

**INDIAN PENAL CODE, 1860**

**BY**

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**IS IPC 1860 APPLICABLE IN JAMMU  
AND KASHMIR?**

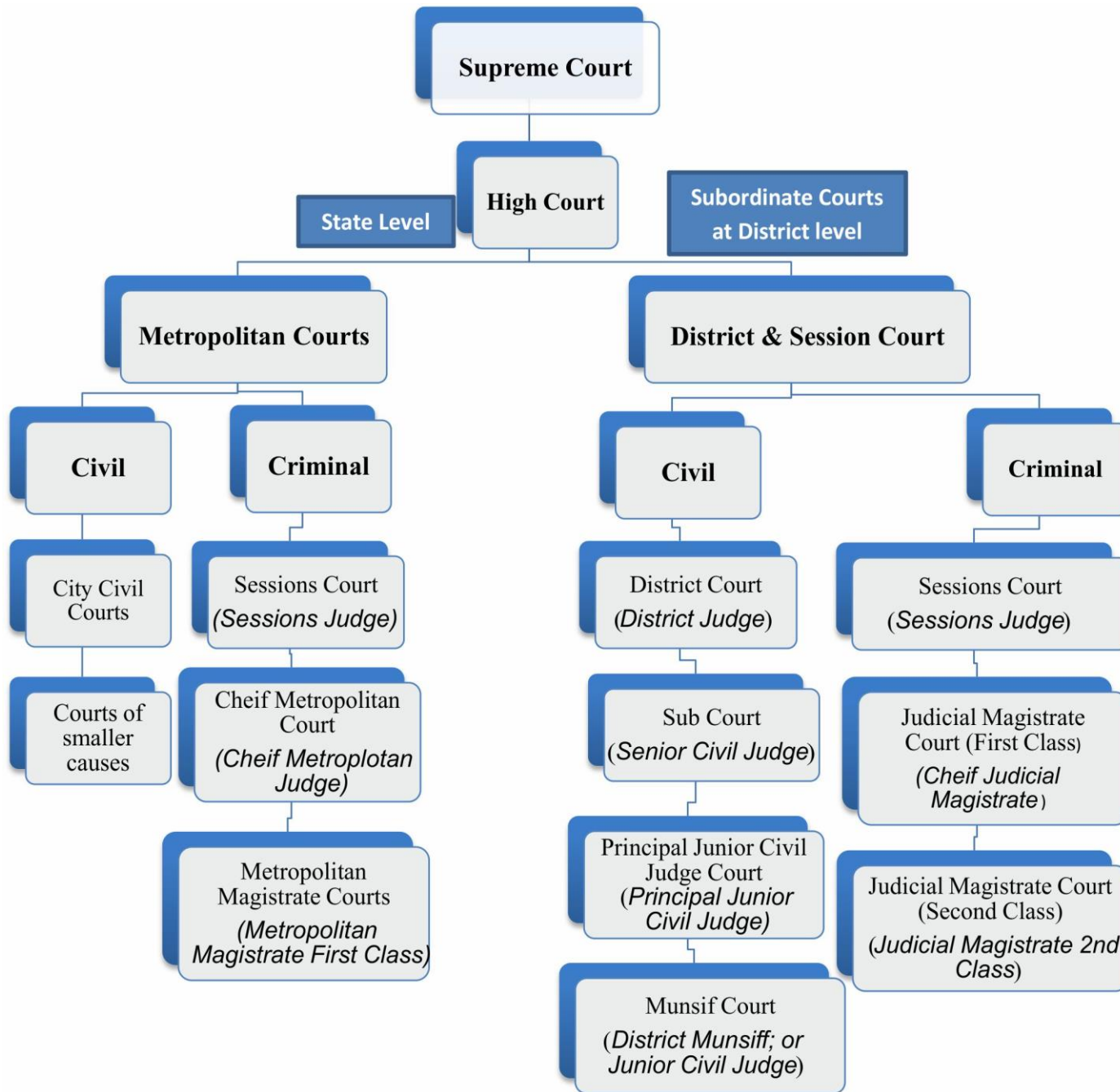
**Yes, IPC applies to Jammu and Kashmir.** In 2019, the Centre scrapped the special status granted to Jammu and Kashmir under Article 370 of the Constitution, thereby making the Indian Penal Code (IPC) applicable in the UT of Jammu and Kashmir.

What are Cognizable offences &  
Non-cognizable offences

Cognizable offences are those in which the investigating authority can arrest the accused without an arrest warrant.

Non-cognizable offences are those in which the investigating authority cannot arrest an accused without an arrest warrant. Not required, investigation can be initiated as soon as an FIR is filed.

- 1) COMPLAINT
- 2) FIR
- 3) INVESTIGATION
- 4) REPORT BEFORE COURT
- 5) TRIAL
- 6) JUDGMENT





# Right Of Private Defense

## Section 76

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Act done by a person bound, or by mistake of fact believing himself bound, by law

- by reason of a mistake of fact
- not by reason of a mistake of law
- in good faith
- believes himself to be, bound by law to do it.

## Section 77

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### Act Of Judge When Acting Judicially

- nothing is an offence which is done
- by a Judge
- acting judicially
- in the exercise of any power
- in good faith he believes to be, given to him by law

## Section 78

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### Act Done Pursuant To The Judgment Or Order Of Court

- warranted by the judgment or order of, a Court of Justice
- remains in force
- in good faith believes that the Court had such jurisdiction

## Section 79

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Act Done By A Person Justified Or By  
Mistake Of Fact Believing Himself  
justified, by law

# Section 80

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## Accident In Doing A Lawful Act

- done by accident or misfortune
- without any criminal intention or knowledge
- doing of a lawful act
- in a lawful manner
- lawful means
- proper care and caution

# Section 81

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Act likely to cause harm, but done without criminal intent, and to prevent other harm

- done with the knowledge that it is likely to cause harm
- done without any criminal intention to cause harm
- in good faith
- for the purpose of preventing or avoiding other harm
- harm to person or property

SECTION 299 & 300

CULPABLE HOMICIDE

&

MURDER



**The term 'homicide' refers to the killing of a human being, the term 'culpable homicide' refers to the unlawful killing of a person and the term 'murder' also refers to the killing of a person.**

## Differences Between Section 299 and Section 300, IPC

Now, let us compare both the sections and see when does culpable homicide amounts to murder.

1. Intention of causing death.

The phrase “**an act with the intention of causing death**” has been used in sections 299 and 300 both. Then where is the difference?

Sometimes an intentional act that causes death will not amount to murder because it falls under the five exceptions provided in section 300, that's culpable homicide not amounting to murder.

So, if an intentional act which fulfills the condition of section 299, but it goes to the second part of section 300 (exceptions), then that act does not amount to murder.

Bodily injury likely to cause death.

Whoever causes death by performing an act with the intention of causing such bodily injury as is likely to cause death.

Comparing this part of section 299 with section 300, that is, if the act is done with the intention of causing such bodily injury where the offender knows that it is likely to cause the death of the person to whom the harm is caused. Or,

-> If the act is done with the intention of causing such bodily injury to any person and where the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death.

**Bodily Injury + Intention + Knowledge = CHAM**

-> Here, for this part, we can clearly see that an act, when done with intention but not with knowledge, will not amount to murder, and it will be culpable homicide not amounting to murder.

**Bodily Injury + Intention = CHNM**

-> But even if there is an absence of knowledge and the bodily injury intended to be inflicted, in the ordinary course of nature is sufficient, it will amount to murder.

**Bodily injury that is sufficient in the ordinary course of nature to cause death + Intention = CHAM**

# SECTION 375 & 376 IPC

## RAPE

375. Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:— (First) — Against her will. (Secondly) — Without her consent.

(1) Whoever, except in the cases provided for in sub-section

(2), **commits rape**, shall be punished with rigorous imprisonment of either description for a term which <sup>1</sup> [shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine].



Bailable offence means an offence which is shown as bailable in the First Schedule or which is made bailable by any other Law for the time being in force. Bailable offences are regarded as less grave and less serious.

Non-Bailable Offence means any other offence.

**Bailable offences are considered less serious in nature. As a general rule bailable offences are those in which punishment is for or less than 3 years.** But there are some exceptions to this rule. Under bailable offences, bail is claimed as a matter of right.

**The quantum of punishment is high in Non-Bailable offences which may be more than 7 years and extend to Life Imprisonment.** Under Non-bailable offences, bail is a matter of discretion.

**WHAT ARE COMPOUNDABLE & NON  
COMPOUNDABLE OFFENCES?**

## **Compoundable offenses:**

**Compoundable offenses are those offenses where, the complainant (one who has filed the case, i.e. the victim), enters into a compromise, and agrees to have the charges dropped against the accused.** However, such a compromise should be a "Bonafide," and not for any consideration to which the complainant is not entitled.

## **Examples Of Compoundable Offences:**

- 1) Uttering words etc, with deliberate intent to wound the religious feelings of any person causing hurt.
- 2) Criminal or house trespass.
- 3) Criminal breach of contract of service.
- 4) Printing or engraving matters, knowing it to be defamatory.
- 5) There are some offenses, although compoundable, and can be compounded only with the permission of the court.
- 6) These offenses should be compounded before the trial begins.
- 7) Also where the accused has already been convicted, and an appeal is pending, the permission of the court is required for compounding such offenses.
- 8) The reason for seeking permission from the court is that these offenses are grievous in nature, and are bad examples in society.

## **Non-Compoundable Offences:**

**Non-Compoundable offenses are some offenses, which cannot be compounded. They can only be quashed. The reason for this is, because the nature of the offense is so grave and criminal, that the Accused cannot be allowed to go scot-free.** Here, in these types of cases generally, it is the "state", i.e. police, who has filed the case, and hence the question of the complainant entering into compromise does not arise.

All those offenses, which are not mentioned in the list under [\*\*Section \(320\) of CrPC\*\*](#), are non-compounds.

## **Example Of Non-Compoundable Offences(Where Court's Permission is Required):**

- 1) Voluntarily causing hurt by dangerous weapons or means.
- 2) Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.
- 3) Wrongfully confining a person for three days or more.
- 4) Assault or criminal force to woman with intent to outrage per modesty.
- 5) Dishonest misappropriation of property.
- 6) Cheating and dishonestly inducing delivery of property or the making, alteration, or destruction of valuable security.
- 7) Fraudulent execution of the deed of transfer containing a false statement of consideration.
- 8) Mischief by killing or maiming cattle etc of any value of fifty rupees or upwards.
- 9) Counterfeiting a trade or property mark used by another.
- 10) Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.

## **Anticipatory Bail**

In case a person is of the apprehension that he might be arrested on the accusation of a non-bailable offence, he can apply to High Court or Court of Session for bail under Section 438 of CrPC. The grant of bail will be on the discretion of the Court subject to certain conditions, including conditions that the person shall:

1. Make himself available for interrogation by Police Officer as and when required.
2. Not make any inducement, threat or promise to any person so as to deter him from disclosing any material facts to the Court or any police officer.
3. Not leave India without prior permission of the Court.



## **Non-bailable.**

The IPC section 376 describes the punishment for a sexual offence such as rape. It is characterized as a non-bailable offence which means that bail cannot be given as a matter of right. It also belongs to the court whether to grant or not grant the bail.

498 A

[Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

498A is a **cognizable offence**.

Non-Bailable: 498A is non bailable.

This means that the magistrate has the power to refuse bail and remand a person to judicial or police custody.

**Is accident a compoundable offence?**

This is a cognizable, bailable, and **non-compoundable offence**. Maximum punishment can be extended upto two years or fine up to thousand rupees or both.

**Is murder a non-compoundable  
offence?**

**Attempt to murder comes under the category of grave offence and hence is cognizable and non-compoundable.**

**Is 498 a compoundable?**



From the discussion above, it is clear that although a case under Section 498A I.P.C. is **not compoundable** but in the special circumstances the Court has got ample jurisdiction to quash the proceedings in exercise of its powers under Article 226 of the Constitution of India.

Thank  
you



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