

**Mumbai University**  
**3 Years LLB- Semester V (November 2023),**  
**Criminal Procedure Code & Juvenile Act.**  
**Questions & Answers**

**Q1) Define Bailable and Non bailable offence?**

**Ans) As per Sec 2(2) of CRPC 1978, "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. In bailable offences bail is a matter of course. Police Officers, Courts, Magistrates, Sessions Judge, High Court may release a person on bail. Eg: Mischief, House trespass etc. are bailable offense**

**"Non-bailable offence" means any other offence. In non-bailable cases, bail is not allowed, but a person may be released on bail under certain circumstances (Sn.437). In offences punishable with death or imprisonment for life there is no bail eg: in Murder, rape, etc are non bailable offense.**

**Q2) What are cognizable offences?**

**Ans) As per section 2(c) of the Criminal Procedure Code, Cognizable offences are the offences in which the police can arrest a suspect even without an arrest warrant. These are the serious kind of offences in which the punishment is more than 3 years with or without fine. Whether a particular offence is cognizable or not is mentioned under the First Schedule of CrPC. Crimes like dowry, murder, rape, etc. fall under this category. These are the wrongs done against society i.e., against the public at large. The First Information Report (FIR) is registered only in cognizable crimes. A police officer is bound to register an FIR in case of a cognizable crime. In cognizable cases, police can make an investigation without prior permission of a magistrate.**

**Q3) What is non cognizable offence?**

**Ans) Non Cognizable offences belongs to the category of offences as per Cr. PC in which Police can neither register the FIR nor can investigate or effect arrest without the express permission or directions from the court. These mostly include minor offences such as abusing each other, minor scuffles without injuries, intimidation etc. It is defined in section 2(i) of the Criminal Procedure Code.**

**In non-cognisable offences, when the information is given to the Police Officer (Sub-Inspector), he should enter the substance of information in the**

"Police Diary" and refer the informant to the Magistrate. He should not start the investigation without the orders of the concerned Magistrate. But, on receiving such an order, he may exercise the same powers in investigating as in cognisable cases.

**Q4) Short Note on Warrant Case?**

**Ans)** A warrant case under the Code of Criminal Procedure (CrPC) is a case relating to an offence punishable with death, imprisonment for life, or imprisonment for a term exceeding two years. These cases are usually serious or grave offences that are considered cognizable, allowing the police to make arrests without a warrant. A court of session tries the most severe warrant cases, while Magistrates handle the rest.

Warrant cases can be instituted by filing a First Information Report (FIR) in a police station or before a magistrate. The stages of trial in warrant cases are outlined in Sections 238 to 250 of the Code of Criminal Procedure, 1973. Chapter XIX of the Cr.P.C. governs the trial of warrant cases.

The essential elements of warrant cases include:

- Charges must be specified in a warrant case.
- The personal appearance of the accused is mandatory.
- Warrant cases under CrPC cannot be converted into summons cases.
- The accused has the right to examine and cross-examine witnesses multiple times.
- The Magistrate must ensure compliance with the provisions of Section 207 of the Code of Criminal Procedure (Cr.P.C.). Section 207 of the Cr.P.C. 1973 mandates the provision of copies of relevant documents, such as the police report, FIR, and recorded statements, to the accused.

**Q5) What are the different classes of criminal court and their powers?**

**Ans)** Different classes of Criminal Courts in India are:

- a) Supreme Court: The Supreme Court is the highest court of appeal in the country and enjoys the most extensive discretionary and plenary powers in cases of appeals.
- b) High Court: There is a High Court for every state. The High Court has the power to quash the F.I.R, any investigation, and any criminal proceedings before any High Court or any other subordinate court. It also has the power to secure justice to everyone who comes before the High

Court and also providing justice in such a way the abuse of the law cannot take place before the High Court.

c) Other Courts: Below the High Court, the following Criminal Courts are constituted. (i) Sessions Court (ii) I class Judicial Magistrate and in metropolitan area (metropolitan magistrate), (iii) Judicial Magistrate II Class (iv) Executive Magistrate. The Judicial Magistrates and Executive Magistrates are given different and distinct functions and powers under the Cr.P.C.

Judicial Magistrate II Class: Maximum punishment-1 year imprisonment; maximum penalty- Rs.5000/- .

I class Judicial Magistrate: Maximum punishment-3 years imprisonment; maximum penalty- Rs.10000/- .

Chief Judicial Magistrate: Maximum punishment-7 years imprisonment; maximum penalty in rupees- No limit.

Asst Session Judge: Maximum punishment-10 years imprisonment; maximum penalty in rupees- No limit.

Session Judge and Additional Session Judge: They both have same powers and has power to give any punishment provided by the law and can pass any sentence within the ambit of law. When the session court gives any death penalty, the same needs to be confirmed by the high court and the sentence shall not be executed unless it is confirmed by the high court.

Q6) What are any four rights of arrested person?

Ans) The rights of arrested person are:

a) Right to Medical Examination:

According to Section 54 of the Criminal Code, an arrested person has the right to undergo medical examination. According to sec. 54(2), the report of such examination shall be furnished by registered by the medical practitioner either to the arrested person or to the person nominated by that arrested person.

b) Information on the Right to Bail:

A police officer who is arresting a person for a offense is required to inform the person arrested about their right to bail, that they are entitled to bail as per provision of law, and that they can arrange for sureties on their behalf.

c) No detention for more than 24 hours:

According to Section 56 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate immediately. If the police

officials fails to produce an arrested person before a magistrate within 24 hours of the arrest, the police officials shall be held guilty of wrongful detention.

d) Rights Of Free Legal Aid

The Supreme Court in the case of *Khatri(II) v. the State of Bihar* has held that the state is under a constitutional obligation (implicit in Article 21) to provide free legal aid to an indigent accused person as is implicit in Article 21 of the Constitution.

Q7) What is summons?

Ans) A summons is a legal document issued by the court directed to a person to appear before a judge or Magistrate. Section 204 of the CrPC empowers a Magistrate to issue a summons in a summons case. The summons must be in writing, served in duplicate, signed by the presiding officer of the court issuing it, and bear the seal of the court.

Q8) What is Warrant?

Ans) A warrant under the Code of Criminal Procedure (CrPC) is a written document issued by the court to compel the appearance or arrest of any person or search any place that the court requires. A warrant of arrest must be in writing, signed by the Magistrate, and bear the seal of the court. Section 204 of the CrPC allows a Magistrate to issue a warrant in a warrant case. A warrant under CrPC is a legal document that authorizes the arrest of a person who is charged with a serious offence. A warrant must contain the name and other details of the person to be arrested, the offence for which the person is charged, and the authority given to the person who executes the arrest.

Q9) Distinguish between Summons & Warrant?

Summons	Warrant
A summons is a written order, issued by the court, compelling an individual to appear before the court at a specified time and place	A warrant is a legal document issued by a magistrate or judge, which authorizes the police to arrest someone.
It is generally used in cases where the offence is not of a serious nature	Warrants are typically used for more serious crimes
The person to whom it is directed is duty-bound to appear before the	A warrant of arrest must be in writing, signed by the Magistrate,

court on the date specified in the summons. Failure to comply with a summons can result in penalties.

and bear the seal of the court. The person named in the warrant is to be arrested and produced before the court.

**Q10) What is FIR?**

**Ans)** An information of a cognisable offence recorded by the Police Office under section 154(1) of CrPC is commonly known as First Information Report (FIR), though this term is not used in the Criminal Procedure Code. It is the earliest and the first information of a cognizable offence recorded by an officer-in-charge of a police station.

It sets the criminal law in motion and marks the commencement of the investigation which ends up with the formation of opinion under section 169 or 170 CrPC, as the case may be, and forwarding of a police report under section 173 CrPC.

FIR is not a piece of substantive evidence. It can be used only for limited purposes, like corroborating under section 157 of the Evidence Act or contradicting (cross-examination under section 145 of Evidence Act) the maker thereof.

**Q11) What is police diary?**

**Ans)** The Police Officer doing investigation should maintain a diary and record (i) The time of reception of F.I.R. (ii) The time of beginning and closing of investigation. (iii) Place visited, (iv) A statement of circumstances.

Any Criminal Court may call for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; except when it is used by the Police Officer to refresh his memory or if the Court uses them for the purpose of contradicting such police officer.

**Q12) What is Zero FIR?**

**Ans)** A "Zero FIR" is a First Information Report (FIR) that can be filed in any police station, irrespective of the place of incident or jurisdiction. This means that a person who has information about the commission of a cognizable offence can file an FIR at any police station, and it is not necessary to go to the police station within whose jurisdiction the offence falls. The officer

in charge is required to record the FIR and then transfer it to the appropriate police station where the offence occurred. This provision is particularly useful in cases where the crime has taken place while the victim was in transit.

**Q13) What are compounding offence?**

**Ans) Offences are grouped into compoundable and non-compoundable. Provisions relating to compounding are given in S 320 of CR PC, Compounding means 'making a compromise'. These offences are situations where the harmed person (the person who made the complaint, called the complainant) decides to withdraw the accusations against the person accused of the wrongdoing.**

**Compromise may be made (i) with the permission of the court or (ii) without the permission of the court. Compounding is allowed because the complainant and the accused may make some compromise within themselves, i.e., they agree to settle their differences mutually. Compromise once made cannot be withdrawn. It can be made at any time before the sentence is pronounced by the court. The offences which are to be compounded with the permission of the court. Ex.: (i) Theft (value below Rs.250/-) (ii) Cheating. (iii) Cheating by personation. (iv) Bigamy. (v) Insulting the modesty of a woman etc. In cases of hurt, assault, criminal trespass, defamation etc., mentioned in the Cr.P.C. the offences are compoundable without the permission of the Court.**

**Q14) What is double jeopardy?**

**Ans) One fundamental principle of Criminal Law is that no person who has been accused of an offence should be prosecuted and punished for the same offence more than once. This principle is contained in Art.20(2) of the Constitution and also in S.300 Cr.P.C.**

**The origin of this is in the English Law 'Nemo debet Bis Vexari' i.e no one shall be vexed twice. According to this, if a person has been prosecuted and convicted, then the accused should not be tried again by any Court in India, for the same offence.**

**Q15) What is Public Prosecutor and Asst. Public Prosecutor?**

**Ans) A Public Prosecutor is a state representative who is a law officer chosen by the state or central government to represent the interests of the public. A 'Public Prosecutor' is appointed under Section 24 of CrPC. A Public Prosecutor participates in the process of investigation and during the trial.**

The State Government has the power under Cr.P.C. to appoint Public Prosecutors at the High Court level and at district level is consultation with the High Court and the Sessions Court. The District Magistrate prepares a panel of names who are fit to be appointed as Public Prosecutors. The minimum qualifications is at least 7 years practice as an Advocate. The Public Prosecutor is a public servant.

Asst. Public Prosecutors are appointed by State Govt. in each district for conducting prosecution in Magistrates Courts. No Public Officer below the rank of a Police Inspector and who has made investigation in the case can be appointed as A.P.P. Office of the A.P.P. is the creation of the new Cr.P.C. A.P.P. may appear before Magistrates court. He is not under the control of the Police Department.

**Q16) What is "arrest"?**

**Ans)** The common definition of the word "arrest" is "the deprivation of one's personal liberty. Neither the Code of Criminal Procedure nor any other significant substantive laws define the term "arrest". A person is considered to be arrested in a legal sense when they are taken into custody by a law enforcement officer with the intent of holding them for trial on a criminal charge or preventing them from doing an illegal act.

**Q17) What is petty offence?**

**Ans)** "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1931, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

**Q18) What is anticipatory bail?**

**Ans)** Anticipatory Bail or Pre-arrest Bail is a legal provision that allows an accused person to apply for bail before being arrested. In India, pre-arrest bail is granted under section 438 of the Code of Criminal Procedure, 1973. It can be issued only by the Sessions Court and High Court.

The provision of pre-arrest bail is discretionary, and the court may grant bail after considering the nature and gravity of the offence, the antecedents of the accused, and other relevant factors. The court may also impose certain conditions while granting bail, such as surrendering the passport, refraining from leaving the country, or reporting to the police station regularly.

**Q19) What is charge under CRPC?**

**Ans) As per Section 2 (b) of Cr.PC "Charge" is defined as "Charge" includes any head of the charge when the charge contains more head than one.**

**Charge is accusation made against person in respect of the offence alleged to have been committed by him.**

**Q20) What is complaint?**

**Ans) As per Sec 2 (d) of CRPC, a "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.**

**Q21) Who is Probationary officer?**

**Ans) As per The Probation of Offenders Act of 1958, a probation official is a court officer who regularly meets people sentenced to a supervised probation period who are generally, the perpetrators and lower-level criminals. The majority of the offenders placed on probation are first time offenders. Placing any one on probation is a way for the court to prevent offenders from imprisonment. Many that are on probation live in our neighbourhoods, stay home, are working or participating in an educational program, and raise their children. The justice system's objective is to have a person who is put on probation as a responsible member of society while retaining contact with his or her family and community support sources.**

**A probation officer will need to meet, on a monthly or sometimes weekly basis, their client. Based on an assessment of risk/needs, the probation officer may decide the degree of supervision that a person requires (minimum, medium or maximum). It helps to determine how much assistance a person requires. POs work at city, country, and state levels and have legal and sociological training in rehabilitation.**

**While the majority of the public considers probation officers as merely supervisors of offenders, their role within the legal system is significantly broader and more complex. Most probation officers do not get involved only after a probation sentence has been handed down but may provide input to prosecutors, judges and court officials long before the trial begins. In many jurisdictions, probation officers also adopt the role of parole officer, which oversees the re-entry of ex-convicts into society.**

Q22) What are the duties of probationary officer?

Ans) The duties of a Probation Officer under the Probation of Offenders Act, 1958, as laid down in Section 14 of the Act, include:

- a) Investigation: The probation officer conducts an investigation to gather information about the offender and the circumstances surrounding the offense and submit the report to the court.
- b) Supervision and surveillance: The probation officer supervises the offender during the probation period to ensure compliance with the conditions of probation.
- c) Counselling: The probation officer provides counselling to the offender to help them understand and rectify their behaviour.
- d) Exercise of professional control on the delinquent probationer: The probation officer exercises professional control over the offender to prevent them from committing further offenses.

The Act aims to save minor offenders from becoming regular criminals by giving them the opportunity to change for the better rather than going to jail. The probation officer seeks to resolve the issue amicably while attending to the needs and challenges of the accused.

Q23) What is admonition?

Ans) Admonition under the Probation of Offenders Act, 1958, is a stern warning or reprimand. Section 3 of the Act deals with the power of a court to release the offender after admonition. This section empowers the courts to release the offenders without undergoing the penalty prescribed by the Indian Penal Code or any other relevant law. In essence, it's a way for the court to give the offender a chance to reform without serving a traditional sentence.

Q24) What are heinous offences?

Ans) "Heinous offences", as per the definition given under Section 2(33) of the IPC and also as per Juvenile Justice Act 2015, are those offences for which the IPC or any other criminal law for the time being in force prescribes a term of imprisonment of 7 years or more.

Q25) What is conviction and acquittal?

Ans) Conviction means that, when the trial ends, one have been proven guilty of a particular crime and accordingly judgement of punishment as per law is

passed. Acquittal means the prosecution was not able to prove that one committed a crime. An order of acquittal is also in the nature of judgement.

**Q26) What is public nuisance?**

**Ans) As per Section 280 of IPC 1860, A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. Therefore, it is a crime against society and not just against an individual or a group of people. For instance, polluting water streams, obstruction of highways, and storing explosives are examples of public nuisance.**

**Q27) What is judgement under CRPC?**

**Ans) A judgment in the context of the Code of Criminal Procedure (CrPC) is the final decision given by a court at the end of a criminal trial. Although the term 'judgment' is not explicitly defined in the CrPC, it is generally understood to be the final order of the court.**

**Chapter XXVII of the CrPC, 1973, deals with Judgement. It explains the meaning and procedure of passing judgment by a criminal court. A judgment should clearly mention the reason for accepting an argument and rejecting the other.**

**Section 354 of the CrPC outlines the language and contents of the judgment. It states that every judgment in a criminal case should be written in the language of the court, contain the points for determination and the reason for the same, specify the offense and the reason for the same, and mention the Indian Penal Code (IPC) or any other law under which the crime is committed and the punishment is given. In essence, a judgment is the expression of the opinion of the Judge or Magistrate arrived at after due consideration of the evidence and of the arguments.**

**Q28) What is children's home as per Juvenile Justice Act?**

**Ans) Under the Juvenile Justice Act, 2015, children who are in need of care and protection can be placed in a child care institution. The types of child care institutions include Children Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialised Adoption Agency and a Fit Facility.**

Children Homes for Boys and Girls provide shelter during the process of inquiry and long term rehabilitation for orphan and destitute children in need of care and protection. Section 34 of the Juvenile Justice Act of 2000 states "The state government may establish and maintain children's homes in each district or group of districts." The children's home is a home where children in need of care and protection are placed on the order of a competent authority.

Descriptive Questions & Answers

**Q 1 What are the rights of the arrested persons?**

**Ans) Meaning of Arrest:**

The common definition of the word "arrest" is "the deprivation of one's personal liberty. Neither the Code of Criminal Procedure nor any other significant substantive laws define the term "arrest". A person is considered to be arrested in a legal sense when they are taken into custody by a law enforcement officer with the intent of holding them for trial on a criminal charge or preventing them from doing an illegal act.

**Rights of Arrested Person:**

The rights of an arrested person under the Code of Criminal Procedure (CrPC) are as follows:

- a) **Right to know the grounds of Arrest:** Section 50 of CrPC states that every police officer or any other person who is authorised to arrest a person without a warrant should inform the arrested person about the offence for which he is arrested and other grounds for such an arrest.
- b) **Right to be produced before the Magistrate without unnecessary delay:** Section 55 of CrPC states that a police officer making an arrest without a warrant should produce the arrested person without unnecessary delay before the Magistrate having jurisdiction or a police officer in charge of the police station.
- c) **Rights to be released on Bail:** An arrested person has the right to be released on bail unless there are reasonable grounds to believe that he has committed a non-bailable offence. A police officer who is arresting a person for a offense is required to inform the person arrested about their right to bail, that they are entitled to bail as per provision of law, and that they can arrange for sureties on their behalf.
- d) **Rights to a fair trial:** Every arrested person has the right to a fair trial.
- e) **Right to consult a lawyer of his choice:** The arrested person has the right to consult a lawyer of his choice.
- f) **Right to free legal aid:** If the arrested person does not have sufficient means to engage a lawyer, he has the right to free legal aid. The Supreme Court in the case of in *Khatiri(II) v. the State of Bihar* has held that the state is under a constitutional obligation (implicit in Article 21) to provide free legal aid to an indigent accused person as is implicit in Article 21 of the Constitution.

- g) **Right against self-incrimination:** The arrested person has the right against self-incrimination.
- h) **Right to be examined by a registered medical practitioner:** If the arrested person requests for a medical examination, he has the right to be examined by a registered medical practitioner.
- i) **No detention for more than 24 hours:** According to Section 56 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate immediately. If the police officials fails to produce an arrested person before a magistrate within 24 hours of the arrest, the police officials shall be held guilty of wrongful detention

These rights are designed to protect the fundamental rights of the arrested person and to ensure that the law enforcement authorities follow due process of law while dealing with persons accused of committing a crime.

**Q 2 Note on Investigation, Inquiry and Trial?**

**Ans) Investigation, inquiry and trial denote the three successive stages in the Criminal proceedings:**

- a) **Investigation:** Investigation is the 1<sup>st</sup> stage of Criminal Case. As per S.2(h) of CRPC, "Investigation" includes all the proceedings under the Cr.P.C. for the collection of evidence conducted by a police officer or person authorised by the Magistrate. The objective is to collect evidence in respect of the case on hand. It starts with the F.I.R. It includes: Proceeding to the spot, getting the facts and circumstances, collecting all the evidence available, examining persons, arresting the accused, making the search, seizing materials etc. He submits a report to the Magistrate in the prescribe form.
- b) **Inquiry:** The end of investigation is the beginning of the inquiry. As per S 2 (g) of CRPC, Inquiry means every inquiry, other than a trial, conducted by a Magistrate or Court under Cr.P.C. This is a proceeding of the Magistrate or Court prior to trial. The objective is to find the truth or falsity of the facts to proceed further, to take action. If there is any truth, there will be a trial otherwise the accused is discharged. Inquiry may be judicial, non-judicial, local or preliminary. Examples are: proceedings for maintenance of wife a children, enquiring for keeping the peace. Proceeding under Sn.145 Cr.P.C. is an inquiry.
- c) **Trial:** This is the final stage of a criminal case. A trial is a judicial proceeding that ends either with conviction or acquittal. It is the legal

process that follows an investigation or inquiry, in which the accused is brought before a court to answer for the charges against them. A trial involves the presentation of evidence, testimony from witnesses, and arguments from both the prosecution and defense. A judge or a jury will decide whether the suspect is guilty or not guilty of the crime.

**Q 3 Write short note on arrest without warrant?**

**Ans) Arrest without Warrant: (Section 41):** The police officer may without an order from a Magistrate and without a warrant, arrest any person;

- a) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or
- b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or
- c) who has been proclaimed as an offender either under this Code or by order of the State Government; or
- d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or
- e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or
- f) who is reasonable suspected of being a deserter from any of the Armed Forces of the Union; or
- g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or
- h) who, being a released convict, commits a breach of any rule made under Sub-Section(5) of section 356; or
- i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person

might lawfully be arrested without a warrant by the officer who issued the requisition.

- j) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of person specified in section 109 or section 110.

**Q 4** What are the various process to compel appearance in case of Criminal Procedure Code?

**Ans)** The processes under the Code of Criminal Procedure (CrPC) to compel a accused person to appear in court:

- a) **Summons (Section 61 and 204 of CrPC):** A summons is a written order, issued by the court, compelling an individual to appear before the court at a specified time and place. The summons must be in writing, served in duplicate, signed by the presiding officer of the court issuing it, and bear the seal of the court. Section 204 of the CrPC empowers a Magistrate to issue a summons in a summons case.
- b) **Warrant (Section 70 and 204 of CrPC):** A warrant is a legal document issued by a magistrate or judge, which authorizes the police to arrest someone. Warrants are typically used for more serious crimes. A warrant of arrest must be in writing, signed by the Magistrate, and bear the seal of the court. Section 204 of the CrPC allows a Magistrate to issue a warrant in a warrant case.
- c) **Warrant in lieu of summons (Section 87 of CrPC):** In certain cases, a court may issue a warrant in lieu of a summons. This is typically done when the court believes that a summons alone would not ensure the person's appearance. The court will record the reason for issuing a warrant in lieu of a summons.
- d) **Proclamation of an absconder (Section 82 of CrPC):** If a person against whom a warrant has been issued is absconding or concealing himself so that the warrant cannot be executed, the court may publish a written proclamation requiring him to appear at a specified place and time. The proclamation is published in a conspicuous place in the town or village where the person ordinarily resides.
- e) **Attachment of property (Section 83 and Sections 105D to 105J of CrPC):** If the person does not comply with the proclamation, the court may order the attachment of his property. The court can also order the sale of the attached property if the person does not appear within the specified time.
- f) **Bond with or without sureties (Sections 436 to 450 and Section 441 of CrPC):** The court may also require the person to execute a bond, with or

without sureties, to appear before the court on a certain date. The bond is a guarantee that the person will appear in court at the specified time. These processes are designed to ensure the presence of the accused at his trial without reasonably depriving him of his liberty.

**Q 5** What is search warrant and the circumstances under which it is issued?

**Ans)** A search warrant is a written order issued by a Judge, Magistrate, or a Court authorizing law enforcement officers to conduct a search of a person, location, or vehicle for evidence of a crime and confiscate any evidence they find. The search should have a nexus with the crime, it cannot be a random search.

A search warrant is issued under the following circumstances:

- a) To obtain evidence of a crime.
- b) To obtain contraband, fruits of crime, or other items illegally possessed.
- c) To obtain property designed for use, intended for use, or used in committing a crime.
- d) To arrest a person or a person who is unlawfully restrained.
- e) To authorize law enforcement officers to search a particular location and seize specific items.
- f) To show probable cause that a crime was committed and that items connected to the crime are likely to be found in the place specified by the warrant.
- g) To comply with the Fourth Amendment, which requires a warrant to be issued upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- h) To conduct a lawful search within the scope of the warrant.

Under Section 93 (1) of the Code of Criminal Procedure, a search warrant may be issued by the court in the following three cases:

- Firstly, where any court has a reason to believe that a person to whom summons is issued will not or would not produce the document or thing as required by such summons or requisition.
- Secondly, where the document or thing is not known to the court to be in the possession of any person.
- Lastly, where the court considers that any purpose under the code is served by a general search or inspection.

The issue of a search warrant is an integral step in the procedure for investigation. A search warrant may be general or specific in its scope as to any place or part.

**Q 6 Write short note on summary trials?**

**Ans) Summary Trials are mentioned in Chapter XXI of the Code of Criminal Procedure, 1973. In this trial, the cases are disposed of speedily as the procedure is simplified and the recording of such cases are done summarily. In this type of trial, only the offences which fall into the small/petty category are tried. Complex cases are reserved for warrant or summons trial. To determine whether a case should be tried summarily, the facts stated in the complaint form the primary basis. The objective of summary trials is the expeditious disposal of cases to lessen the burden on the judiciary. The trial gives a fair opportunity to people for procuring justice in less time. The legal provisions governing summary trials under the Code of Criminal Procedure, 1973 are Section 260 to Section 265.**

**Some of the offences who can be tried in summary way:**

- **offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;**
- **theft, under section 379, section 380 or section 381 of the Indian Penal Code, (45 of 1860) where the value of the property stolen does not exceed two hundred rupees;**
- **receiving or retaining stolen property, under section 411 of the Indian Penal Code, where the value of the property does not exceed two hundred rupees;**
- **assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code, where the value of such property does not exceed two hundred rupees.**

**Q 7 Short Note on Plea Bargaining?**

**Ans) Plea bargaining is a pretrial negotiation between the accused and the prosecution where the accused agrees to plead guilty in exchange for certain concessions by the prosecution. It is a bargain where a defendant pleads guilty to a lesser charge and the prosecutors in return drop more serious charges. In India, plea bargaining is governed by Sections 265A to 265L of the Code of Criminal Procedure (CrPC), 1973. These sections lay down the procedure for plea bargaining and its application.**

This process is used to avoid a lengthy criminal trial. The accused may agree to plead guilty to a less serious charge, or to one of several charges, in return for a more lenient sentence, or for the dismissal of other charges.

It is not available for all types of crime e.g. a person cannot claim plea bargaining after committing heinous crimes or for the crimes which are punishable with death or life imprisonment. It's important to note that plea bargaining is not available to offenders who have committed crimes where the punishment is death or life imprisonment, or a prison term exceeding seven years. Plea bargaining is also not available to those who have committed crimes against women or children below the age of 14.

**Q 8 Can bail be granted for non-bailable offenses?**

**Ans) Yes, bail can be granted for non-bailable offences, but it is not a matter of right. It is at the discretion of the court or the concerned police officer. In non-bailable offences, an accused may be granted bail if the competent authority deems it fit, and exceptional circumstances are presented to show that bail would not harm the further process of trial and justice. The provisions for bail in non-bailable offenses are stipulated in Section 437 of the CrPC. According to this section, an individual arrested or detained for a non-bailable offense shall not be granted bail unless the court is satisfied that there exist reasonable grounds to justify such bail.**

**When a person accused of a non-bailable offence is arrested or detained without a warrant, he may be granted bail by the police officer in charge of the concerned police station. However, a person who has committed a non-bailable offence doesn't have the right to be released on bail. The conditions for granting bail in non-bailable offenses include:**

- a) Nature and severity of the offense: The court will consider the seriousness of the crime. If the crime is severe, the chances of getting bail are less.**
- b) Punishment prescribed under the law: If the law prescribes a severe punishment for the crime, it may be harder to get bail.**
- c) Likelihood of the accused tampering with evidence or fleeing from justice: If there's a high chance that the accused might tamper with the evidence or try to escape, bail might not be granted.**
- d) Past criminal record: If the accused has a history of criminal activities, it could affect the decision.**
- e) Probability of guilt: If there's a high probability that the accused is guilty, bail might not be granted.**
- f) Exceptions for minors and women: In some cases, if the accused is a minor or a woman, they might be granted bail.**

- g) Danger the accused poses to the public: If the accused is considered a threat to public safety, bail might not be granted.
- h) Possibility of absconding or tampering with evidence or threatening witnesses: If there's a chance that the accused might run away, tamper with evidence, or threaten witnesses, bail might not be granted.
- i) Influence of the accused: The court might consider the influence of the accused in society.
- j) Age of the accused: The age of the accused can also be a factor in the decision.
- k) Exceptional circumstances that show bail would not harm further process of trial and justice: If there are exceptional circumstances that show granting bail would not harm the further process of trial and justice, bail might be granted.
- l) Presumption of innocence until the trial is complete: The court presumes the accused to be innocent until proven guilty, and this can influence the decision to grant bail.

**Q 9 Write a note on Juvenile Justice Board?**

**Ans)** The Juvenile Justice Board is an institutional body constituted under Section 4 of the JJ Act, 2015. According to the division of powers, the subject of administration of criminal justice has been included in the State List of the Indian Constitution. Therefore, one or more than one Juvenile Justice Board(s) are established by the State Government for each district. The Board exercises its powers and discharges functions relating to the 'child in conflict with law' as has been defined under Section 2(13) of this Act.

The constitution of the JJB is defined under Section 4 (2) of the act. The bench possesses all the powers that are exercised by a criminal court as under Code of Criminal Procedure. The members are selected by a selection committee that is headed by a retired judge of High Court and comprises of:

- a) **Principal Magistrate**: A Judicial Magistrate First Class or Metropolitan Magistrate with an experience of three years can be appointed for this post.
- b) **Social workers**: Two social workers from whom, one must be a woman and have an active contribution of at least seven years in the field of health, education, or welfare activities concerning with children.

**Functions of Juvenile Justice Board:**

- a) Informed Participation: The JJB ensures the informed participation of the child and the parent/guardian in every step of the process.

- b) Protection of Child's Rights: The JJB ensures that the child's rights are protected throughout the process of apprehending the child, enquiry, aftercare, and rehabilitation.
- c) Legal Aid: The JJB ensures the availability of legal aid for the child through legal service institutions.
- d) Interpreter or Translator: The JJB provides an interpreter or translator, if the child fails to understand the language used in the proceedings.
- e) Social Investigation: The JJB directs the Probation Officer/Child Welfare Officer/Social Worker to conduct a social investigation to ascertain the circumstances in which the alleged offence was committed.
- f) Adjudication and Disposal of Cases: The JJB adjudicates and disposes of cases of children in conflict with law in accordance with the process of inquiry
- g) Transfer of Matters: When a child in conflict with law is in need of care and protection, the JJB simultaneously transfers such matters to the Child Welfare Committee.
- h) Individual Care Plan: The JJB includes an individual care plan for the child's rehabilitation in a final order disposing of the matter.
- i) Declaration of Fit Persons: The JJB conducts an enquiry for declaring fit persons regarding cases of children in conflict with law.
- j) Inspection of Residential Facilities: The JJB conducts at least one monthly inspection of the residential facilities for children in conflict with law and recommends action for improvement in quality of services to the District Child Protection Unit and the State Government.
- k) Registration of FIR: The JJB can order the police to register an FIR for offences committed against a child in conflict with law on a complaint made in this regard.
- l) Inspection of Jails: The JJB conducts regular inspections of jails meant for adults to ensure no child is locked in such jails and takes immediate measures for the transfer of such a child to the observation home.

Powers of JJB:

The Board constituted for any district shall have the power to deal exclusively with the proceedings under the Act (a) in the area of jurisdiction of the Board; (b) In matters relating to children in conflict with the law. The powers may be exercised by the High Court or the Children's Court, when proceedings under Section 19 come before them or in appeal, revision or otherwise. When an alleged child in conflict with law is produced before the Board, it shall exercise its power to hold an inquiry according to the provisions of this Act and may pass orders as it deems fit as per provisions of the law. The Board

is also empowered to inquire into heinous offences under Section 15 of the Act. Such preliminary assessment has to be disposed of within a period of 3 months from the date of first production of the child before the Board.

**Q 10 Distinguish between complaint and FIR under CRPC?**

**Ans) A Complaint and a First Information Report (FIR) are two different legal procedures under the Criminal Procedure Code (CrPC) in India.**

- **Who can file:** Anyone can file a complaint, while an FIR can only be filed by the victim, a witness, or the police.
- **Where to file:** A complaint can be filed with any magistrate, while an FIR can only be filed with the police.
- **Types of offenses covered:** A complaint can be filed for any offense, while an FIR can only be filed for cognizable offenses.
- **Processes involved:** A complaint is a formal request submitted to authorities, while an FIR is a formal written document filed with the police, marking the official beginning of the investigation process.

**In more detail:**

- **A complaint is defined under section 2 (d) of CrPC. It is an allegation that is made orally or in writing to a magistrate. A complaint may relate to a cognizable offence or non-cognizable offence. A magistrate takes cognizance of an offence on a complaint made to him. A complaint does not include the report of a police officer.**
- **An FIR is given under Section 154 of CrPC. FIR is given to an officer in charge of a police station. FIR is related to a cognizable offence. On FIR, the magistrate can take cognizance. The FIR of an offence may be given by anybody, including a police officer.**

**Q 11 What are the inherent powers of High Court?**

**Ans) Section 482 of the Code of Criminal Procedure (Cr.P.C.) confers inherent powers upon the High Court. These powers are not explicitly mentioned anywhere in the code. The High Court may use its inherent authority to set aside orders made incorrectly or against the rules of natural justice, stay proceedings, and issue directions.**

**The inherent power of the High Court is unique in criminal jurisprudence and is the most potent weapon for the High Court to clear the province of criminal law jurisdiction of all vitiating and malicious influences. The High Court should use these powers only in exceptional cases.**

**The inherent powers under Section 482 of Cr.P.C. include powers to quash FIR, investigation or any criminal proceedings pending before the High Court**

or any Courts subordinate to it. These powers can be exercised to secure ends of justice, prevent abuse of the process of any court and to make such orders as may be necessary to give effect to any order under this Code, depending upon the facts of a given case.

The court can always take note of any miscarriage of justice and prevent the same by exercising its powers u/s 482 of Cr.P.C. These powers are neither limited nor curtailed by any other provisions of the Code. However, such inherent powers are to be exercised sparingly and with caution.

In the following cases, the inherent power of the High Court could be exercised to quash the proceedings:

- a) Where there is a legal bar against the institution or continuance of the proceedings.
- b) Where the allegation in the First Information Report (FIR) or complaint does not constitute the offence alleged.
- c) Where there is no legal evidence adduced in support of the charge or the evidence adduced clearly or failed to prove the charge.

The above list of points is not exhaustive. High Court may exercise its inherent power in other situations as well to serve the ends of justice.

**Q 12 What are the provisions of bail under CRPC?**

**Ans)** Bail means short-term release of an accused person awaiting trial. Bail is the judicial release of an accused charged with the certain offence by imposing some restrictions on him and compelling him to remain within the jurisdiction of court.

As per Sec 2(2) of CRPC 1978, "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; Eg.: Counterfeit of coin, Robbery, Murder etc., are non-bailable. But Mischief, House trespass etc. are bailable. In bailable offences bail is a matter of course. Police Officers, Courts, Magistrates, Sessions Judge, High Court may release a person on bail.

"non-bailable offence" means any other offence. In non-bailable cases, bail is not allowed, but a person may be released on bail under certain circumstances (Sn.437). In offences punishable with death or imprisonment for life there is no bail. In Murder, counterfeit, Sedition etc. no bail is granted.

The Code of Criminal Procedure, 1973 (Cr.P.C.) contains elaborate provisions relating to bail. Here are the different kinds of bail provided under the Cr.P.C:

- a) Bail in Bailable Offense (Section 436): This provision is mandatory in nature, and the police or the court has no discretion over it<sup>2</sup>. The accused is entitled to bail as a matter of right.
- b) Bail in Non-bailable Offense (Section 437): This provision is discretionary. The court may grant bail if it deems fit, considering the nature and gravity of the offense, the character of the offender, and other circumstances.
- c) Anticipatory Bail (Section 438): This is a pre-arrest legal process which directs that if the person in whose favor it is issued is if thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail.
- d) Ad Interim Bail: This is a temporary bail which may be granted pending the final hearing of the bail application.
- e) Bail after Conviction (Section 389): If a person has been convicted of an offense and his appeal against the conviction is pending, he may be released on bail.
- f) Bail on Default (Section 167(2)): If the investigation is not completed within 24 hours and the accused is in detention, the magistrate can release the person on bail.

It's important to note that the objective of bail is to ensure the accused's appearance during the trial while maintaining the presumption of innocence. The court has the power to impose any condition necessary for the grant of bail. However, these provisions should be interpreted in light of the respect for personal liberty and the right to a fair trial.

Q 13 Explain the procedure for investigation under the Code of Criminal Procedure (CrPC)?

Ans) The procedure for investigation under the Code of Criminal Procedure (CrPC) is as follows:

- a) Filing of an FIR: An information of a cognisable or a non cognisable offence given under section 154(1) of CrPC is commonly known as first information report. It is the earliest and the first information of a cognizable offence recorded by an officer-in-charge of a police station. It sets the criminal law in motion and marks the commencement of the investigation which ends up with the formation of opinion under section 169 or 170 CrPC, as the case may be, and forwarding of a police report under section 173 CrPC.
- b) Preliminary Inquiry Report: Section 157 of the CrPC provides with the provisions relating to preliminary inquiry method. According to this, after receiving the information about the crime, the officer in charge of the

police station is empowered to investigate the case and to send the report of the same to the Magistrate, who would then take cognizance of the case. The Police need to go to the crime scene to collect evidence and arrest the suspect if needed. They can also deny investigating on the ground that the case involves some non-cognizable offences, which cannot be investigated without the order of the Magistrate. If the investigating officer does not find any reasonable grounds to investigate, then he is not bound to investigate, and he can inform the reasons for the same to the magistrate.

- c) Investigating the location of the crime: The police officer proceeds to the spot.
- d) Ascertaining facts and circumstances of the case: The purpose is to identify the offender and proceed him for trial so as to serve him with punishment as per the provisions of the Code.
- e) Collecting evidence and interrogating the relevant persons: This includes examination of persons concerned and reducing their statement to writing, search and seizure of places and things respectively considered necessary.
- f) Finding the suspect: Discovery and arrest of the suspect.
- g) Formation of opinion as to whether there is a case for trial, and taking necessary steps accordingly.
- h) Sending a Report to the Magistrate (Section 158): A report is sent to the Magistrate which is called the police report. It is sent by the superior police officer, so as to make the Magistrate aware that a particular case is being investigated by a police officer. The main objective of sending a report is to enable the Magistrate to control the investigation and give directions if required under Section 159 of the Code. The Magistrate, under Section 159, has been empowered, if he feels necessary, after receiving the report to direct investigation, or to conduct himself or direct a subordinate Magistrate to hold a preliminary inquiry.
- i) Attendance of Witnesses: The police officer making the investigation is empowered under Section 160 to require the attendance of any person as a witness who is acquainted with the facts and circumstances of the case.
- j) Examination of Witnesses: Any police officer who is in charge of the investigation or any other officer who is acting on the request of an officer in charge shall and is empowered to examine a witness or person who is acquainted or aware of the facts and circumstances of the case put before him. Section 161 of the Code confers powers on police to examine witnesses. The statements of witnesses are important as they can make

a person guilty or innocent. The persons who are being investigated are expected and bound to answer truly all the questions relating to such cases put before them. They are not bound to truly answer the questions which would expose them to a criminal charge or any other charge. After the examination, the police officer making the investigation shall reduce the number of statements given by the person in the course of the examination. And if done so, he shall keep a separate record of the same. He is not bound to reduce the statements into writing but it is preferred that he does so.

- k) **Recording of Statements or Confession by Magistrate:** Section 164 empowers the Magistrate to record the statements or the confessions made by any person during the whole investigating process, or before the commencement of the inquiry or trial. If someone is not wanting to make the confession then the magistrate cannot force him to do so. The confession needs to be purely voluntary.
- l) **Acceptability of Evidence:** The confession recorded under Section 164 can be used as evidence against the person who has made the confession. It is upon the court to measure all the factors pertaining to the evidence and then consider it. The confession should be presented before the court in its entirety to decide whether it is useful or not.
- m) **Probing of Property or any Place important in Investigation:** The power to search any place or property is given to the police under Section 165 of CrPC. A police officer conducting the investigation or a subordinate officer under his order can search any place or property, which holds any interest in the case. For searching a place, the police are required to have a search warrant issued by the Magistrate. If the place or the property to be searched is located outside the territory of India, then the Magistrate can write a letter asking for permission to search that place from the authority of that area. The police officers are required to give a proper reason, in writing, for the search along with the materials that they are searching for. After the completion of the search, they are supposed to send the report of the same to the Magistrate, so that he can inform the same to the owner of the property.

**Procedure to be followed on completion of Investigation (s.169-s.173)**

On completion of the investigation, the following procedure is to be followed:

- n) **Release of accused when evidence is deficient:** When there is not sufficient evidence and reasonable grounds to justify the forwarding of the accused to the Magistrate, the police officer shall release him on him

executing a bond, with or without sureties, and may direct him to appear before the magistrate when required.

- o) Cases to be sent to Magistrate when evidence sufficient: When the police officer has sufficient evidence and reasonable grounds, he shall forward the accused to the Magistrate, so that the Magistrate can take cognizance of the offence and try the accused or commit him for trial. If the offence is bailable, the accused shall be given security and be released on bail, only to appear before the Magistrate when required, and for his day to day attendance before the Magistrate.
- p) Diary of proceedings in an investigation (section 172): This section relates to the contents of a case diary, which every police officer making an investigation has to maintain. The object of this section is to enable the Magistrate to know what was the day to day information by a police officer who was investigating the case. Oral statements of witnesses should not be recorded in this case diary. This diary may be used at trial or inquiry, not as evidence, but to assist the court in proceeding with the case.
- q) Report of police on completion of the investigation: Final report of a police officer after the completion of the investigation is to be sent to the Magistrate under Section 173. This report is generally called a "Chargesheet" or "Challan" or Completion Report.
- r) Closure Report: Closure report is the one in which it is stated that there is not enough evidence to prove that the offence has been committed by the accused. Once the closure report is filed before the Magistrate, he may accept and the report the case as closed, direct a further investigation into the case, issue a notice to the first informant as he is the only person who can challenge the report or he may directly reject the closure and take cognizance of the case.

Q 14 What are the salient features of probation of offenders act?

Ans) The Probation of Offenders Act, 1958, has several salient features:

- a) Reformation: The main objective of the act is to reform first-time or amateur offenders and rehabilitate them in society.
- b) Protection: It secures the life of first-time offenders by giving warning or admonition for offences under sections 379, 380, 381, 404, or 420 of the Indian Penal Code with imprisonment of less than 2 years or fine or both.
- c) Probation: The Act empowers the Court to release certain offenders on probation of good conduct.

- d) **Compensation:** The Act insists that the Court may order for payment by the offender such compensation and a cost of the proceedings as it thinks reasonable for loss or injury caused to the victim.
- e) **Special Protection:** The Act provides special protection to persons under twenty-one years of age not to sentence him to imprisonment.
- f) **Variation of Bond Conditions:** The Act provides the freedom to Court to vary the conditions of bond when an offender is released on probation of good conduct and to extend the period of probation not to exceed three years from the date of original order.
- g) **Arrest Warrant:** The Act empowers the Court to issue a warrant of arrest or summons to him and his sureties requiring them to attend the Court on the date and time specified in the summons if an offender released on probation of good conduct fails to observe the conditions of bond.
- h) **Trial and Sentence:** The Act empowers the Court to try and sentence the offender to imprisonment under the provisions of this Act.
- i) **Role of Probation Officers:** The Act provides an important role to the probation officers to help the Court and to supervise the probationers put under him and to advise and assist them to get suitable employment.
- j) **Nationwide Applicability:** The Act extends to the whole of India except the State of Jammu and Kashmir.

**Situational Problems:**

**Q1** Police officer arrests Mr X on suspicion that Mr. X had committed a non bailable offence. How long X can be kept in police custody without an order of a magistrate? Can court give bail to "X", under which circumstance bail can be rejected for non bailable offence?

**Ans a)** The accused be detained in custody for a moment not more than twenty four hours without a special order of a Magistrate who can order his detention for a term exceeding 15 days on the whole as per Section 167 of the Code of Criminal Procedure. However, the duration of judicial custody can be extended up to 90 days for non-bailable offences punishable with the death penalty or imprisonment for 10 years or more. It's important to note that this applies to both bailable and non-bailable offences.

**Ans b)** Yes, the court can grant bail to Mr. X even if the offence is non-bailable. The provisions for bail in non-bailable offences are stipulated in Section 437 of the Code of Criminal Procedure (CrPC), 1973.

According to this section, an individual arrested or detained for a non-bailable offence shall not be granted bail unless the court is satisfied that there exist reasonable grounds to justify such bail.

However, it's important to note that the granting of bail in non-bailable offences is not a right, but rather at the discretion of the court. The court critically examines the facts and other relevant factors to decide whether to grant bail or not. Examples of some serious non-bailable offences where bail is normally not granted are (a) Murder - Section 302 (b) Kidnapping - Section 363; (c) Robbery - Section 392 (d) Rape - Section 376; (e) Waging or attempting to wage war, or abetting the waging of war, against the Government of India - Section 121 etc.

**Q2** Vicky was tried for theft of gold ornaments in one jewellery shop. On complaint filed by the shop owner, Vicky was arrested. The judge found in guilty of offence committed under section 380 of IPC. Pardon. The court ordered Vicky release after admonition under probation of offenders at 19:58 because there was no previous conviction of the accused Vicky and the theft was committed due to student temptation without any premeditation. Define probation and is probation valid in this case? Give reasons. Explain the powers of the court to release certain offenders on probation?

**Ans)** Probation is a legal term that refers to a period of time when a criminal must behave well and not commit any more crimes in order to avoid being sent

to prison. It is a treatment device, developed as a non-custodial alternative which is used by the magistracy where guilt is established but it is considered that imposing of a prison sentence would do no good.

In the case of Vicky, probation is valid under the Probation of Offenders Act, 1958. As per Section 4 of the Act, if any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct and in the meantime to keep the peace and be of good behavior.

In Vicky's case, the court found him guilty of an offence under section 380 of the IPC, which is not punishable with death or imprisonment for life. There was no previous conviction against Vicky, and the court deemed it expedient to release him on probation of good conduct due to the circumstances of the case, including the nature of the offence and the character of the offender. Therefore, the probation is valid in this case.

**Powers of the court to release certain offenders on probation**

Under the Probation of Offenders Act, 1958, the court has the power to release certain offenders on probation of good conduct. This is provided under Section 4 of the Act.

When a person is found guilty of having committed an offence not punishable with death or imprisonment for life, and the court is of the opinion that, considering the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties.

The offender is required to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behavior. However, the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of domicile or regular occupation in the place over which the court exercises jurisdiction or in which

the offender is likely to live during the period for which he enters into the bond.

**Q3** Mr A grievously injured with Mr B at Mumbai. Mr. B was taken to Nashik, his native place. After long treatment. Mr. B dies in Nashik which is the ordinary place of inquiry and trial in this case. The offense can be tried in which court?

**Ans)** In this case, the offence was committed in Mumbai, where Mr. A grievously injured Mr. B, and the consequence of the offence, which is the death of Mr. B, occurred in Nashik. According to Section 179 of the Code of Criminal Procedure (CrPC), when an act is an offence by any reason committed at one place but its consequences occurred at another place, then the offence may be inquired into or tried by any court within whose local jurisdiction the offence was committed or the consequence ensued. Therefore, the ordinary place of inquiry and trial in this case could be either Mumbai or Nashik, depending on the discretion of the court.

**Q4** Mr "A" is wounded in Mumbai and dies of his wound in Pune. The offence of causing "A" s death would be enquired in 2 by which court the court in Mumbai or Pune? What can be the solution, if both the court claims the jurisdiction?

**Ans)** In this case, the offence was committed in Mumbai, where Mr "A" was wounded, and the consequence of the offence, which is the death of Mr. "A", occurred in Pune. According to Section 179 of the Code of Criminal Procedure (CrPC), when an act is an offence by any reason committed at one place but its consequences occurred at another place, then the offence may be inquired into or tried by any court within whose local jurisdiction the offence was committed or the consequence ensued. Therefore, the offence could be inquired into or tried by a court in either Mumbai or Pune, depending on the discretion of the court.

If both the courts claim the jurisdiction, the matter can be referred to High Court of Mumbai, who can decide about the jurisdiction, which shall be abiding by both the courts.

**Q5** Mr. A is an old father having a son who is officer fetching good salary. Mr. A has been driven out of the house of the Son and lives with friends at their mercy. Can a claim maintenance from his son? What provisions will be attracted?

Ans) Yes, Mr. A can claim maintenance from his son. In India, under Section 125 of the Code of Criminal Procedure (CrPC), both mother and father (natural or adoptive) can claim maintenance from their child, including from sons. This provision applies if the parents are unable to maintain themselves. In Mr. A's case, since he has been driven out of his son's house and is living with friends at their mercy, he can apply to a maintenance tribunal seeking a monthly allowance from his son. The son, being an officer with a good salary, is liable to provide maintenance to his father.

If the son has been ordered by the court to pay maintenance to Mr. A but fails to do so, Mr. A can take the following steps:

- a) Execution Proceedings: Mr. A can initiate execution proceedings against his son. When the son fails to provide maintenance, Mr. A shall proceed with execution proceedings.
- b) Non-Bailable Warrants: In case of non-adherence to the court's order, the court can issue non-bailable warrants in the son's name.
- c) Attachment of Property: The son's property could be attached in order to recover the amount.
- d) Criminal Proceedings: Mr. A can initiate criminal proceedings if the son fails to comply with the order.

Q6 Mr. X Son and daughter are seeking maintenance from Mr. X. The son is major whereas the daughter is minor and married Advise them.

Ans) In India, both the son and the daughter have the right to claim maintenance from their father under certain conditions.

Normally a major son is not entitled for any maintenance. However, he can claim maintenance from his father if he is physically or mentally unfit and unable to maintain himself. The courts have also granted maintenance to a major son in exceptional circumstances, such as when the son is still a student and unable to maintain himself.

For the minor married daughter, she can claim maintenance from her father if she is unable to maintain herself. The right of maintenance for the daughter is extended until she gets married, and even after marriage, a minor married daughter can claim for maintenance under section 125 of CrPC if she is unable to maintain herself.

Q7 An offence is committed for which the punishment is 3 years within what time limit cognizance for the above mentioned often should be taken?

Ans) As per Section 468 of CRPC, for an offence that is punishable with imprisonment for a term not exceeding three years, the period of limitation for taking cognizance of the offence is three years. This means that the court must take cognizance of the offence within three years of its commission. After the expiry of this period, a court cannot take cognizance of such offences, except where, on the basis of facts and circumstances, the delay is explained to the court or that the extension would be in the interests of justice.

As per Section 472 of the Code of Criminal Procedure, 1973, the period of limitation starts from the date when the offence is committed. However, in the case of a continuing offence, a fresh period of limitation begins to run at every moment of time during which the offence continues.

Q8 An offence is committed for which the punishment is 1 years within what time limit cognizance for the above mentioned often should be taken?

Ans) As per Section 468 of CRPC, for an offence that is punishable with imprisonment for a term not exceeding one year, the period of limitation for taking cognizance of the offence is one year. This means that the court must take cognizance of the offence within one years of its commission. After the expiry of this period, a court cannot take cognizance of such offences, except where, on the basis of facts and circumstances, the delay is explained to the court or that the extension would be in the interests of justice.

As per Section 472 of the Code of Criminal Procedure, 1973, the period of limitation starts from the date when the offence is committed. However, in the case of a continuing offence, a fresh period of limitation begins to run at every moment of time during which the offence continues.

Q9 An offence is committed for which the punishment is 6 months within what time limit cognizance for the above mentioned often should be taken?

Ans) As per Section 468 of CRPC, for an offence that is punishable with imprisonment for a term not exceeding six months, the period of limitation for taking cognizance of the offence is one year. This means that the court must take cognizance of the offence within one year of its commission. After the expiry of this period, a court cannot take cognizance of such offences, except where, on the basis of facts and circumstances, the delay is explained to the court or that the extension would be in the interests of justice.

As per Section 472 of the Code of Criminal Procedure, 1973, the period of limitation starts from the date when the offence is committed. However, in

the case of a continuing offence, a fresh period of limitation begins to run at every moment of time during which the offence continues.

Q10 X & Y are tried for murder. X, the main accused, is convicted and sentenced for life imprisonment. However, the court acquitted Y? The state filed an appeal against acquittal of Y. X also filed appeal against his conviction. Unfortunately, X & Y both died in an accident.

What is the status of appeal filed by the State against the acquittal of Y?  
Ans) In India, as per Section 394 of the Code of Criminal Procedure (CrPC), an appeal against acquittal of Y shall be dismissed/abated upon the death of the accused because no criminal action can be taken against the dead person.

However if the appeal is by the convicted person against his conviction (X in our case) and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate. If successful, it can remove the blot of guilt to "X".

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