

# CRIMINAL PROCEDURE CODE 1973

*Salient features*

PRESENTED BY

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# **INTRODUCTION:**

- Code prescribes procedure in respect of criminal justice system in India.
- Extends to whole India except J&K.
- Chapters other than 8,10&11 shall not apply to state of Nagaland
- To the tribal areas.(state govt may notify applying any provisions to such areas).
- AP state applied crpc to the tribal areas.

## **DEFINITIONS :**

“Bailable offence” means an offence shown as such in 1<sup>st</sup> schedule or any other offence made bailable by any law. Any other offence is non bailable

“Cognizable offence”: an offence in which a police officer may, as per 1<sup>st</sup> schedule or any other law in force, arrest without warrant.

“ Non cognizable case/offence “ a case P.O. can’t arrest without warrant.

## **Complaint:**

Any allegation made to a magistrate other than a police report made ,

Orally or in writing for taking action u/this code that a person known or unknown has committed an offence.

## **Offence:**

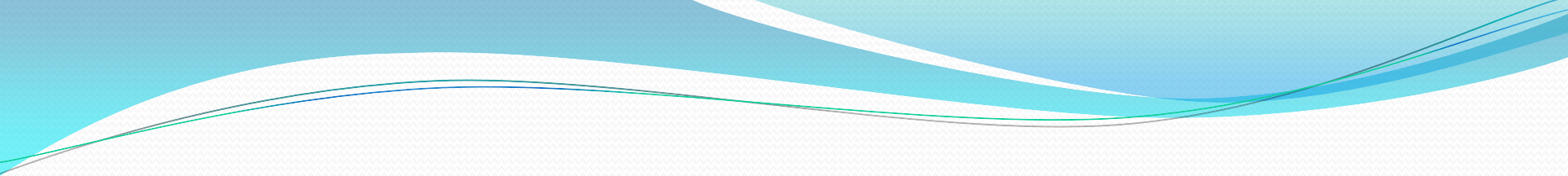
Any act or omission made punishable by any law in force including a complaint u/sec 20 of Cattle trespass Act.



**Police report**: report forwarded by a police Officer to a magistrate u/173(2).

**Summons case**: not being a warrant case.

**Warrant case**: a case relating an offence Punishable with death, imprisonment for life or for a term exceeding two years.



**Sec.4:** All offences u/I.P.C. shall be investigated,  
Inquired into, tried and otherwise dealt with as  
Per crpc.

Offences under other laws also as per crpc  
Subject to the provisions therein.

## **Criminal courts:[sec 6]**

High courts and courts constituted u/any other law,  
Courts of session, Judicial magistrates of 1st  
class/metropolitan magistrates Judi., magistrates of 2nd  
class.

Executive magistrates.

# **Hierarchy of courts and their jurisdiction.**

High court ----- death/imprisonment for life or any punishment prescribed under law

Sessions court and adll., sessions court.  
death-- to be confirmed by High court.  
or imprisonment for life or any sentence  
authorized by law .

Those courts can try any offence under IPC.

Asst. Sessions courts.----imprisonment not exceeding ten yrs.  
and any sentence authorised by law.



Chief judl.,magistrate : -----  
imprisonment not exceeding seven yrs  
Any other punishment under law.

Judi., magistrate 1st class:-----  
imprisonment not exceeding three yrs and or  
Fine not exceeding ten thousand rupees

Judl.,magistrate 2nd class : -----  
Imprisonment not exceeding one yr. and or  
Fine upto Rs 5000/-

Asst. session court, jmfc and jmsc can try offences as per 1<sup>st</sup> sh.,

# **Executive Magistrates:**

**Functions:** To maintain public peace and tranquility(sec. 106 to124,129to 132 145 to148)  
and to  
prevent public nuisance.  
(sec.133 to144 A)

**Hierarchy:**District Magistrate,  
Adll.,Dist. Magistrate.  
Sub. Div. Magistrate  
Executive Magistrate.

## **Initiation of crl. Proceedings:**

Before Magistrates: sec.190

Any

jmfc orjmsc spl. Empowered may take  
take cognizance of any offence :

- 1] upon a complaint
- 2] upon a police report
- 3] upon information from any person other  
than a police officer
- 4] upon his own knowledge

## **Information to police officer :[sec 154]**

- If information relating to a cognizable offence
- Is given to an officer in charge of a police station
- orally, shall be reduced to writing. Signature shall
- be obtained on such statement or on written one
- Substance shall be entered in a prescribed book.
- A copy free of cost shall be given to the informant.
- Spl. Provision relating to offences against
- Woman u/sec 326A etc, are made in 2013.
- On refusal ,to be sent by post to Supt., of police.

## **Information in non cognizable offence: [sec155]**

To be entered in a prescribed book and refer the Informant to the magistrate.

No investigation without the orders of magistrate

Police officer in charge of a p.s. can investigate a cognizable case .[sec156]

## **Procedure for investigation: [sec157]**

In cognizable case a report of the offence  
Shall be sent to the magistrate having  
Jurisdiction.[FIR].

He has to proceed to the spot to investigate,  
Discovery and arrest.

## **Investigation:**

I.O. can order in writing a witness to attend  
[sec.160]

I.O. can examine orally any person, may reduce  
any statement into writing.[sec161]

Need not be signed by witness. Shall not be used  
For any purpose except to contradict him when  
he figures as a prosecution witness in that  
case.[sec162].

## **Confessions and statements:[sec164]**

Any magistrate can record the confession of an accused or statement of a witness, during investigation.

The accused has to be cautioned that he is not bound to make it and if he makes ,it may be used against him.

He must be satisfied that it is voluntary.

In case of offences against women under sec 354 and 376 IPC the magistrate shall record the statement of the victim.



## **Search and Seizer : (Sec 165)**

The Investigating officer (IO) if he is of the opinion that a warrant cannot be obtained with out undue delay, after recording the grounds of his belief in writing, can search for any thing necessary for the investigation of the case. He can require any officer subordinate to him to make the search if he is unable to do it after recording the reasons.

copies of any record made shall forth with be sent to the nearest magistrate.

procedure under section 100 shall apply.

## **Search procedure in respect of closed place: (Sec 100)**

A person residing therein shall on demand allow the search of the place.

If not he can use force to enter even by break opening the doors.

IO shall call two or more independent and respectable inhabitants of the locality.

Seizer list shall be prepared and signed by the witness.

Copy shall be supplied to the person residing therein.

Search witness shall not be required to attend the court as a witness unless specially summoned by court.

## **Arrest of Persons: (Sec 41)**

Any Police officer may, without an order from a magistrate and without a warrant, arrest any person:

- a) Who commits cognizable offence in his presence.
- b) A person who committed a cognizable offence punishable with imprisonment for a term not exceeding seven years if the following conditions are satisfied:
  - I) Police officer (PO) is satisfied that such person has committed the said offence.
  - II) PO is satisfied that such arrest is necessary:
    - a) To Prevent such person from committing any further offence.
    - or
    - b) For proper Investigation of the offence.
    - or

c) To prevent that person from causing the evidence to disappear or tamper.

or

d) To prevent the person from making any inducement, treat or promise to any person acquainted with the facts of the case

or

e) His presence in court cannot be ensured when ever required.

PO shall record reasons for making or not making such arrest.

He can arrest in any cognizable offence where the imprisonment may exceed 7yrs.

In other cases u/(c) to(i) u/sec41(1).

## **Notice of appearance before PO: (Sec 41A)**

Where arrest is not required, the PO shall issue a notice directing the person who alleged to have committed a cognizable offence, to appear before him.

If he fails to appear PO may arrest him.

## **Procedures of arrest and duties of PO: (Sec 41B)**

Every PO making an arrest shall:

a) Bear a clear identification of his name.

b) Prepare a memorandum of arrest which shall be attested by:

I) One witness who is the member of the family of the person arrested or a respectable member of the locality.

II) Counter signed by the person arrested and

c) To inform the person arrested that he has a right to have a relative or a friend named by him to be informed of his arrest.

The arrested person is entitled to meet an advocate of his choice during interrogation(Sec 41D).

## **Arrest by Private person: (Sec 43)**

Any private person may arrest or cause to be arrested any person who in his presence commits a non bailable and cognizable offence or any proclaimed offender.

He shall make over or cause to be made over the arrested person to a PO without unnecessary delay.

## **Arrest by Magistrate: (Sec 44)**

1) When an offence is committed in his presence and within his local jurisdiction any magistrate can arrest and subject to bail commit the offender to custody.

2) He can also arrest or direct the arrest in his presence within his local jurisdiction of any person for whose arrest he is competent to issue a warrant.

## **Arrest how to be made: (Sec 46)**

- 1) The person to be arrested shall actually be touched or confine the body of the person to be arrested.
- 2) Incase of resistance or attempt to evade all means to effect the arrest can be used.
- 3) There is no right to cause death of a person who is not accused of an offence punishable with death or with imprisonment for life.
- 4) No women shall be arrested after sunset and before sunrise except in exceptional circumstances in which case a women police officer with the prior permission of JMFC can arrest.





Any PO or person executing a warrant of arrest can enter any place where the person to be arrested has entered (Sec 47).

Every person arrested to be informed the grounds of arrest and of right to bail (Sec 50).

PO has a right to search the arrested person (Sec 51).

A PO making an arrest without warrant shall without unnecessary delay subject to bail take or send the person arrested before a magistrate or before the officer in charge of a police station (Sec 56).

Person arrested not to be detained more than 24 hrs excluding the journey time (Sec 57).

Officer in charge of PS shall report to the district Magistrate or as per his direction to the sub divisional magistrate in all cases of arrest without warrant (Sec 58).

# **BAILS**

- 1) Bailable offence (Sec 436) : The Person arrested or detained or appears or brought before the court in a bailable offence shall be released on bail by the court or the PO.
- 2) If he is unable to give bail within a week he can be released on his bond.
- 3) Bail can be refused in bailable offence if he is brought or appears before the court on a subsequent occasion when he failed to comply with the conditions of bail bonds.

**Non Bailable offences(Sec 437):** When any person arrested or detained without warrant by PO or appears or brought before a court other than High court or court of session he may be released on bail except:

- I) Where there are reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment of life.
- II) Previously convicted of an offence punishable with death, imprisonment of life or imprisonment for seven years or more.
- III) Or had been previously convicted on two or more occasions of an cognizable offence punishable with imprisonment for three years or more but not less than seven years.
- IV) In case of person under the age of 16 yrs or women or sick or infirm can be released on bail.

High Court or a court of sessions can grant bail in any case(Sec 439).

**Anticipatory Bail(Sec 438):** The High court or Court of sessions may grant anticipatory bail in non bailable offence taking in to account the following:

- I) Nature and gravity of the accusation.
- II) Antecedents of the applicant
- III) Possibility to flee from Justice
- IV) When the accusation has bee made with the object of injuring or humiliating the applicant.

**Prosecution(Sec173):** After completing investigation the officer in charge of PS shall forward to a magistrate empowered to take cognizance of the offence, a report in the prescribed form along with all statements and documents.

Investigation shall be completed within three months in relation to rape of a child from the date of recording of information by the PO.

**Prosecution for contempt of lawful authority.**  
**(Sec 195):**

Cognizance can be taken by court for the offences under section 172 to 188 or abetment or attempt to commit or criminal conspiracy to commit such offences only on a complaint in writing of the public servant or by officer to whom he is subordinate.

## **Prosecution of Judges and Public Servants(Sec 197):**

When ever a judge or magistrate or a public servant not removable from his office without the sanction of the government is accused of an offence alleged to have been committed by him while acting or purporting to act in discharge of his official duty.

No court shall take cognizance of such offence without previous sanction of :

The Central Government when he is employed with the affairs of the union.

Of the State Govt. when he is employed in connection with the affairs of the state.

At the time of committing of Offence.

## **Withdrawal from prosecution(Sec 321):**

The Public prosecutor or asst Public prosecutor in charge of a case, may, with the consent of the court at any time before the judgment is pronounced withdraw from the prosecution of any person either generally or in respect of any one or more of the offence.

# **Trials – Classification**

- 1) Summary Trials
- 2) Trial in summons cases
- 3) Trial in warrant cases
- 4) Trial by court of sessions

**Procedure in summary trials** : Any chief Judicial magistrate or metropolitan magistrate or any magistrate of first class who is empowered by the high court may try following offences summarily:

- I) Offences punishable with imprisonment not exceeding two years, theft or receiver of stolen property where the property doesn't exceed Rs.2000/-
- II) Offences under sec 504, 506 IPC.





III) Abetment or an attempt to commit any of the above offences.

Judicial magistrate II Class can be empowered by the high court to try offences summarily punishable only with fine or with imprisonment but not exceeding 6 months with or without fine.

Procedure for summary Trials: Same as trial of summons case.

Imprisonment exceeding 3 months shall not be passed.

The Magistrate shall record the substance of the evidence and a judgment with the brief statements of the reasons.

**Summons Trials**: When accused appears or brought before the court, the particulars of the offence shall be stated to him and he shall be asked whether he pleads guilty or has any defence to make out (Sec 251).

If he pleads guilty it shall be recorded and may convict him there on.

Otherwise the magistrate shall proceed to hear prosecution and take all such evidences as may be produced by the prosecution and also hear the accused and take the defence evidence.

There upon , after hearing he can pronounce the judgment either acquitting or convicting the accused together with reasons.

## **Trial in Warrant cases:**

Cases instituted on a police report.

After appearance of the accused the magistrate shall satisfy that all the copies of documents have been furnished to accused under section 207.

After hearing both sides and considering the police report and documents if the magistrate considers the charge against the accused to be groundless, he shall discharge the accused after recording reasons.

**Framing of Charge:** If the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable as a warrant case, he shall frame a charge against the accused. It shall be read over and explained and accused shall be asked whether pleads guilty or claims to be tried.

If the Accused Pleads guilty the magistrate may convict him

**Evidence for Prosecution:** If the accused refuses to Plead or doesn't plead guilty or claims to be tried, the magistrate shall fix a date for examination of witnesses. On the dates so fixed the magistrate shall record the evidence produced in support of Prosecution.

**Evidence for Defence:** After that the accused shall be asked to enter upon his defence and produce his evidence.  
The evidence so produced by the accused shall be recorded.

## **Cases filed otherwise than on police report(Sec244):**

**Evidence for prosecution:** After appearance of accused, the magistrate shall proceed to hear the prosecution and take all such evidence as may be produced by prosecution.

Discharge: If the magistrate considers that no case against the accused is made out, the accused shall be discharged after recording the reasons (Sec 245).

**When Not Discharged:** The Magistrate shall frame a charge against the accused which shall be read and explained to the accused and he shall be asked whether he pleads guilty or any defence to make. If he pleads guilty he may be convicted.

Otherwise at the next hearing, the accused must be given an opportunity to cross-examine the prosecution witness.

There upon, the evidence for defence can be recorded.

## **On Conclusion of Trial**

The Accused can be acquitted or convicted.

In case of Conviction the accused shall be heard on the question of sentence and pass sentence upon him according to Law by way of judgment together with reasons.

## **Plea Bargaining(Sec 265 to 265L):**

Applicability : In all case of offences based on police report / compliant.

Except :

Offences punishable with death or imprisonment for life or for a term exceeding seven years.

Offences which affect socio-economic conditions of the country.

Offences committed against a woman or child below the age of 14 Yrs.

Accused can apply for plea bargaining before the court in which the offence is pending for trial.



Notice on the application shall be issued to the public prosecutor or complainant.

The court has to examine the accused in camera to know whether the application is voluntary.

Court shall provide time to all parties which may include victim to workout a mutually satisfactory disposition.

If satisfactory disposition is submitted , the court has to dispose of the case in accordance with sec 265E.

If not the court shall proceed as per the provisions of the code as if there is no application.



## **Remission and commutation of sentences(Sec 432 to 435) :**

The appropriate govt. may, at any time without or with conditions which the person sentenced accepts,

Suspend the execution of sentence or remit the whole or any part of the punishment.

The Govt. may require the written opinion with reasons of the presiding judge of the court which passed the conviction or confirmed.

Appropriate Govt means when the offence is in respect of any law relating to executive power of Union extends, the central government.

In other cases state Govt.

## **Power to commute sentence(Sec 433):**

The appropriate Govt. may without the consent of the person sentenced, commute:

- a) Sentence of death – for any other punishment provided by IPC.
- b) Life imprisonment – for imprisonment not exceeding 14 yrs or fine.
- c) Sentence of rigorous imprisonment – for simple imprisonment for any term the person might have been sentenced or for fine.
- d) A simple imprisonment or fine.

Central Govt. has concurrent power under sec 432 and 433 in case of sentences of death(Sec 434)