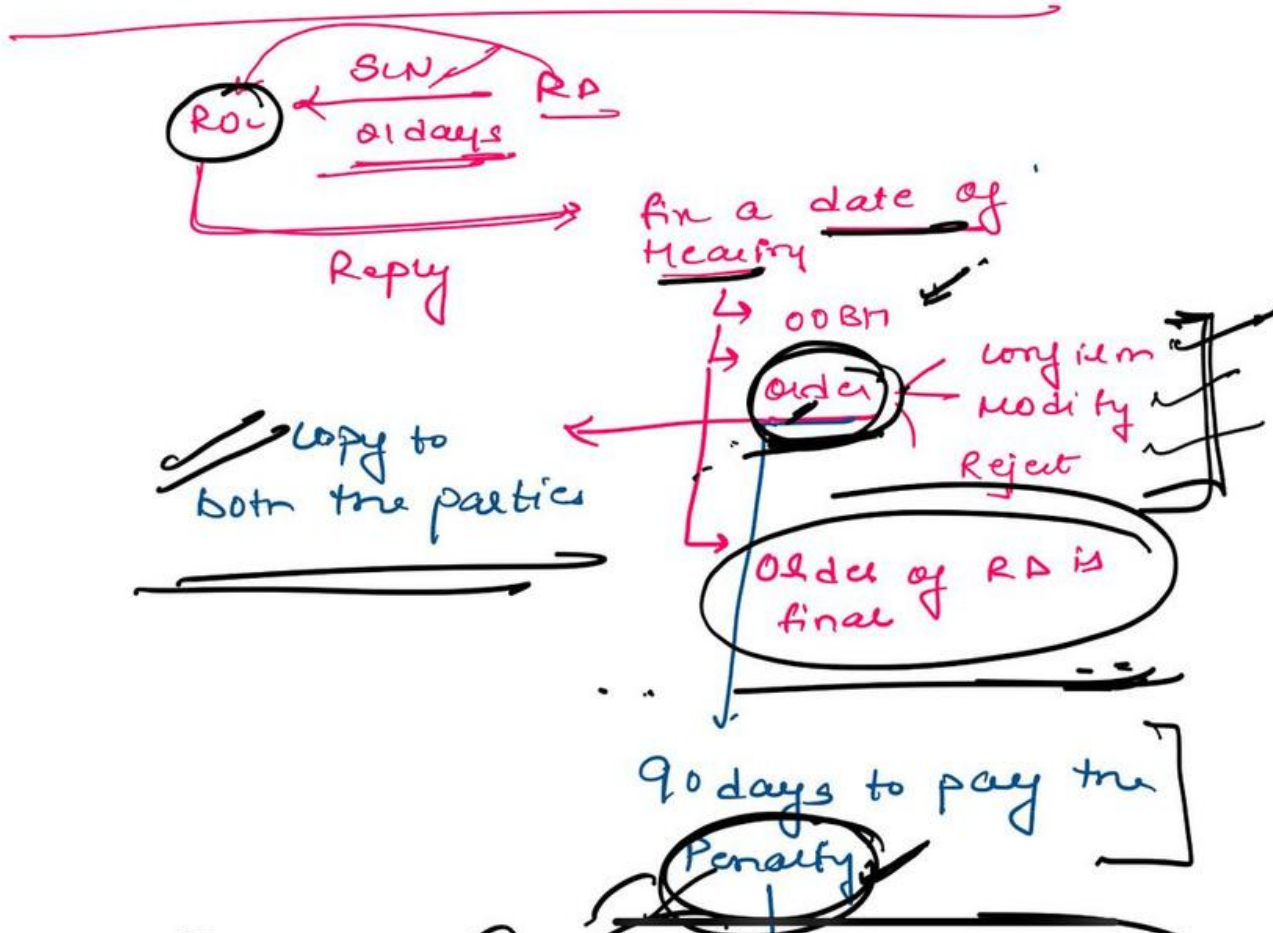
Appeal to Regional Director



fails to Rectify

7 days

RD → pass order + Reject the appeal ✓



< the parties



Order of RA is final

Default

90 days to pay the

Penalty

(x)

of x paid

offence

Fine

25K - 5L



Topic 9

SEBI



70 →

not less than Division chief

14 days

default fee

SEN



Nature of offence

Reply

DOH will be fined



Reply

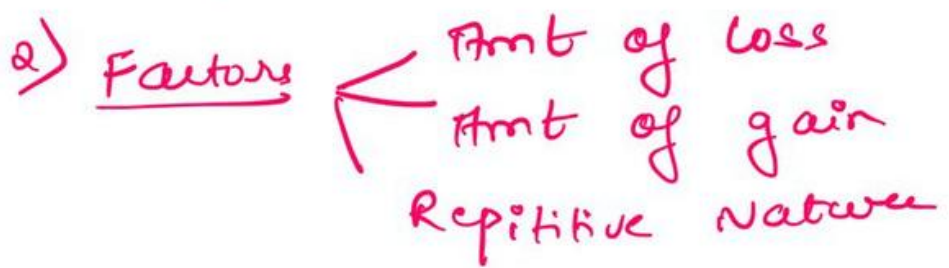
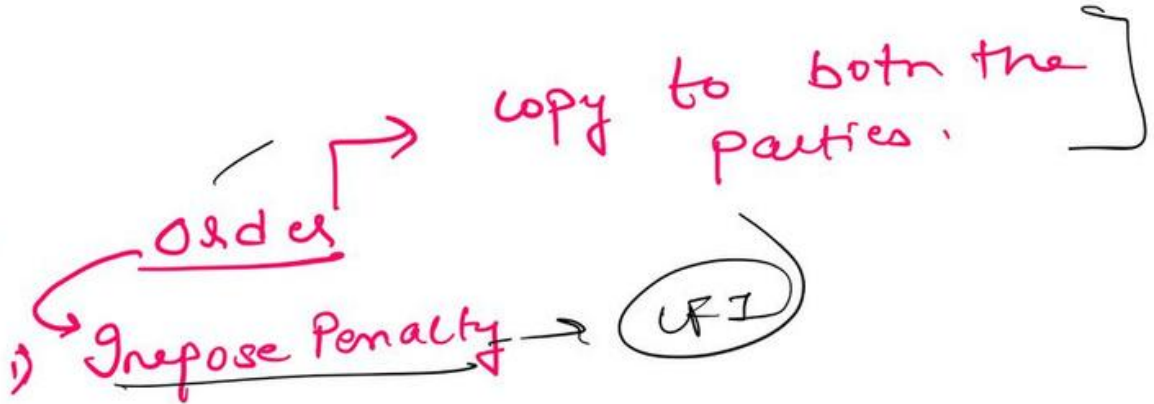
AOH will be fined

① Ho will Explain the offence that has been committed

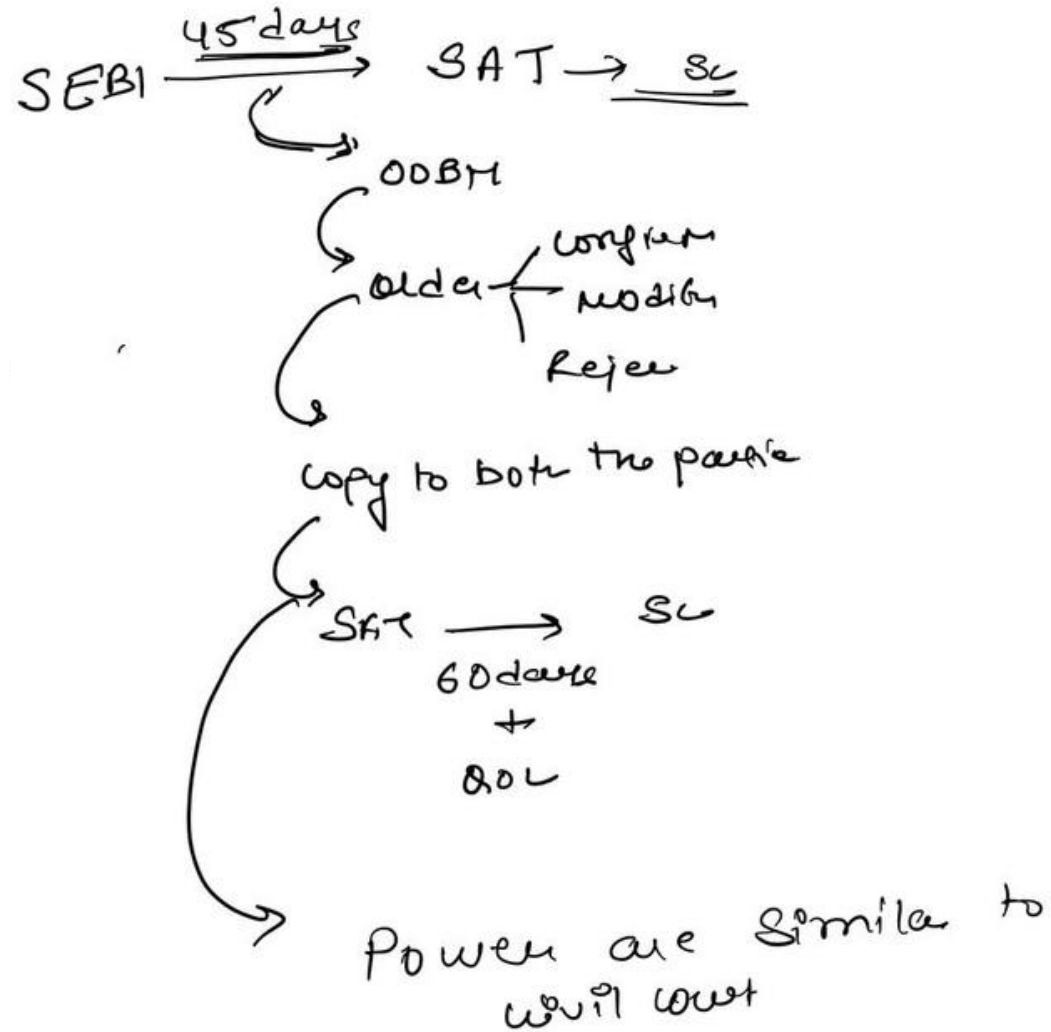
② OOBH → opp to produce Evidence

③ Summon

④ Proceed with inquiry



Topic 10 → Appeal



24

Topic 11

FEMA

- ① AO → appointed by Cg //
- initiate process
of Adj → on complaint made by Cg
- Resolve made within 1 year
- Extension → Reasons
- Powers are similar to Civil court
- ①
②
③
④

Enforcement of orders of AO

he should not be granted

make an order for the under arrest, shall cause

in under sub-section (9),

as one crore; up to three

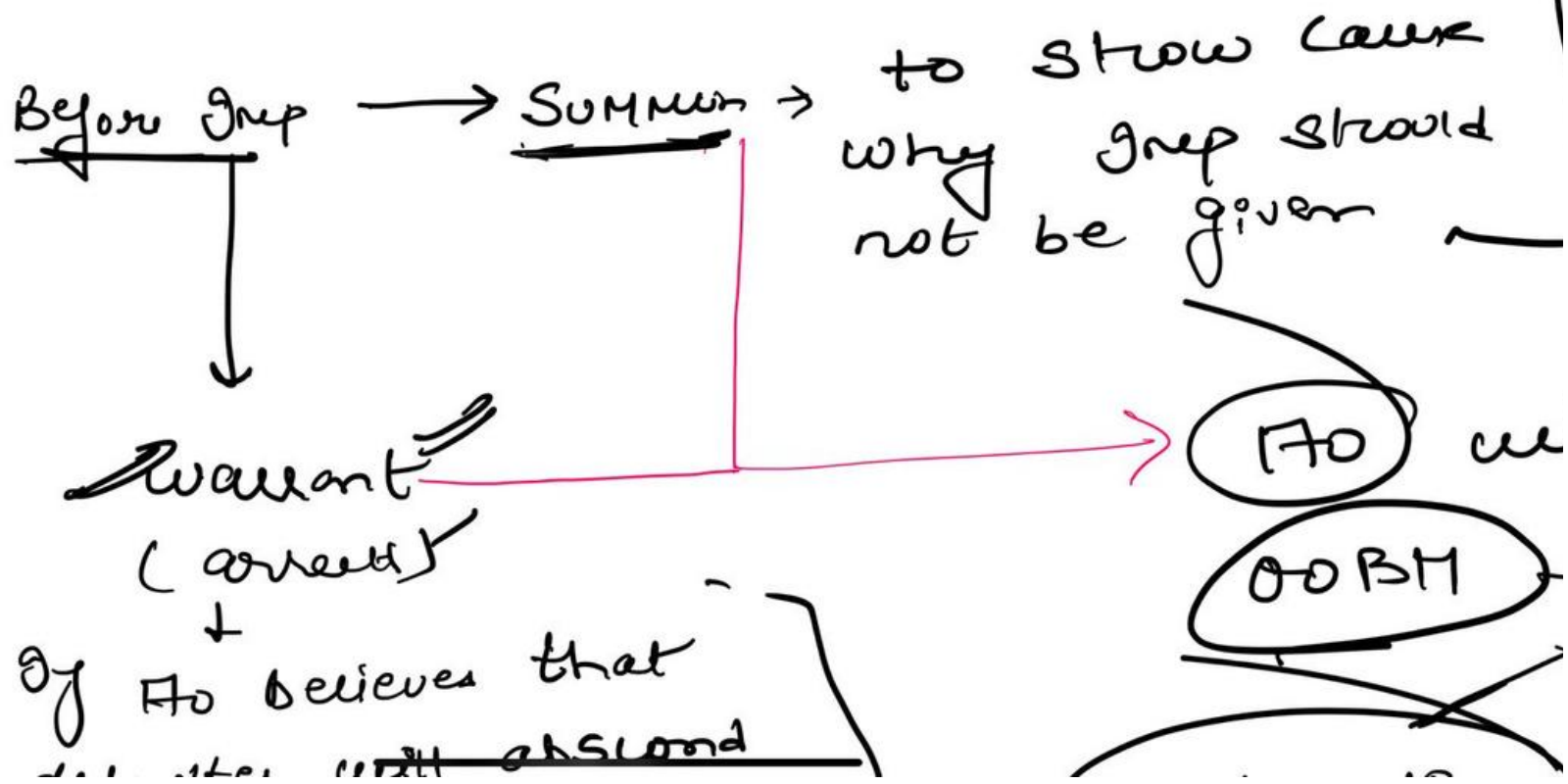
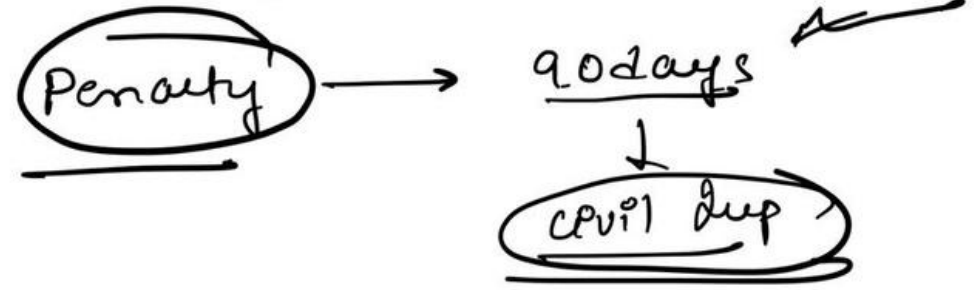
by reason of his release, able to be arrested under on.

Officer of Enforcement not to be taken from any person who is in custody within the period of penalty is served on him.

Central Government as it may after giving a reasonable opportunity to the person concerned, specify the jurisdiction.

except upon a complaint or an order by the Central Government or a legal practitioner or a person authorized in writing by the Adjudicating Authority

Enforcement of orders of AO



why he should not be granted

may make an order for the ready under arrest, shall cause

ention under sub-section (9),

rupees one crore: up to three

nerely by reason of his release, be liable to be arrested under 1 prison.

in officer of Enforcement not penalty from any person who section 13 within the period of such penalty is served on him.

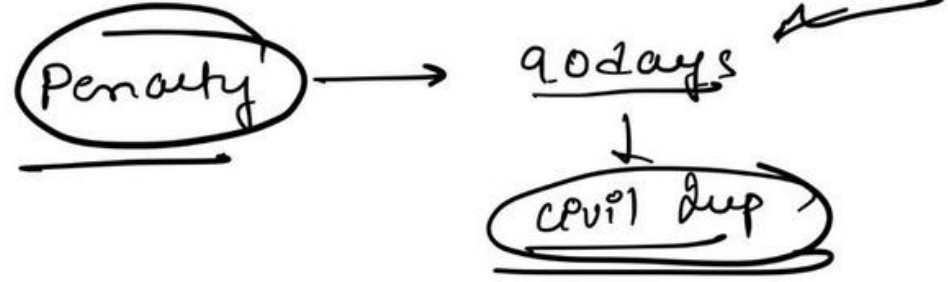
the Central Government as it inquiry after giving a reasonable 'ted contravention.

ill specify the jurisdiction.

n (1) except upon a complaint special order by the Central

nce of a legal practitioner or a e the Adjudicating Authority

Enforcement of orders of AO



Before imp → SUMMON →

to show cause why imp should not be given

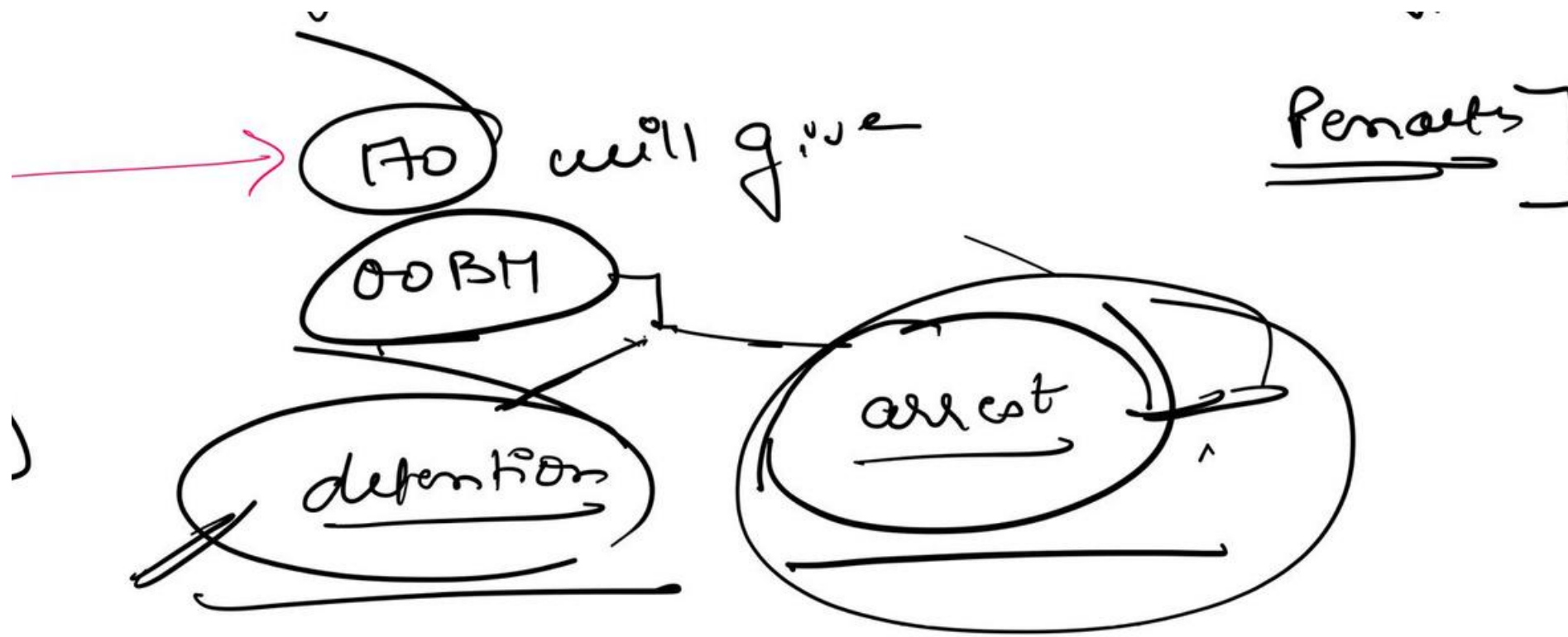
Warrant (arrest)

if AO believes that defaulter will abscond

AO will

OOBM

detention



certificate of
Enforcement

that above 24 hours

Fo $\xrightarrow{45 \text{ days}}$

Special Director

(Appeal)

4.

① Form I ✓

② Triplicate ✓

③ Grounds of Appeal ✓

④ 5000 DD ✓

Demand Draft

① OOBM

② order $\left\{ \begin{array}{l} \text{confirm} \\ \text{modify} \\ \text{repet} \end{array} \right.$

③ copy \rightarrow Both the parties

④ SD $\xrightarrow{45 \text{ days}}$ HTI
L Appeal

⑤ Power are similar to civil courts.

Appellate Tribunal

① f

② |

③

④

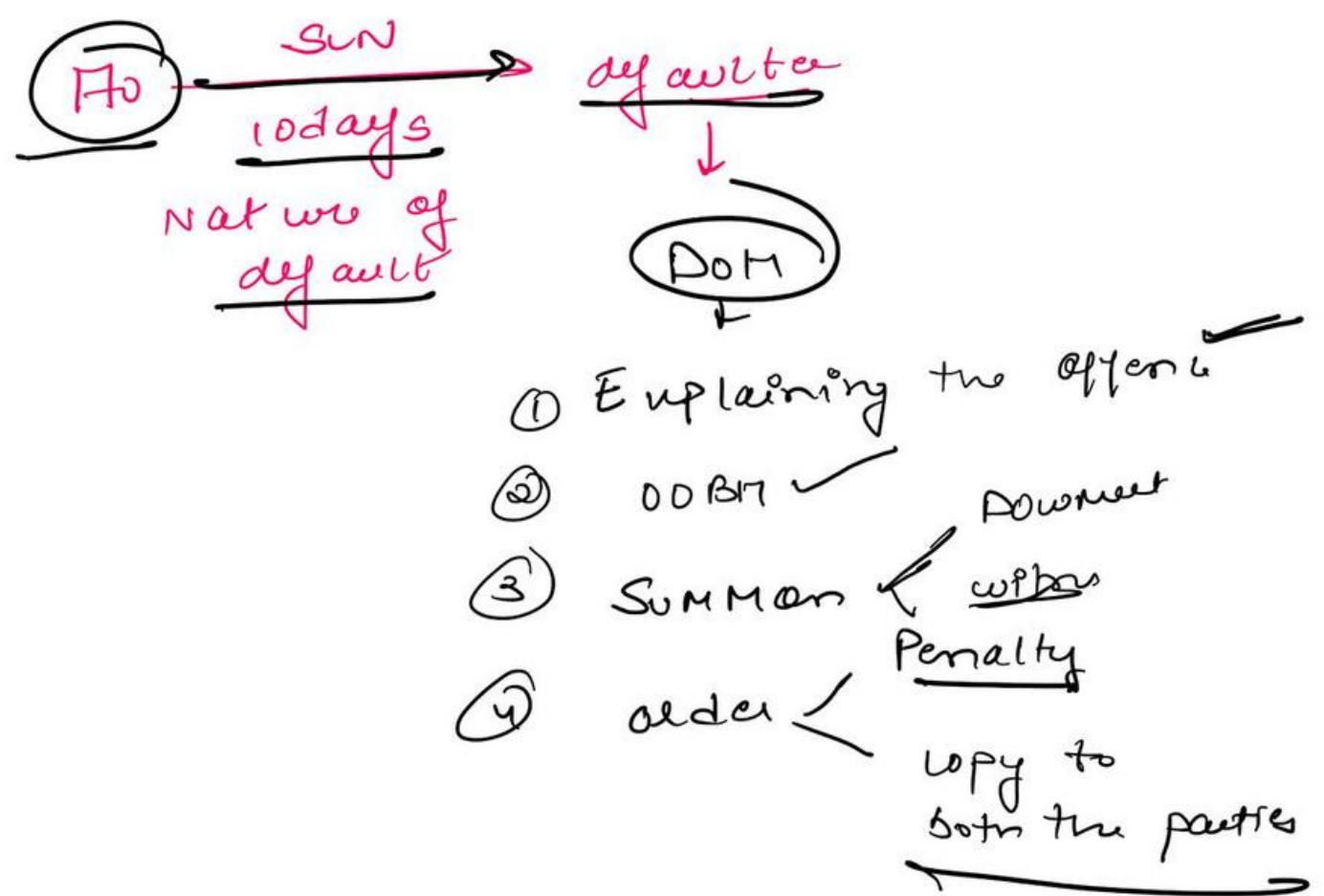
Special Director

45 days
→ Appellate Tribunal

- ① Form I
- ② Triplicate
- ③ Ground of Appeal
- ④ 20,000 DD

- ① OOBM
- ② order → C
M
R
- ③ copy → Both parties
- ④ AT $\xrightarrow[200]{60 \text{ days}}$ HC
- ⑤ Civil court → SIID

FEMA → Insolvency Procedure



2. By party

of 347/49

