CRIMINAL PROCEDURE CODE, 1973

Lesson - 10

This chapter includes :- (As per CS syllabus)

- Introduction
- Imp Terms
- Classes & power of court
- Arrest of a person
- Summons & warrants
- Search warrant
- preventive action of police & their powers
- Power of Magistrate
- Limitation for taking cognizance of offence
- Summary Trials

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1 INTRODUCTION

a] It is the general law relating to criminal procedure.
b] prescribes procedure for the trial of offences specified in IPC, 1860
c] It consolidate & amend the law related to criminal cases & their trial before criminal courts.
d] The CRPC & IPC are to be read together.
e] It contain 37 chapters, 484 sections, 2 schedules
f] First schedule → classification of offences, Second schedule → various forms

2. IMP TERMS

i. offence :-

a] Means any act or omission made punishable by any law in force.
b] IPC defines it as a thing made punishable by the code.
c] offence is what the legislature classes as punishable. Mens rea, a bad intention or guilt is an essential ingredient in every offence.
d] Types of offence.
→ Bailable :- offences which are shown as Bailable in I Sch of CRPC
→ Non Bailable :- offences other than Bailable
→ cognizable :- police officer have authority to arrest any person even without warrant in case of cognizable offences. generally non-Bailable offences are cognizable.
→ Non-cognizable :- police officer has no authority to arrest any person without warrant. generally Bailable offence are non-cognizable.

ii. Complaint.

a] Means any allegation made orally or in writing to Magistrate in order to take action on person committed offence under this code.
b] It does not include police report. But such report shall be deemed to be complaint if after investigation it discloses comm^n of non-cognizable offence [means report after investig^n]
c] Police report means report forwarded by a police officer to Magistrate.
d] There is no particular format of a complaint.
e] petition addressed to the Magistrate containing an allegation that an offence has been committed is a complaint.

iii. Bail.

a] Means temporary release of accused from legal custody & entrusting them to put custodian who becomes surety to produce accused whenever needed.
b] Anticipatory Bail :-
→ Means grant of Bail before arrest in connection with non-Bailable offence. It is Immunity.
→ Features :
- Available only for non-Bailable offence
- Granted Before arrest, by HC or Session Court.
- Discretion of court
- Notice will be given to opposite party.

iv. Stages of criminal case.

A] Investigation
- Means collection of evidence & investigation of offence.
- Done by police (suo motto or upon Magistrate order)
- then gives report to Magistrate.
- It ends if no finding of offence
- But if there has been an offence then case move to "further stages i.e Inquiry & Trial.

B] Inquiry
- conducts after investigation but before trial.
- conducted by court or by magistrate
- To find out whether an offence committed by offender & whether he should be put on trial or not.
- Inquiry is diff from a trial. It is wider than trial.
- It stops when trial begins.

C] Trial.
- It is legal proceeding to decide about the guilty or innocent of accused.
- End result of trial is acquittal or conviction.
- conducted by magistrate or court.
- Judicial proceeding includes inquiry & trial but not investigation.

v. Summon case :- means a cases other than warrant case.

vi. Warrant case :- means case related to an offence punishable with death, life imprisonment, imprisonment exceeding 2 yrs.

3. CLASSES AND POWERS OF CRIMINAL COURTS

a] Classes

i. Supreme court
ii. High court
iii. Sessions court
iv. Metropolitan / Judicial Magistrate (class I)
v. Judicial Magistrate (class II)
vi. Executive Magistrate

b] power of court.

→ Regarding offences under I Sch of IPC → HC or Sessions Court or any other court can be tried
→ Regarding offences under any other law → The court specified under such law can be tried. If not, HC or other court.

Court	Fine	Imprisonment
i. Supreme / High court	Any amount	Any no of yrs. Death sentence
ii. Session / Add. Session Judge	Any amount	Any no of yrs. Death sentence (in conformity with HC)
iii. Assistant Session Judge	Any amount	Not more than 10 yrs
iv. Chief (Judicial / Metropolitan) Magistrate	Any amount	Max 7 yrs
v. Magistrate of first class / Metropolitan Magistrate	Amt ≤ ₹ 10,000	Max 3 yrs
vi. Magistrate of second class	Amt ≤ ₹ 5000	Max 1 yrs

→ punishment in lieu of fine :-

Original + Imprisonment for non payment fine = 1/4 of total limit of imprisonment that court can imposed

4. ARREST

Means taking into custody of another person under authority empowered by law, for the purpose of holding or detaining him to answer a criminal charge & preventing the comm^n of crime.

Arrest of person :-
- With out warrant
- On refusal to give
- Name / address
- By a pvt person
- By a Magistrate
- Of armed force person

preventive arrest :-
- Arrest before committing crime
- Arrest by police officer with lawful authorities
- No unreasonable detention.

a] Non-preventive arrest :- [Arrest with out warrant] Sec 41 :-

police officer may arrest any person with out an order or a warrant regarding the person who has

- concerned in any cognizable offence.
- Any implement of housebreaking without justification.
- proclaimed as an offender.
- committed any act outside India, which is punishable in India if committed in India
- In possession of stolen property
- committed any breach of trust being released convict.
- Obstructs a police officer while execution of his duty escaped or attempted it, from lawful custody.
- Deserted from the Armed Force of Union.
- been, Requisition has received for cognizable offence from other police.

b] Arrest on refusal to give Name & Residence

- If any person accused of committing a non-cognizable offence does not give his name, residence, or gives name, residence which is false
- then police may take him into custody
- However, He can't be detained beyond 24hrs, if his true name & address
- Further he shall be sent to Magistrate

c] Arrest by a pvt person :

- A pvt person may arrest any person who in his presence, commits a cognizable offence or who is proclaimed offender.

d] Arrest by Magistrate :-
- person who commits cognizable offences in presence of Magistrate
- person who is proclaimed offender
- power of Magistrate is wider than that of police
- Magistrate can issue warrant to arrest

e] Arrest of person of Armed forces :
- No arrest warrant can be issued against person of armed force while he discharging his official duty. With out CG approval
- But he can be arrested off duty

f] Rules regarding Arrest.

- police has authority to actually touch or confine the body of person to be arrested
- No right to cause death, if person is not accused of offence punishable with death sentence or life imprisonment.
- police can arrest the offender in any place with in India. but can't go outside India to arrest him
- If person is arrested by warrant sec 76 will be applicable but if arrested with out warrant, he can be kept in custody for max of 24hrs & has to produce before nearest Magistrate
- In such case Magistrate may order his detention upto 15 days or may tried concerned case.
- Such 15 days limit can exceed upto 60 days.

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5. SUMMON AND WARRANT

i. SUMMON.

a] Issued either for appearance or for producing a doc or thing which may be issued to an accused person or witness.
b] Essential :- [i.e if following is not there, summon is invalid]
- Shall be in writing
- Shall be in duplicate
- Shall be signed by presiding officer
- Shall contain seal of court
- Shall be clear & specific
- Shall mention exact day, date, time of presenting doc / person
- Address shall be ascertained

c] Service of service.
- Shall served by police officer or officer of court or other public servant (Sec 62)
- Served to concerned person. If he is not found then; to male adult of family
- If no one at home, Affix duplicate copy of summon to conspicuous part of home or household where he resides
- Ordinarily be sent to Head of the office if that person is Govt Employee
- In case of corporation → served on Secretary / Local Mgr / other principal officer through ordinary Regd post.

ii. Warrant.

a] It is legal doc issued by a Judge or magistrate, which empowers a police officer to make arrest, search or seize premise.
b] Issued only in serious cases & after the accused has dis-obeyed the summon or avoided the service of summon.
c] The court issuing warrant, may also authorize the concerned person to execute a bond that will enable him to get released from custody at that moment & promising that he will appear before court in future specified date.
d] The authority (police officer) executing warrant shall bring the person before court with in 24 hrs (excludes travel time)
e] Essential :- It shall be :-
- In writing
- Sealed
- Signed by presiding officer
- Given full name & description
- Bear name & designation of person
- State the offence charged

6. SEARCH WARRANT

a] Where court has been in belief that a person summoned to produce any doc won't produce it.
b] Where such document or thing is not known to the court to be in possession of any person
c] Where a general search or inspection is necessary.
d] It can be restricted in it's scope as to any place or part thereof.

7. INFORMATION TO POLICE AND THEIR POWERS TO INVESTIGATE

a] Information in cognizable offences.
- Every info, if given orally to an officer in police station, shall be reduced to writing by him & read over to informant
- then it has to get informant's sign & that record shall be done in book kept as prescribed by SG.
- Those info given to police & which reduced to writing is known as FIR (First Information Report).
- If police officer refused to record the info, then the aggrieved person can send such info in writing to Super Intendent of police concerned.
- Then that SI may direct for investigate the case

b] INFORMATION IN NON-COGNIZABLE CASES.

- Info given to officer relating to non-cognizable offence will be entered in book kept by officer as prescribed by SG
- No authority of police has power to investigate it with out magistrate order
- If case relates to more than one offences & even if one of them is cognizable, then that case is completely be deemed to be cognizable.

c] power to investigate.

- police has general search authority if it is necessary.
- He has to state reason in writing for making search.
- Every investigation shall be completed with out delay & then report has to submitted to Magistrate who empowered him.

8. POWER OF MAGISTRATE.

- Any Magistrate of first class & of second class empowered to take cognizance of offence upon :-
- receive complaint
- police report
- info by person other than police
- his own knowledge

9. Proclamation & Attachment

Where a warrant issued remains unexecuted, the code provides two remedies :-

i. Issuing Proclamation :-
→ Means official announcement requiring the accused to appear before court, or else his properties will be attached
→ It will be read publicly in part of town or place he resides
→ It may also be published in daily newspaper
→ Court may give 30 days time from date of proclamation to person to appear

ii. Attachment of property
→ If proclaimed person appear before court with in time, then property will be released (if already attached), if not it will be comes to disposal of SG.
→ But it will not be sold until :
- period of six months
- Any claim or objection is disposed of
→ The purpose of this provision is not to punish but to compel him to be appear before court

10. LIMITATION TO TAKE COGNIZANCE

Generally, there is no limitation of time in filing complaints under this code. Except in some cases
→ The limitation period :-

6 months	offences punishable with fine only
1 Year	offences of imprisonment of ≤ 1 yr
3 Years	offences of imprisonment of ≤ 3 yr

→ In case of continuing offence, fresh period of limitation begin to run every moment during which offence continues
→ This limitation period may be extended if there is sufficient cause.

→ Commencement of limitation period :-
- From date of offence
- From the date when offence come to knowledge where the offence was not known
- From the date on which offenders identity become known. if offender is not known.

11 SUMMARY TRIAL

a] Means speedy trial (dispose) of cases
b] Very less formalities & very less delay in proceeding
c] It applies to such offences not punishable with death, imprisonment for life or imprisonment of ≤ 2 years
d] Conducts by :-
- Chief Judicial Magistrate
- Metropolitan Magistrate
- Magistrate of I class
e] Only small cases are tried in summary. complicated offences are tried through summons & warrant.
f] The objective is to reduce case load on Judiciary
g] The procedure is mostly as same as of summon trial but less formal
h] The max period of imprisonment is 3 months
i] Conducted only in respect of those offences involving property of value ≤ ₹ 2000 [Earlier it was ₹ 200]

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