

Simplified Visual Notes



ALL SUBJECTS

Part II: Specific Relief Act

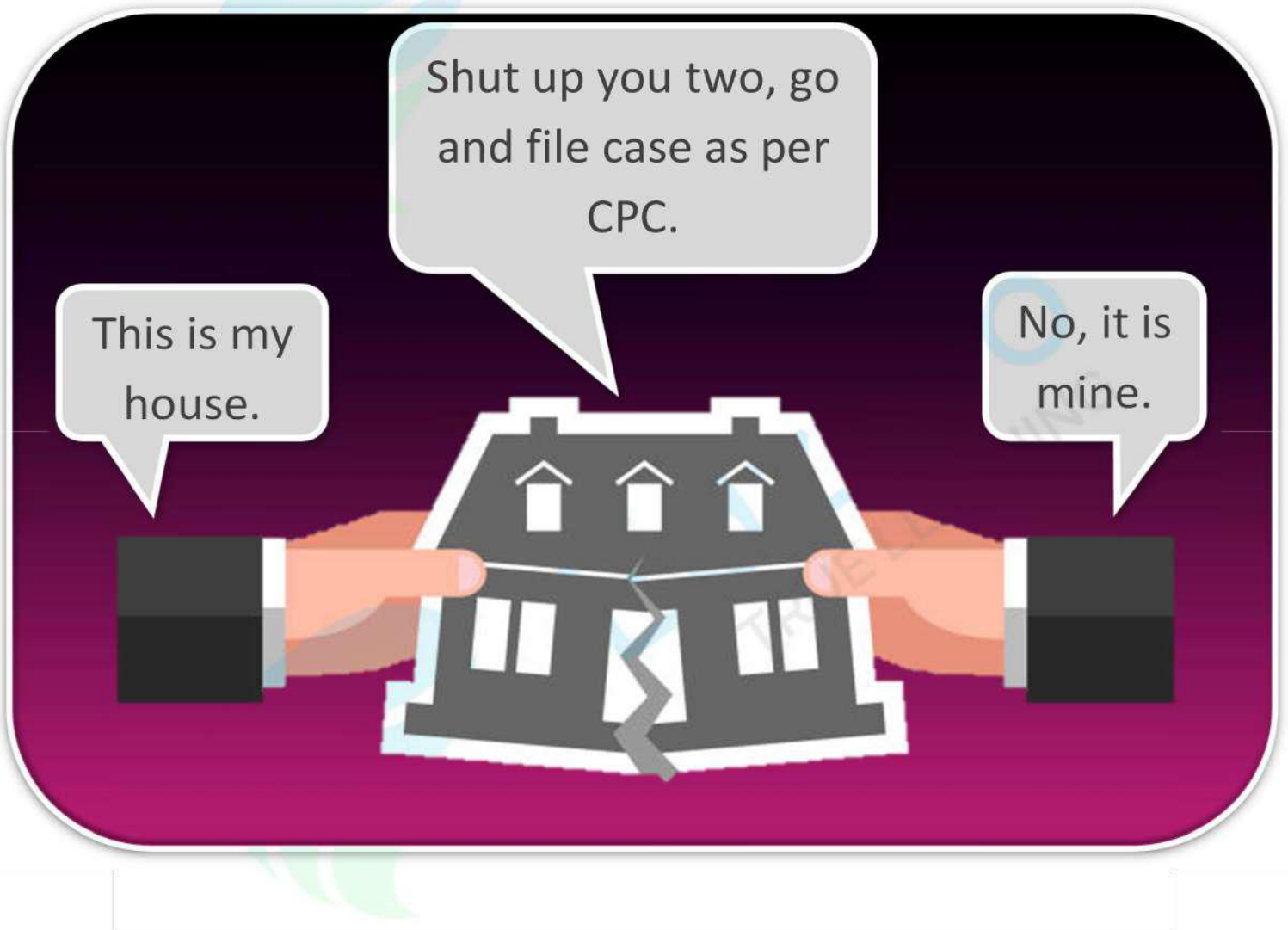
Chapter I

Recovery of Possession of Property

Section 5: Recovery of specific immovable property

A person **entitled** to the **possession of immovable property**


- He may recover the possession as manner provided by CPC.



Extra Information

The essence of S.5 is **'title'**, i.e., the person who has better title is a person entitled to the possession. The title may be on the basis of ownership or possession.

- Ankush enters into peaceful possession of land claiming it as his own although he might have no title to it.
- Still, he can sue another who has forcibly ousted him from possession and who has no better title to it, because Ankush, although he has no legal title, has at least a possessory title.

An illustration of a man in a yellow shirt and blue pants standing in front of a two-story yellow house with a red door and a chimney. He is holding binoculars to his eyes. The house has several windows with blue panes. There are green trees and bushes around the house. The background is a light green sky with a few clouds.

Let me see if someone is coming to claim this house as his own.

Section 6: Suit by person dispossessed of immovable property:

(1) Dispossession from immovable property:

- Any person is **dispossessed** from **immovable property** without:
 - His consent
 - Due course of law
- He or any person through whom he has been in possession or any person claiming through him may file suit for recovery of **possession irrespective of title to the property.**



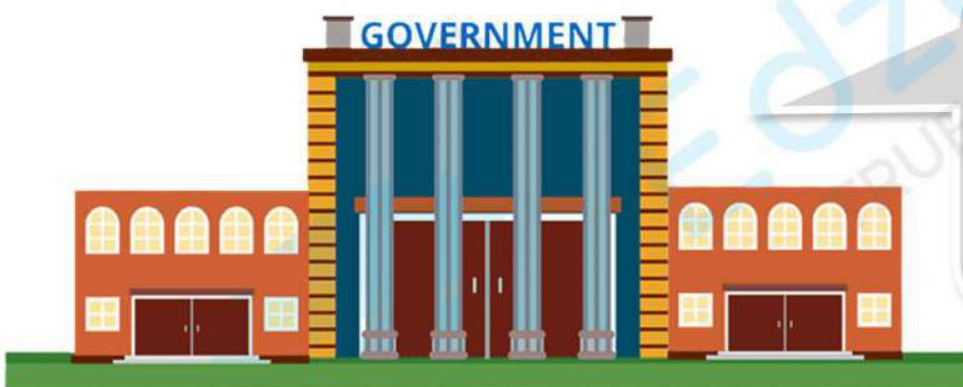
(2) No suit under this section shall be brought:

- After expiry of **six months** from the date of **dispossession**.



Mr. Tenant, you have to come to me within 6 months as per **Section 6 (2)** of SRA

- **Against Government**



I am Govt., I have a right to make laws in my favour. Don't I??

(3) No appeal or review shall lie from any order or decree passed in any suit instituted under this section.



Food for thought

Revision can be filed under decree passed u/s 6 SRA



Whether **S 6 (3)** also bar Letter Patent Appeal (LPA):

Vinita M. Khanolkar Vs Pragna M. Pai

AIR 1998 SC 424

- Section 6 (3) bars appeal and review against any order passed under Section 6. However, the **statutory** provision cannot cut across the **constitutional power** of the High Court.
- Unless the concerned **statute expressly** bars LPA, the power of High Court under LPA would not be excluded.

(4) This section does not bar any person from suing to:

- **Establish his title** to such property and
- Recover the possession.

You got the property u/S.6 SRA but I will get it in normal suit without any doubt.

We will see to it.



Types of Possession:

- **Actual Possession:** Actual possession is physically having an item in one's personal custody or having direct control over that item.



- **Constructive Possession:** Constructive possession is when an individual has actual control over chattels without actually having physical control of the same assets.



- **Symbolic Possession:** Symbolic possession is when the bank has the legal right over a property, even though the previous owner continues to have physical possession in the property.



Possession under **Section 6**

Supdt. and Remembrancer of Legal Affairs, W.B. Vs Anil Kumar Bhunja (1979) 4 SCC 274

The word "dispossession" occurring in Section 6 of the said Act and gave a wider meaning to it and imbibed within itself the concept of constructive and / or symbolic possession in juxtaposition with a physical and actual possession.

The object of **Section 6** are two-folds:

**To provide
speedy
remedy**

**To prevent
people from
forcible
dispossession**

Suit by trespasser under **Section 6**:

K. Krishna Vs A.N Paramkusha Bai **AIR 2011 AP 165**

- A tenant was dispossessed forcibly by the owner but he himself get forcible repossession.
- **Held:** “Tenant could institute suit for repossession immediately when he was forcibly ousted, but as soon as he takes forcible repossession, he became trespasser and therefore could not be regarded to be in lawful possession.”

Suit by Tenant holding over

Holdover tenant: A holdover tenant is a tenant who continues to pay rent, even after the lease has expired.

Ejaz Vs T.N. Handloom Weavers' Coop Society Ltd **(2002) 3 SCC 137**

- The possession of a tenant after the termination of the tenancy continues to be a juridical possession.
- His right to possession remains unless the owner gets a decree of eviction against him. Till then if he is dispossessed, he is entitled to seek restitution of his possession.

But this decision was opposed by other Counsels.

Following the rule of **harmonious construction** for **S.6 (1)** and **6(4)**, a suit for an injunction can be claimed under **Section 6(4)**.

- Taking note of this case, it can be said that if the party is still in possession of the place then a suit for an injunction can definitely be filed.

Section 6 and Article 64 of Schedule to the Limitation Act

Section 6	Article 64
Similarity	
Deals with recovery of possession on the basis of previous possession rather than title.	
Difference	
Limitation Period: 6 months.	Limitation Period- 12 years.
No right of appeal against the order.	Appeal can be filed.

Section 7:

Recovery of Specific Movable Property

Person entitled to **possession of specific movable property**

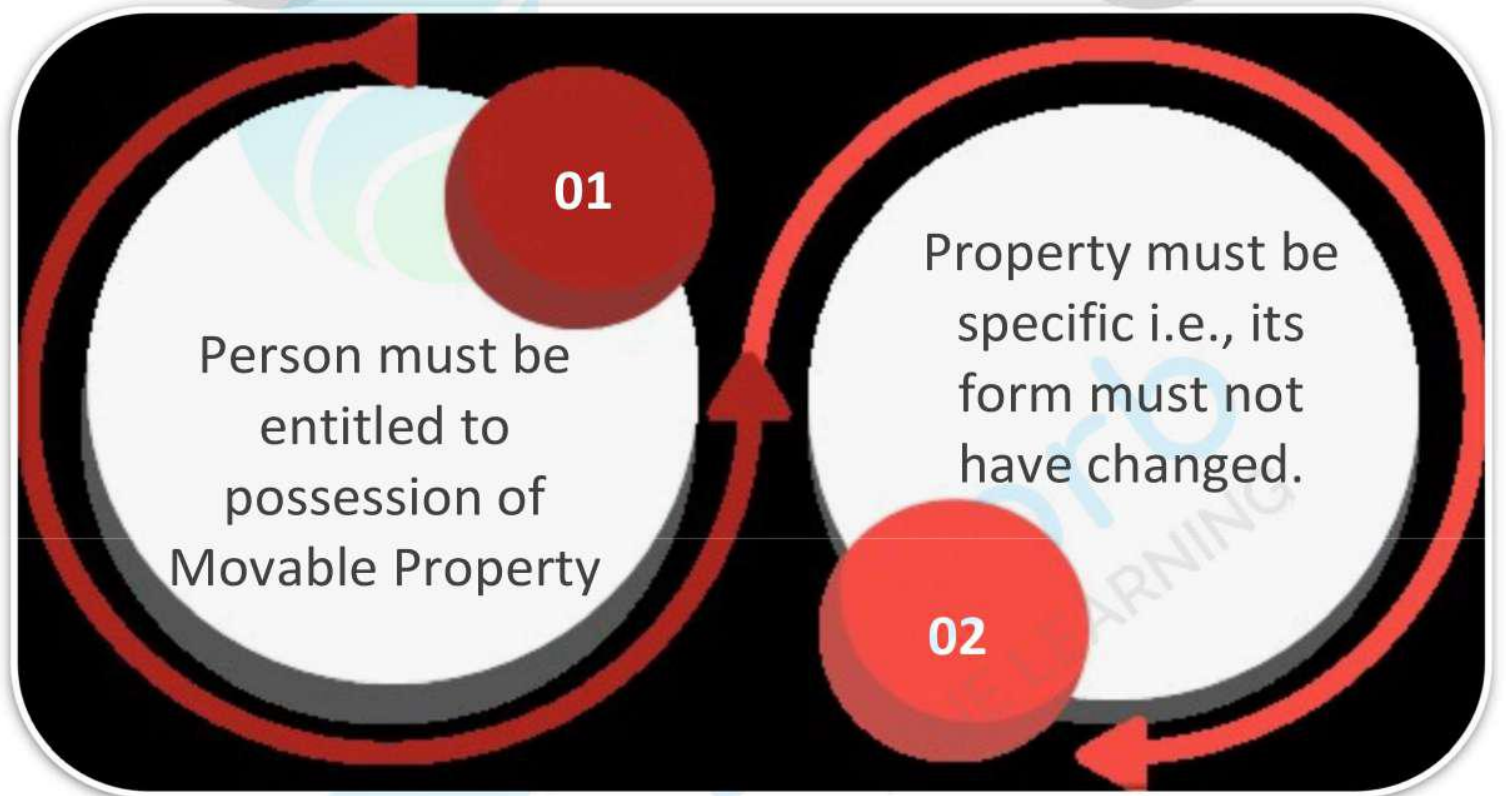
- May recover it manner provided by the CPC

Give me my car back or I will call the police

Excuse me it is a moveable property you can take help of SRA, why police man



Essentials of **Section 7:**



Explanation 1:



- A **trustee may sue** u/S.7 for the possession of movable property
- To the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2:

- **Special or temporary right** of possession to the present possession of movable property is sufficient to support a suit u/S.7.



Reference Specific Relief Act, 1963,

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Section 8:

Liability of person in possession, not as owner, to deliver to person entitled to immediate possession:



- **Who:** Person (not owner) having the possession or control of movable property.
- **Compelled:** To deliver the property
- **To:** To the person entitled to its immediate possession in any of the following cases:



I am the owner of this car this doesn't apply on me

01

Thing
wrongfully
transferred
from plaintiff

02

When thing
claimed is held
as agent or
trustee of
Plaintiff

Section 8:

Difficult to
ascertain
actual loss

04

Compensation
in money not
adequate

03

Explanation:


- Court **shall presume**
 - The facts of Cl. (b) and (c) in favor of plaintiff
 - Unless contrary is not proved



Essentials of Section 8:

 **The defendant has full control or possession and is not owner**

 **The plaintiff entitled to immediate possession**

 **The thing is not ordinary article**

 **Article is a moveable property**

Sections 7 and Section 8:

Section 7	Section 8
Suit can be filed against the true owner.	Suit cannot be filed against the true owner.

Wood Vs Rowcliffe

64 RR 303

Facts:

- A person leaving abroad leaves his furniture under the care of his friend.

Held:

- The friend is the trustee of the articles and is bound to return them in the same condition when demanded.

Reference Specific Relief Act, 1963,

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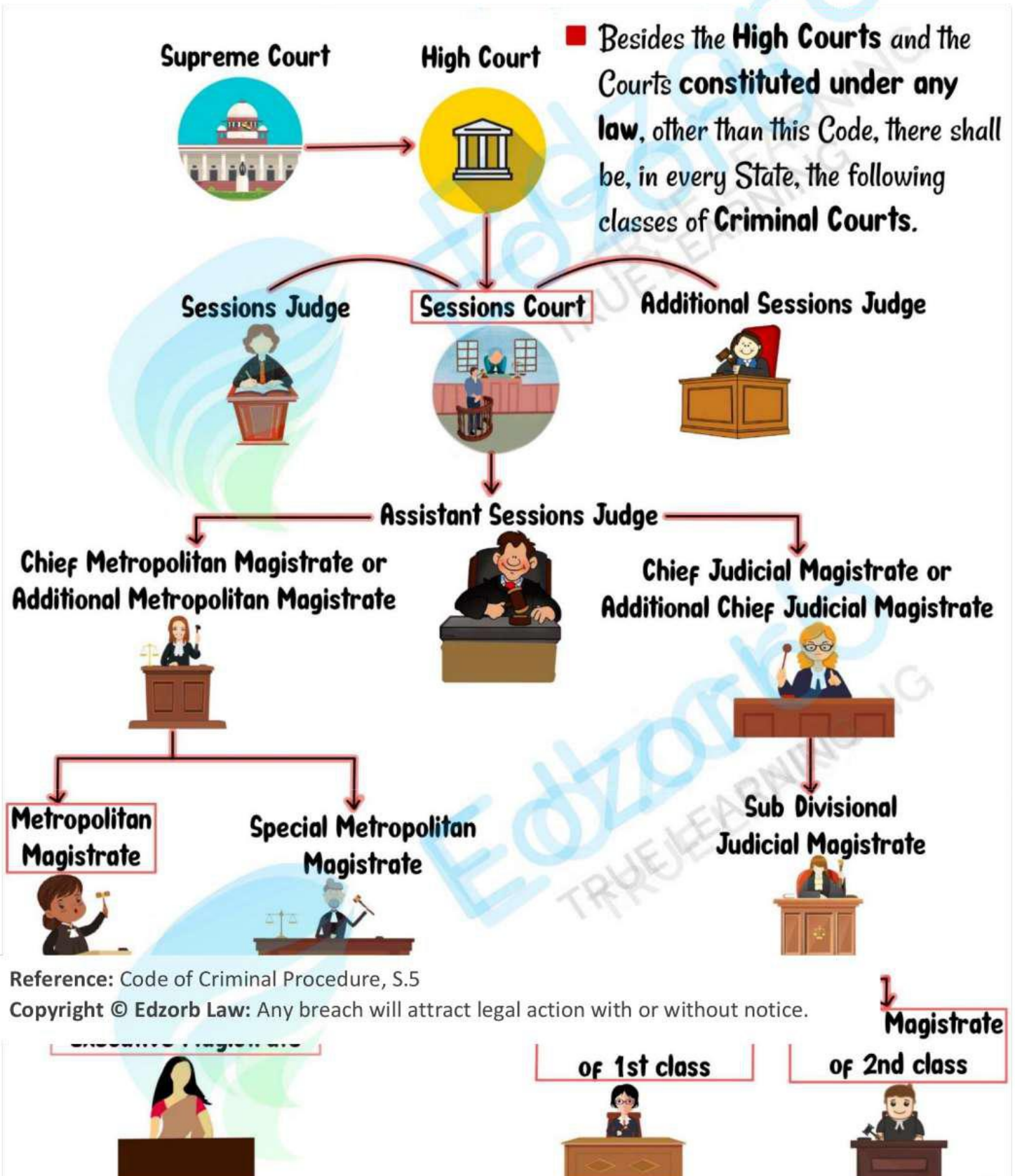


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CrPC: Section 6: Classes of Criminal



CrPC: Section 7: Territorial divisions:

01

- Every State shall be a **sessions division** or shall consist of sessions divisions.

02

- Every session division shall be a **district** or consist of districts.

03

- Districts can be divided into **sub division** by State Government after consultation with the High Court.

04

- State Government after consultation with the High Court may **alter limits** or number of divisions, districts & Sub-divisions.

- **Provided that:** Every metropolitan area shall, for the said purposes, be a separate sessions division and district.



State Govt.

After consultation



High Court

Alter the number of
division and district

- The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, be deemed to have been formed under this section.

Section 7

CrPC

Territorial Divisions

- Every State shall be a sessions division.
- The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.
- The State Government may, after consultation with the High Court, divide any district into sub- divisions.




Reference: Code of Criminal Procedure, S.7

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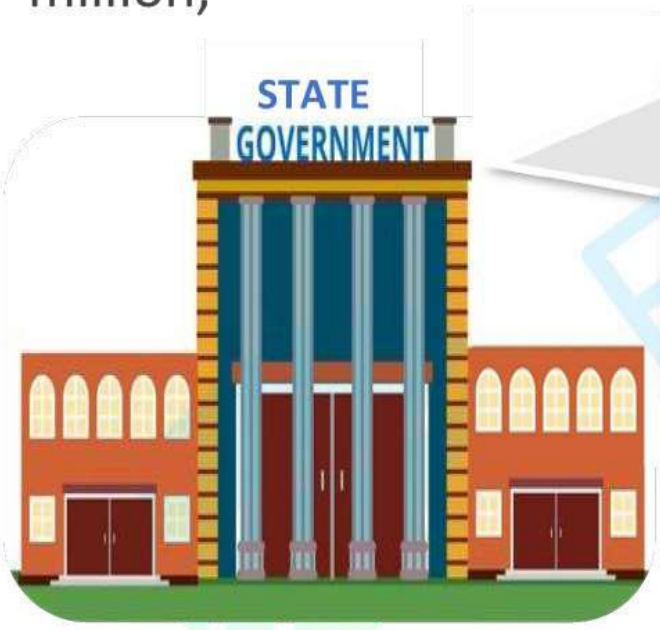
CrPC: Section 8: Metropolitan areas- (MA):

Declaration of Metropolitan Area

Authority	<ul style="list-style-type: none">• State Government
Criteria	<ul style="list-style-type: none">• Population > 1 Million
Declaration	<ul style="list-style-type: none">• By notification issued by state govt.
W.e.f	<ul style="list-style-type: none">• From specific date declared in the notification
Deemed Metropolitan areas	<ul style="list-style-type: none">• As from the commencement of this Code, the following shall be deemed to be declared to be a metropolitan area: Presidency-town of:<ul style="list-style-type: none">• cBombay,• Calcutta,• Madras, and• City of Ahmedabad. 
Alteration	<ul style="list-style-type: none">• The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area.
Limitation to alteration	<ul style="list-style-type: none">• The reduction or alteration shall not be so made as to reduce the population to less than one million.

8(4) Cessation:

- Where, after an area has been declared a metropolitan area, the population of such area falls below one million,




The population of this area has fallen below 1 million. I declare, by the notification that this area must cease to be a MA from the date I specify

- **Effect of cesser:**

Any inquiry, trial or appeal pending immediately before such cesser before any Court or Magistrate shall continue as if such cesser had not taken place.

8(5) Reduction or Alteration:

- Where the State Government reduces or alters, under subsection (3), the limits of any metropolitan area,



This won't be part of this area anymore

- **Effect of reduction or alteration:**

No effect on inquiry, trial or appeal pending before such reduction

Effect of such reduction or alteration

Every inquiry, trial continues as no alteration has taken place

- **Explanation:**

Population means



Population as ascertained at the last preceding census of which the relevant figures have been published.

Did you Know?

It is not obligatory on the State Government to declare such an area as metropolitan area; **exercise of power is discretionary.**



CrPC: Section 9: Court of Session:



Court of Session

Established

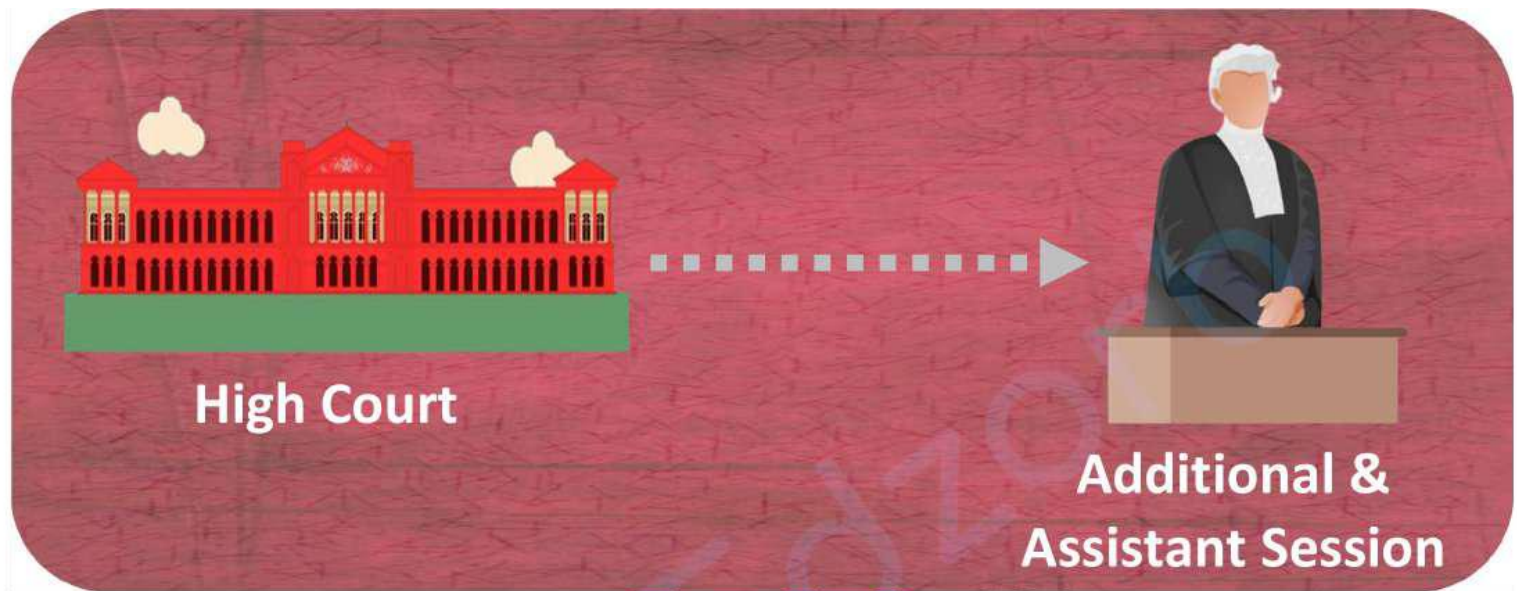
By State Govt.
for every
session division

Presided

By Judge,
appointed by
High Court

(3) Additional and Assistant Session Judge:

- **Appointed by:** High Court
- **Exercise:** Jurisdiction in a Court of Session.



(4) The Sessions Judge of one sessions division may be appointed by the High Court to be an Additional Sessions Judge of another division.



- **Place of sitting for such judges:** As the **High Court** may direct

(5) Vacancy:



**Session Judge
office vacant**



HC may make arrangement for disposal of urgent application by



**Additional
Session Judge**



**Assistant
Session Judge**



**If no Additional or
Assistant Session Judge**



**Chief Judicial
Magistrate**

(6) Place of sitting of Court of Session:

As the **High Court** may, by notification, specify.



Category	Particulars
Situation	<ul style="list-style-type: none">• Sittings of the Court of Session at any other place in the session's division
Purpose	<ul style="list-style-type: none">• For the disposal of the case or the examination of any witness or witnesses therein
Consent	<ul style="list-style-type: none">• With the consent of the prosecution and the accused
Reason	<ul style="list-style-type: none">• For the general convenience of the parties and witnesses

Explanation:

For the purposes of this Code, “Appointment” does not include:

- First appointment, posting or promotion of a person by the Government to any Service, or
- Post in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

Emperor Vs Lakshman Chavji Narangikar

AIR 1931 Bom 313

Held:

- **Section 9(3), 194 and 409** Assistant and Additional Sessions Judges exercise jurisdiction of Sessions Court but they are separate Courts.

Reference: Code of Criminal Procedure, S.9

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CrPC: Section 10: Subordination of Assistant Sessions

Judges (ASJs):

Subordination:

ASJs are subordinate to Session Judges in whose court they exercise jurisdiction.

In absence of ASJ or Ass. SJ:

An urgent application may be disposed of by Chief Judicial Magistrate



Power of Session Judge:

Session Judge may make rules as to the **distribution of business** among such Ass, SJs.

Urgent Application:

In case of absence, SJ may make special provision for disposal of any urgent application by ASJ or Ass. SJ.

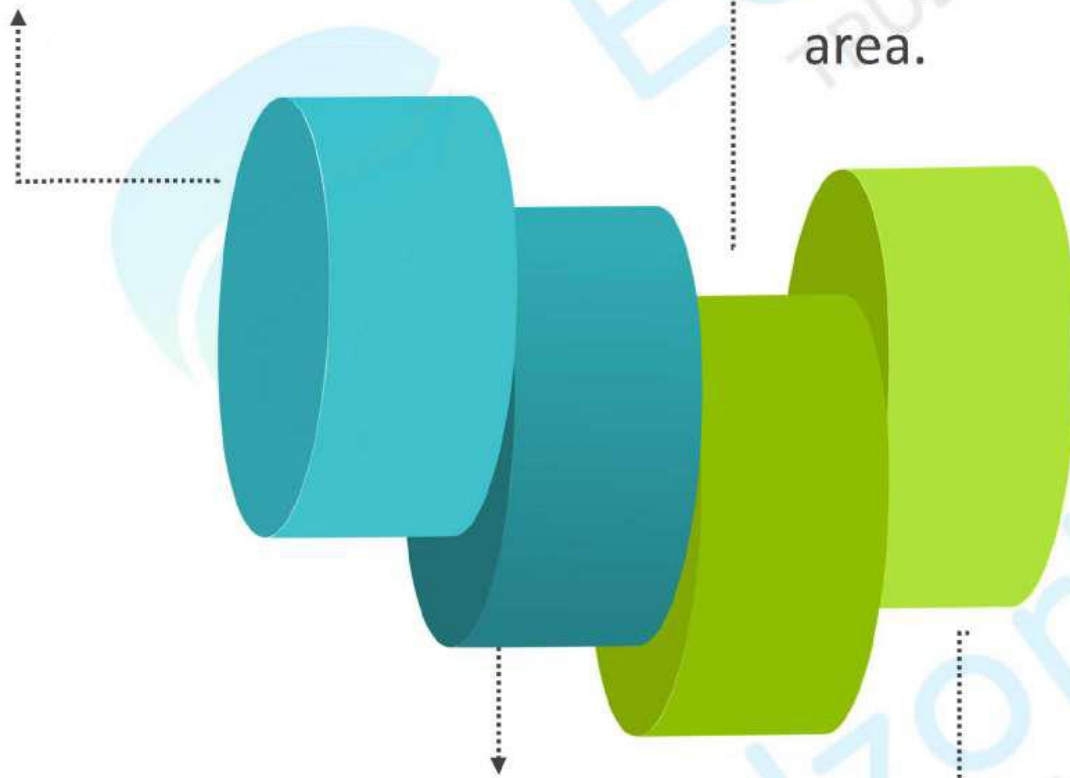
Reference: Code of Criminal Procedure, S.10

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CrPC: Section 11: Courts of Judicial Magistrates:

- After **consulting the High Court**, the State Government prescribes the number and places of such courts.

- Courts of Judicial Magistrate of the First and Second classes must be **established in every District**, not being a metropolitan area.



- The **presiding officers** of such Courts shall be **appointed** by the **High Court**.

- The **HC** may confer the **powers** of a Judicial Magistrate of I or II class on any member of Judicial Service of the State, functioning as a Judge in a Civil Court.

- The State Government may, after consulting the HC, establish **special Courts** of Judicial Magistrates of I & II Class to try any **particular case or class of cases** for that local area.

- Where any such Special Court is established, **no other Court of Magistrate in the local area shall have jurisdiction** to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.

Did you Know?

The **Supreme Court** also has the power to set up a special court, which has been done in major scams such as the Coal Block allocation scam, Vyapam Scam, *etc.*



CrPC: Section 12: Chief Judicial Magistrate (CJM) and Additional Chief Judicial Magistrate (Addn. CJM) etc.:

(1) CJM:



- In every district (not being a metropolitan area)
- The High Court shall appoint a JMIC to be CJM.

(2) Additional CJM:

- **Appointment:** High Court
- **Who?** JMIC is appointed as Addn. CJM.
- **Powers:** All or any of a CJM under this code/law for time being in force.



(3) Sub Divisional Magistrate (SDM):



- **Appointment:** HC designate JMIC as SDM
- **Exercise power or control over the work:** Judicial magistrate (other than Additional CJM) in subdivision.



Appoints



**JMIC as CJM
(Shall)**



**JMIC as Addn.
CJM (May)**



**JMIC as SDM
(May)**

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Reference: Code of Criminal Procedure, S.12

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CrPC: Section 13: Special Judicial Magistrates (SJM):

- 1 On request of Government, the HC may confer powers of JM I or II Class on a person
- 2 The said person must hold or has held any post under the govt. and possesses experience in Legal Affairs
- 3 Such Magistrates shall be called **Special Judicial Magistrates**
- 4 **Term** of the appointment to be determined by the HC by general or special order
- 5 Provided that the term decided shall **not exceed one year** at a time
- 6 The HC may also empower an SJM to exercise the powers of a Metropolitan Magistrate
- 7 Such SJM may exercise the powers in relation to any metropolitan area outside his local jurisdiction



High Court
may confer



Powers of
JMIC



On request by
Govt. to HC

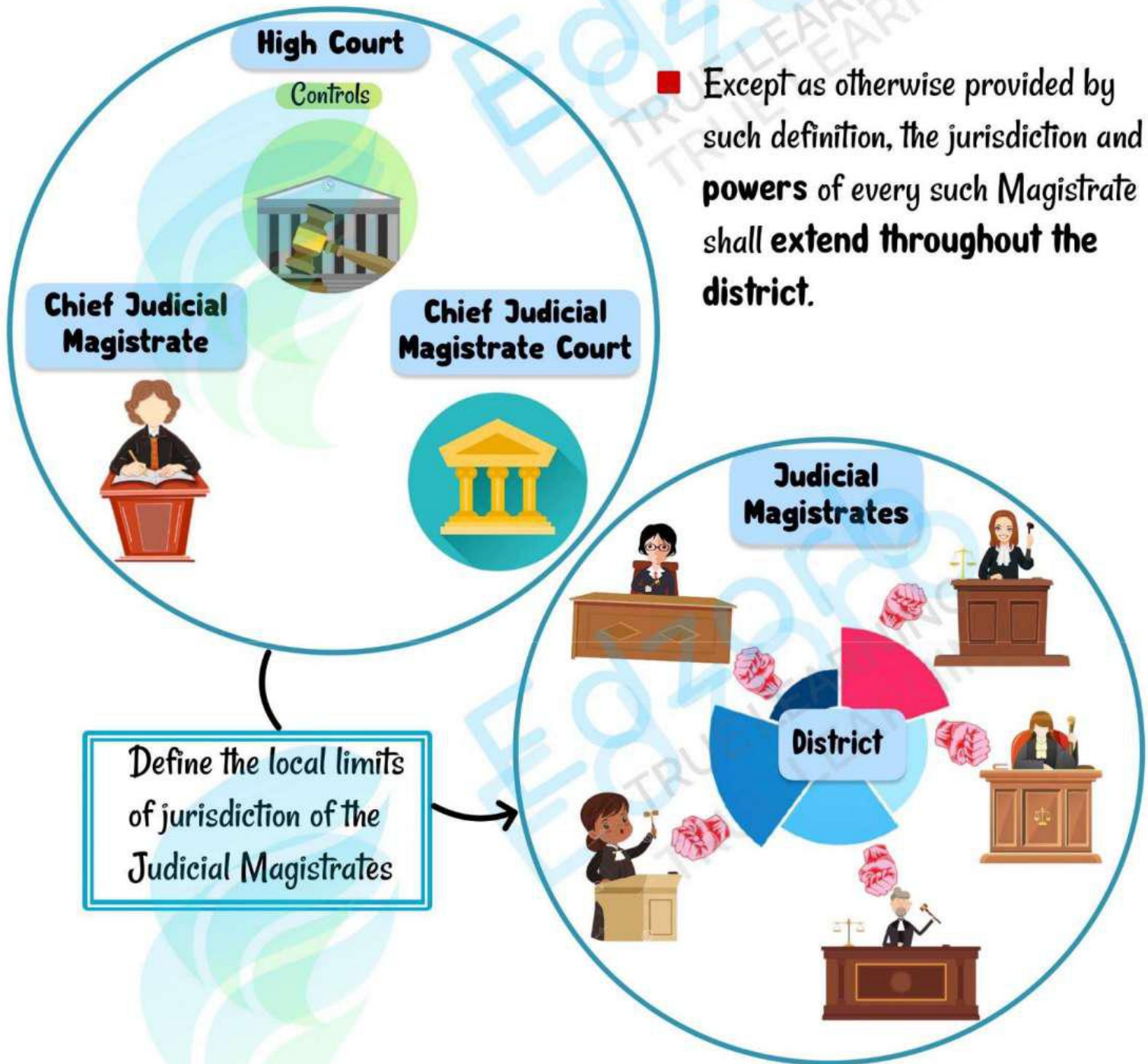


On any person
holding post
under Govt.



Section 14: Local jurisdiction of Judicial Magistrates:

- Subject to the control of the **High Court**, the **Chief Judicial Magistrate** may, from time to time, **define the local limits** of the areas within which the **Magistrates** appointed under **Section 11** or under **Section 13** may exercise all or any of the powers with which they may respectively be invested under this Code.



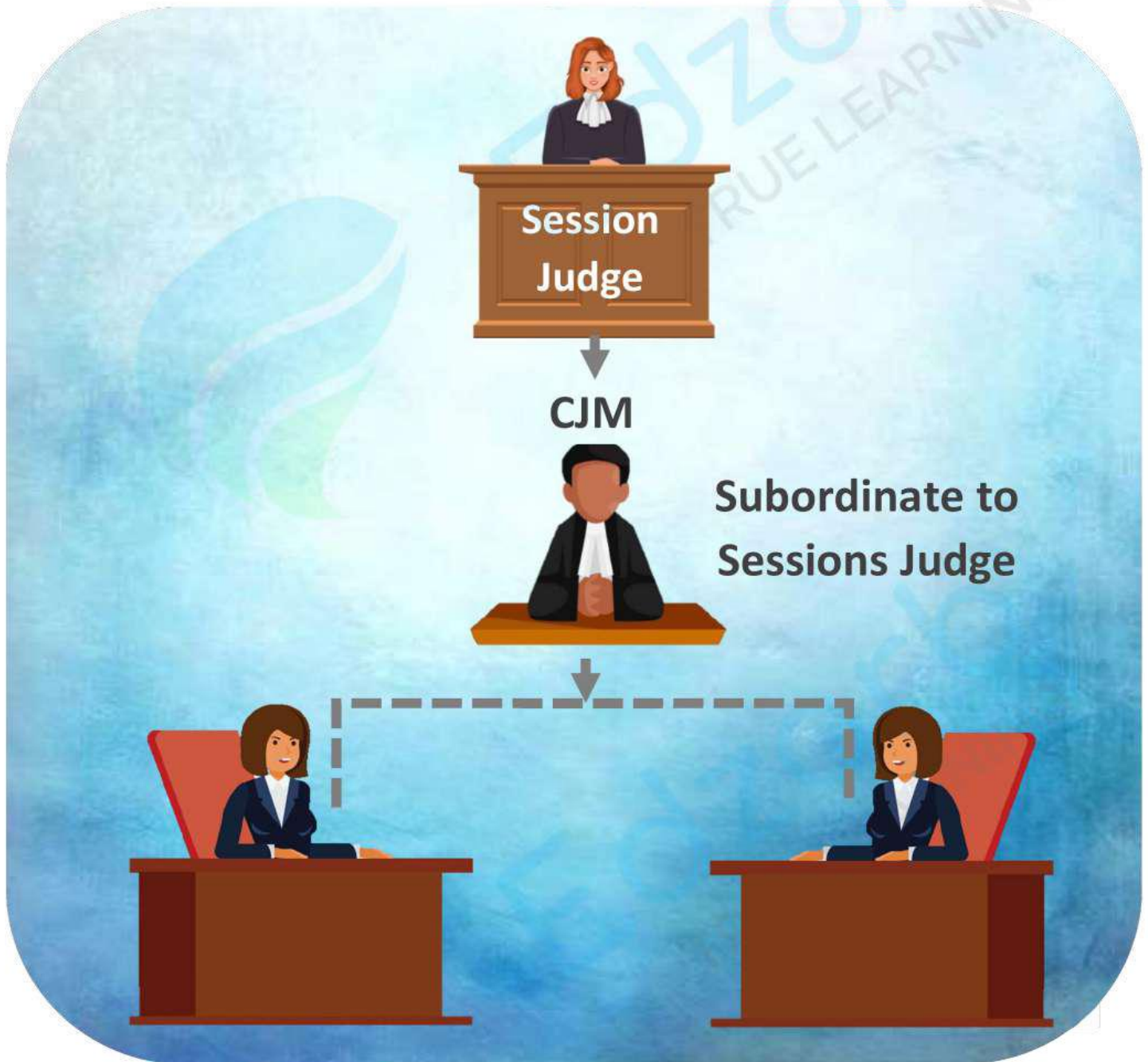
- Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

Reference: Code of Criminal Procedure, S.14

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Section 15: Subordination of Judicial Magistrates:

- **CJM:** Subordinate to Sessions Judge
- **Other Judicial Magistrate:** Subordinate to CJM, subject to the control of SJ.



- The CJM may, from time to time, **make rules or give special orders**, as to the distribution of business among the Judicial Magistrates subordinate to him.



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must withstand the test
Article 19(1)(a). Freedom of press means
There can be no restriction in the press.
Articles or newspapers or magazines or
relatively to the
to exercise the
the
never, restriction can be imposed on the
but those restrictions must stand in the interest of
democratic organisation
In *Bennett Case* and *Union of*
India (1972), the *Supreme Court*
the freedom of the press embraces the right of the



1/15
3

Ques 1

* Rule of Convenience
* maxim vigilantibus jura subvertuntur

Sec. 21(1), of Code of Civil procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied:

Court of first Instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

Ques 2.

* provision arising Art. 16, 335, 338, 340, 341 & 342

Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing majorly on financial and social aspects. (So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years.)

* Indira Sawhney case
* Balaji vs State of Mysore
9

1/15
3

Ques 3

No, a remand order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statute. In case of Venkatarma v Angathayammal it is held that

2/13

an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.

It is subject matter of suit which determines whether it is suit of civil nature or not.

In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not?

If its decision does not entirely depend on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature

(ii) Right of Pandarashen lady to observe parda is a suit of civil nature

(iii) Right to franchise is a suit of civil nature

11/5
3

Ques 5

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been

stated that requisite conditions should be fulfilled to apply principle of res judicata as between defendant and that are:

Start with Sec 9 of CPC along with explanation
Meaning of Civil Suit
Kehar Singh vs Custodian General
Shankar Narayan Potti vs K. Sreedevi

- 1) There must be conflict of interest between the defendants concerned
- 2) it must be necessary to decide the conflict in order to give the reliefs which plaintiff claims.
- 3) the question between plaintiff the defendants must have been finally decided.
- 4) the co-defendants were necessary or proper party in former suit. (Joindammal by LRs is Vaidgarathan)

Section 10 CPC

* Sec 11 CPC

Maxims & Nemo debet bis vexari
Pro Una Causa Eadem

Marohar Lal v/s Seth Hirah Lal

Res judicata

- suit ^{which} is finally decided by competent court
- In this a case is heard & finally decided
- Subsequent suit on same subject matter is prohibited
- Objective is to prevent multiple litigation

* Res subjudice

Res subjudice

2/3

- A suit which is pending in a competent court
- In res subjudice, case is pending in court
- subsequent suit on same subject matter is stayed.
- Objective is prohibition of concurrent justice

Res judicata

- In this suit is finally heard & decided which cannot be presented further as a suit
- Object is to prohibit multiplicity of litigation
- It is result of judgment of court

Res Estoppel

→ Sec 115 IEA → Pickard v/s Scott

- In this a person cannot be allowed to change his position if he makes another to believe in good faith
- Its object is to protect right of such person who acts in good faith
- It is based on act of parties



According to sec-173(3) In case superior officer of police has been appointed under sec-158 and state government by order directs, then report shall be submitted through that officer while orders of Magistrate are pending, such an officer may also direct officer in charge of police to make further investigation if required.

5/10
When the person who transfers property is not the owner

(c) Doctrine of election with illustration
Section 35 of Transfer of Property Act discusses the doctrine of election. It states that when a person / transferor in same transaction confers benefit on owner of property and to transferee, the owner is put to election either to accept benefit of transfer or refuse it.

Its essentials are - that transfer should be in same transaction

- Benefit & burden must come from same transaction.
- benefit is directly given to owner

For example, Ashwini proposes to transfer property of Rohan ~~and~~ to Divyansh and gives 10,000 to ~~husband's~~ wife of Rohan. This is not case of direct benefit to Rohan thus Rohan has no duty to elect.

As stated benefit and transfer must be inseparable and interdependent



And in case person refuses to such transfer, he has to relinquish all the benefit so transferred and such benefits shall be reverted back to transferor or his representative

Such property is reverted back when

- transfer is gratuitous
- transfer has before election died or became incapable of fresh transfer
- In all cases where transfer is for consideration

Owner of property has choice either to elect by express mode or impliedly from contract.

Express election is final & conclusive in nature

In case where owner has full knowledge of circumstance and he being aware of his duty to elect accepts the benefit, it is implied that he has chosen in favour of transaction

But such owner has to signify his confirmation or dissent from transfer within 1 year after date of transfer.

There are certain exceptions to it -

• This doctrine is based on equity. If two rights are endowed on a person under any instrument in a manner that one right is more preferable than other, he is bound to elect or chose only one of them.

This doctrine is based on maxim, qui approbat non reprobatur which means one cannot approbate

(d) missing :-

Include Cooper v/s

Cooper v/s

Cooper v/s

Landmark

Case on

election

be

Should mention it

top

↑

Remarks:



- ① Answer not in Answer format rather on notes format.
- ② Don't copy things from Internet. The Answer on Internal & External aid was exact copy.
- ③ Missed out on lot of Questions.
- ④ Next time copies won't be evaluated if they are not in Answer format.
- ⑤ Always mention the section no. on top & not at last.



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Nishtha Singh



★★★★★ 09/12/2022

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Garvit Dave



★★★★★ 25/08/2021

Dear ma'am Greetings of the day! On a personal note, Edzorb law helped me a lot, rather it helped me immensely in my preparation. As we all know that standard books for the preparation are very bulky & language is also hard but the way Edzorb team has put effort to explain the concept through pictorial example which are related to our day to day life, thus making it very simple and easy to understand various provision. With regards to notes, I would contend that they are very simplified and provide in depth knowledge of every subject, one can never feel tired while studying. The best thing is the highlighted portion of it. To summarise The course, is very helpful for quick revision. Thank you EDZORB for your extreme efforts. With best regards Garvit dave



Nisha Singh



★★★★★ 02/01/2023

Edzorb law is a digital app that helps simplify preparation. I adore and recommend the app as it provides overall preparation tactics. Even if you are traveling you can just access it from anywhere. The simplified notes are the best way to revise Bare Act, and the Q bank is designed to ensure full coverage of topics for an overall preparation. I am grateful to be a member of the Edzorb family.

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

Section 154(1):

Information in cognizable cases:

- Every information relating to the commission of a cognizable offence.
- **If given orally** to an officer in charge of a police station, shall be **reduced to writing** by officer in charge or under the direction of such officer.
- Be **read over to the informant**

Mam, there had been a murder in Savvanna...

Go on...



Officer-in-charge
Police Station

- Every such information (given in writing or reduced to writing), **shall be signed by the person giving it.**



Hmm...so this is what you have told about the murder. You will have to sign here sir.

- Substance thereof shall **be entered in a book** to be kept by such officer in such form as the State Government may prescribe in this behalf.



Food for Thought!

- **Section 172** of CrPC deals with Case Diary
- **Diary of proceedings in investigation**



Proviso:

- If the **information** is **given by the woman against whom** an **offence** under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B Section 376C, section 376D, Section 376DA, section 376 DB, section 376E or section 509 of the Indian Penal Code, 1860 is alleged to have been **committed or attempted**.
- Then such information shall be recorded by a **woman police officer or any woman officer**.

My boss harassed me.



Wait, I will be recording her FIR.

Woman Officer to take charge.

Lalita Kumari Vs Government of U.P.,

(2014) 2 SCC 1

Guidelines:

- **Cognizable offence – Registration of FIR is mandatory.** No preliminary inquiry is permissible in such a situation.
- Information received does not disclose a cognizable offence but indicates the necessity for an inquiry.
- In **cases where preliminary inquiry ends** in closing the complaint, copy of such closure (disclosing reasons) must be supplied to the first informant forthwith and not later than one week.
- The **police officer cannot avoid his duty of registering** offence if cognizable offence is disclosed.
Action against such police officer.
- The scope of **preliminary inquiry is to ascertain** whether the information reveals any **cognizable offence.**
- The **category of cases** in which preliminary inquiry may be made are as under:
 - a) Matrimonial disputes/family disputes
 - b) Commercial offences
 - c) Medical negligence cases

Youth Bar Association Vs UOI

AIR 2016 SC 4136

Facts:

- Petitioner sought a writ of mandamus, directing the Union of India and the States to upload every FIR registered in all the police stations

Held

- Accused entitled to get FIR copy at an earlier stage than under section 207 CrPC
- An accused who suspects his name may find place in an FIR can submit an application for grant of a certified copy and then copy shall be supplied within 24 hours.
- If FIR is forwarded by the police to the Magistrate, on an application for a certified copy, the same shall be given by the concerned Court within two working days
- The copies of the FIRs should be uploaded on the police website, and if there is no such website, on the State Government website, within 24 hours of the registration of the FIR.

- FIR need not be uploaded if **offence is sensitive** in nature, like sexual offences, offences of insurgency, terrorism , offences under POCSO Act and such other offences,
- The decision not to upload the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. Such decision has to be communicated to the concerned judicial magistrate.
- The list of **sensitive offences is illustrative and not exhaustive.**
- If FIR is uploaded, it shall not per se be a ground to obtain the benefit u/s 438 CrPC
- In case FIR copy is denied in sensitive cases, the aggrieved can submit a representation to the Superintendent of Police or any person holding the equivalent post. The **SP shall make a committee of three officers which to deal with the grievance**, within three days from the date of receipt of the representation.
- In sensitive cases, the accused or his representative can apply for certified copy before the Court to which the FIR has been sent and it shall be provided not beyond three days of the application.

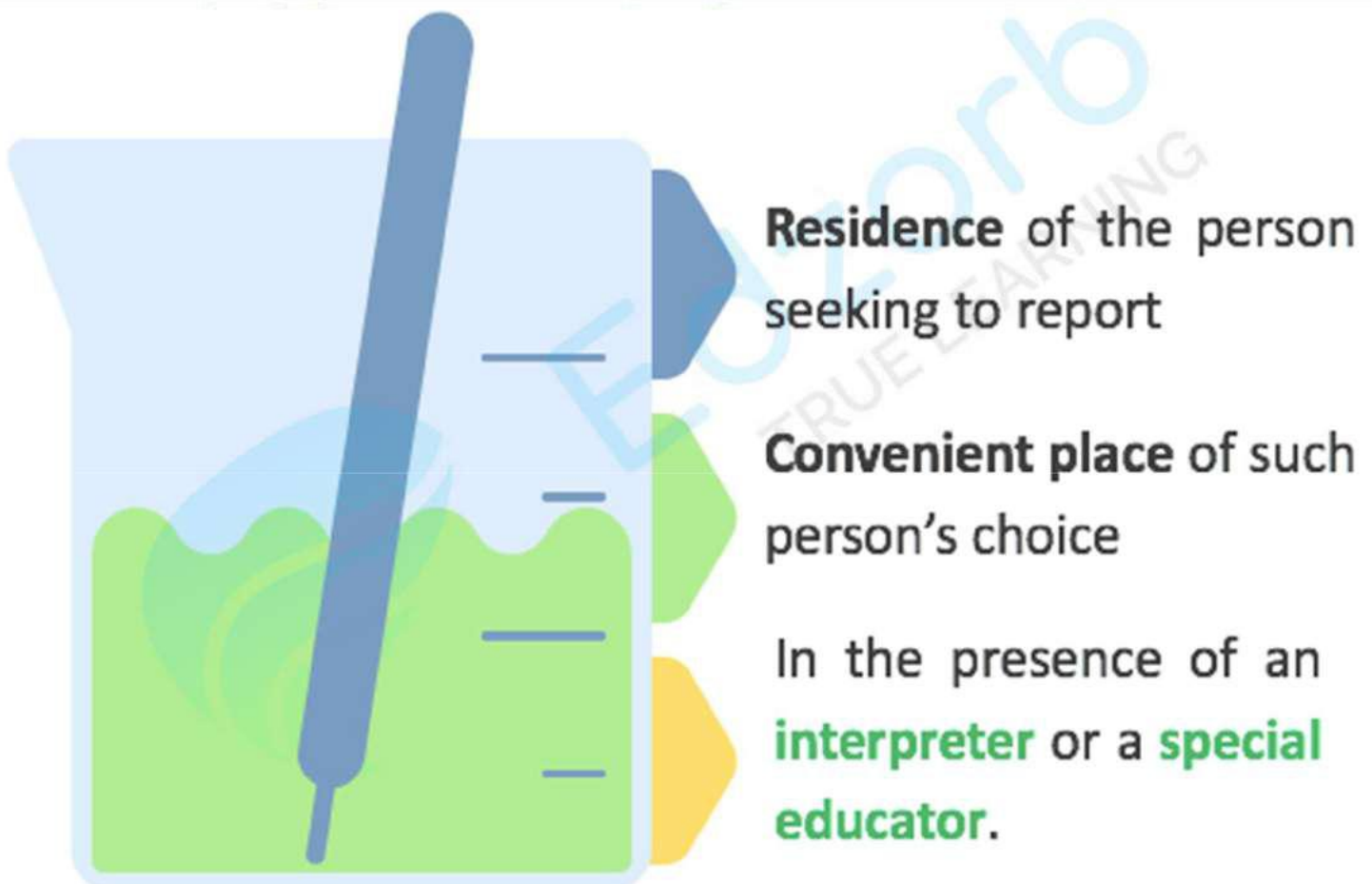
Reference:

Sections	Description
Section 326A	Voluntarily causing grievous hurt by use of acid, etc.
Section 326B	Voluntarily throwing or attempting to throw acid.
Section 354	Assault of criminal force to woman with intent to outrage her modesty.
Section 354A	Sexual harassment and punishment for sexual harassment.
Section 354B	Assault or use of criminal force to woman with intent to disrobe.
Section 354C	Voyeurism.
Section 354D	Stalking
Section 376	Punishment for rape.

Section 376A	Punishment for causing death or resulting in persistent vegetative state of victim.
Section 376AB	Punishment for rape on woman under twelve years of age.
Section 376B	Sexual intercourse by husband upon his wife during separation.
Section 376C	Sexual intercourse by a person in authority.
Section 376D	Gang rape.
Section 376DA	Punishment for gang rape on woman under sixteen years of age.
Section 376DB	Punishment for gang rape on woman under twelve years of age.
Section 376E	Punishment for repeat offenders.
Section 509	Word, gesture or act intended to insult the modesty of a woman.

Proviso:

- In the event **that the person** against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, Section 376AB, Section 376B, section 376C, section 376D, 376DA, section 376DB section 376E or section 509 of the Indian Penal Code, 1860 is alleged to have been committed or attempted
- **Is temporarily or permanently mentally or physically disabled**
- Then such information shall be recorded by a police officer, at:



- The **recording** of such information shall be **videographed**.

Mam, please tell everything.

Yes, so I was going back home...



- Police officer shall **get the statement** of the person **recorded by a Judicial Magistrate** under clause **S. 164 (5A) (a)** as soon as possible.

Let's arrange a meeting with the JM.



Section 154(2):

- A copy of the information as recorded
- Provided to the informant free of cost.

State Vs N.S. Ganeswaran (2014) 2 SCC 1

Held:

- Non-supply of copy of FIR under Section 154(2) CrPC **may not vitiate** the trial in every case.
- The court also pointed out that procedure followed by CBI in not directly registering FIR on receipt of information is proper inasmuch as the CBI in such cases has to conduct a preliminary inquiry after registering the information in the Register concerned.
- Here the accused is not at all prejudiced in the procedure followed by CBI In cases involving economic offences as exempted in the decision in Lalita Kumari

Section 154(3):

- Refusal on part of an officer in charge of a police station to record the information

There is no such crime. Shoo...we have lots of work.

Hmm... I should contact SP.



- **Aggrieved person** may send the substance of such information
 - **In writing** and by post
 - **To** the **Superintendent of Police** concerned



- **Superintendent of Police**, if satisfied that such information discloses the commission of a cognizable offence

Hmm... let me see if there is an offence.



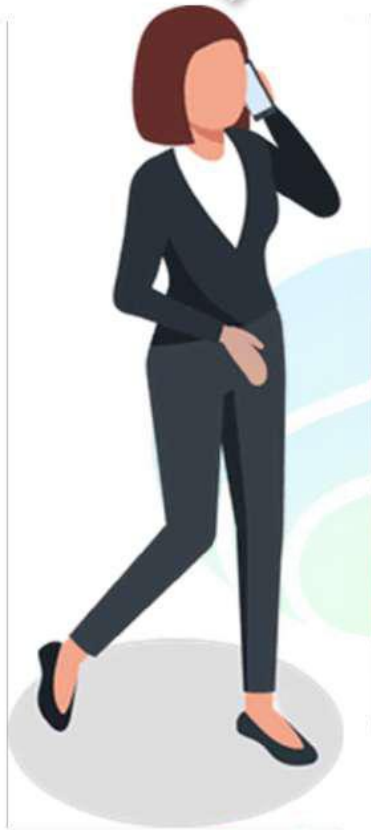

Shall investigate the case on their own

or

Direct investigation by subordinate police officer


Reference: Code of Criminal Procedure,
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Register the complaint.
There is definitely a crime
that has happened.



- The investigation should be in the **manner** provided by this Code
- The officer shall have **all the powers** of an officer in charge of the police station in **relation to that offence.**

Food for Thought

S. 154 CrPC does not use the word **FIR**, it only provides procedure for recording of information in a cognizable case. FIR is only used in **S. 207 CrPC**.



Let me tell you what's ZERO FIR?

ZERO FIR

To avoid delay.
Effective
investigation

Person can
file FIR in
any police
station.

The jurisdiction
does not
matter.
*Justice Delayed
is Justice
Denied*

#0 is added.
After that
**documents are
transferred** to
correct police
station



Kirti Vashisht Vs State

2019 SCC Online Del 11713

Facts:

- The petitioner, files the complaint for 4 times, but the police officer closed the complaint without any information.

Held:

- Even if the information to be registered as FIR is out of the jurisdiction of Police Station, the **Police is still obliged to take the information and register it as Zero FIR.**



Manoj Sharma Manu Vs State of NCT of Delhi & Anr. (Delhi H.C.13 April, 2017)

Facts:

- In this case alleged offence against girl was occurred sector 11, Noida and not within the jurisdiction of PS New Ashok Nagar, New Delhi.
- By using section 156(3) Metropolitan Magistrate having territorial jurisdiction over the area of PS New Ashok Nagar directed SHO PS New Ashok Nagar to register zero FIR and thereafter to transfer the same to the concerned Police Station having jurisdiction in the matter as per procedure.

Held:

- Delhi High Court quashed the order of Metropolitan Magistrate and held that section 154(1) is different from section 156(3).
- **Section 154 (1) Cr.P.C.** unlike section 156(3) does not prescribe for a restriction on registration of FIR in respect of an offence committed within the territorial jurisdiction of the police station.

- Thus even if the offence may have been committed beyond the territorial jurisdiction of a police station, the officer in-charge of the police station would still register the FIR and investigate thereon,
- However, a Magistrate under section 156(3) cannot direct to an officer in-charge of a police station beyond
- Its territorial jurisdiction. Judicial Magistrate cannot pass an order for Zero FIR by using **section 156(3)**.
- Order of Judicial Magistrate was quashed. **Officer in-charge of the police station shall register the FIR in case of need.**



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State of Andhra Pradesh Vs Punati Ramulu and Others

AIR 1993 SC 2644

Facts:

- The police constable at the police station **refused to record FIR on the ground** that the said police station had no territorial jurisdiction over the place of crime.

Held:

- It was certainly a dereliction of duty on the part of the constable because any lack of territorial jurisdiction could not have prevented the constable from recording information about the cognizable offence and,
- Forwarding the same to the police station having jurisdiction over the area in which the crime was said to have been committed





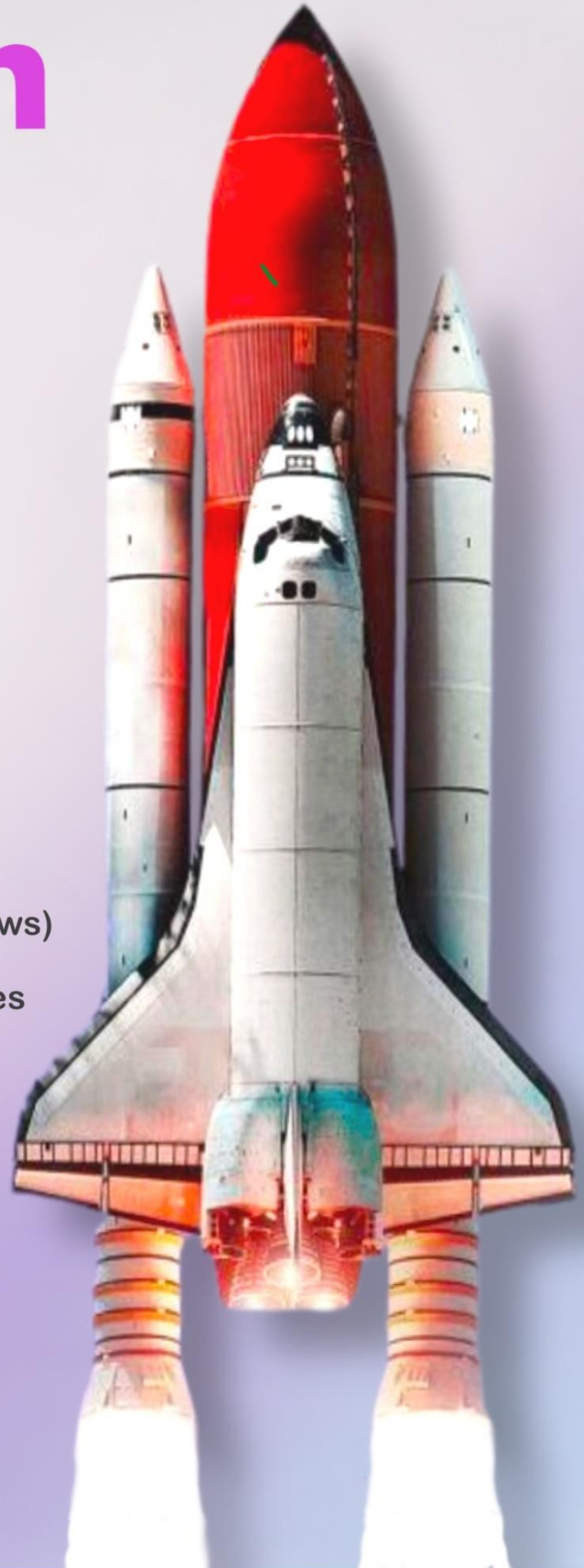
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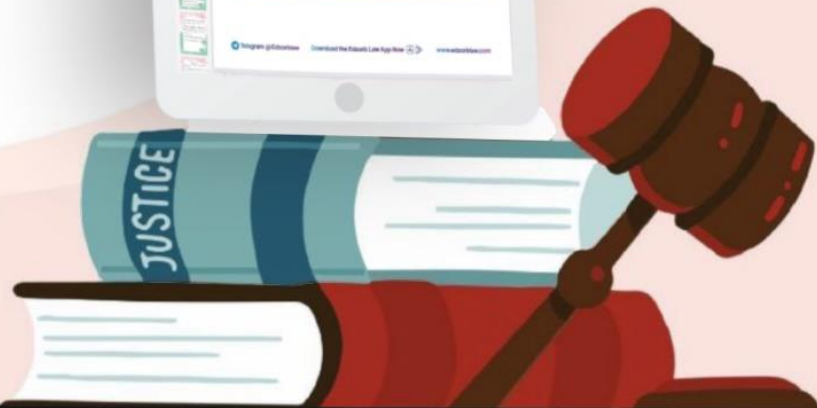


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CROSS FIR

State of MP Vs Mishri Lal

(2003) 9 SSC 426

Facts:

- Both the parties lodged an FIR against each other in respect of the same incident

Held:

- The cross- cases should be tried together by the same court irrespective of the nature of the offence involved.
- This is to avoid conflicting decisions, as if **cross cases are tried by two courts separately** there is likelihood of conflicting judgments.

T.T. ANTONY Vs STATE OF KERALA & ORS.

2001(6) SCC 181

Held:

- The information first entered in Station House Diary is the FIR postulated by S. 154 CrPC.
- Any other **information received during investigation will fall under S. 162 CrPC**

MULTIPLE FIRs

Can there be more than one fir of the same incident?



Nirmaljit Singh Kahlon Vs State of Punjab

AIR 2009 SC 984

Held:

- Registration of second FIR was permitted as it was on a wider canvas than the first one involving conspiracy of a large number of people.
- A preliminary inquiry was held, wherein new accused, different versions and offences were recorded.
- Thus, in **case of changed circumstances second FIR was permitted**

Evidentaru value of FIR

Aghnoo Nagesia Vs State of Bihar (SC, 4 May, 1965)

Facts:

- Aghnoo Nagesia was tried for murder for his aunty and her relatives.
- He reached to the police station and make registration of FIR. FIR was confessional FIR.
- He pointed places from where dead bodies and arms were recovered. Under section 25 confessions to police cannot be proved against accused

Issue: Whether the whole confessional statement in the FIR was banned by section 25 of the Evidence Act or only those portions of it were barred which related to the actual commission of the crime.

Held:

- The information report as such is not substantive evidence.
- It may be used to corroborate the informant under **Section 157 of the Evidence Act** or to contradict him under **Section 145 of the Act**, if the informant is called as a witness.

- If the first information is given by the accused himself, the fact of his giving the information is admissible against him as evidence of his conduct under Section 8 of the Evidence Act.
- If the information is a non-confessional statement, it is admissible against the accused as an admission under **Section 21 of the Evidence Act** and is relevant.
- A confessional first information report to a police officer cannot be used against the accused in view of Section 25.

Grounds	Complaint	FIR
Express/ Implied Provision	Complaint word has been defined under section 2(d). There is express provision	FIR word has not been defined Expressly. Although this word has been used in section 207, CrPC According to this section the first information report recorded under

		section 154 shall be supplied to the accused
kinds	There is no kind of Complaint	There are two types of FIR namely FIR and Zero FIR. According to Lalita Case there are two types of FIR namely, (i) FIR u/s154 & (ii) FIR u/s 157(1).
Authority	Complaint is made to Magistrate	FIR is made to the officer in charge of the police station
Criminal law in motion	Merely giving complaint is not Sufficient. Investigation does not start.	By lodging the FIR criminal law comes into motion. Barring few cases investigation starts
Offence	Complaint may be as to any offence (Either cognizable or no cognizable	FIR is lodged only about cognizable offence

	Offence).	
Preliminary Inquiry	<p>Sections 200 to 203. Certain procedures have been prescribed to weed out false and frivolous cases.</p> <p>After this process is issued under section 204 or section 87 as the case may be</p>	<p>After the decision of Lalita Kumari v. Government of Uttar Pradesh, registration of FIR is mandatory except in few cases.</p>
Conversion	<p>Complain may convert into FIR</p> <p>(Madhu Bala Vs Suresh Kumar)</p>	FIR cannot convert into complaint



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Reference: Code of Criminal Procedure, s.154

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Section 155(1):

Information as to non-cognizable cases and investigation of such cases:

- Information given to officer in charge of a police station
- Offence is committed within the limits of such station
- Offence is a **non-cognizable offence**.
- Officer in charge shall enter or cause to be entered the **substance of the information in a book** to be kept by such officer in such form as the State Government may prescribe in this behalf
- **Refer the informant to the Magistrate.**



Section 155(2):

- No police officer shall investigate a non-cognizable case.
- However, they can investigate **only with the order of a Magistrate**
- Magistrate giving order must have power to try such case or commit the case for trial.



Well, I have noted down your complaint. Now you have to see the Magistrate.

Can you not investigate it?
Please have mercy!!



This Magistrate has power to try the matter.

Did you know?

If a Magistrate, who is not empowered, erroneously orders in good faith an investigation under Section 155(2.), the proceedings shall not be set aside merely on the ground of his not being so empowered.





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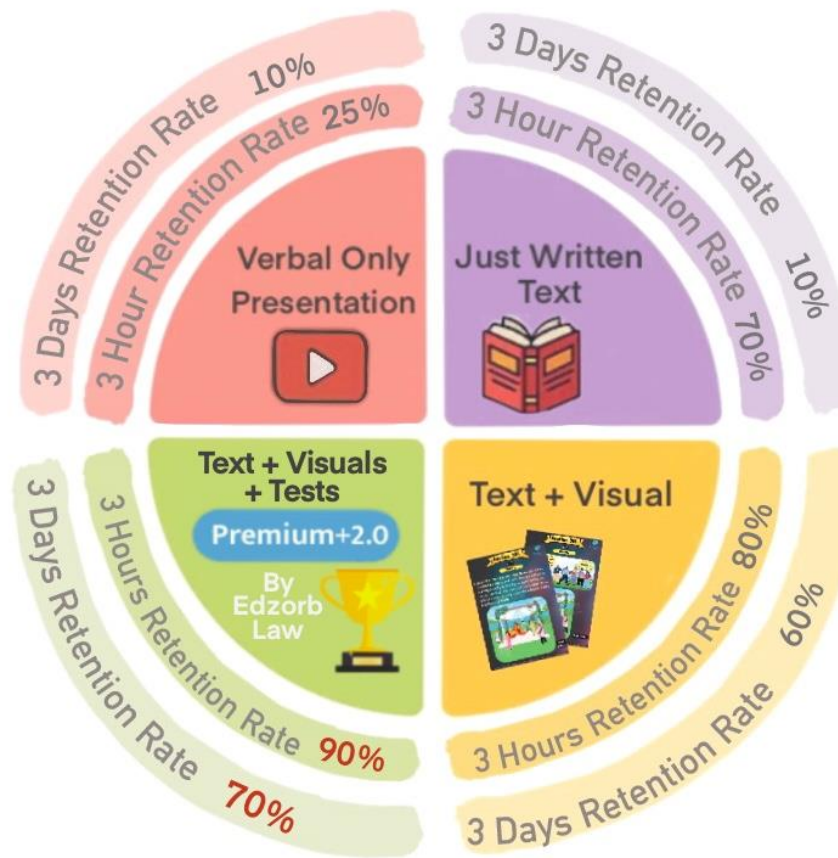
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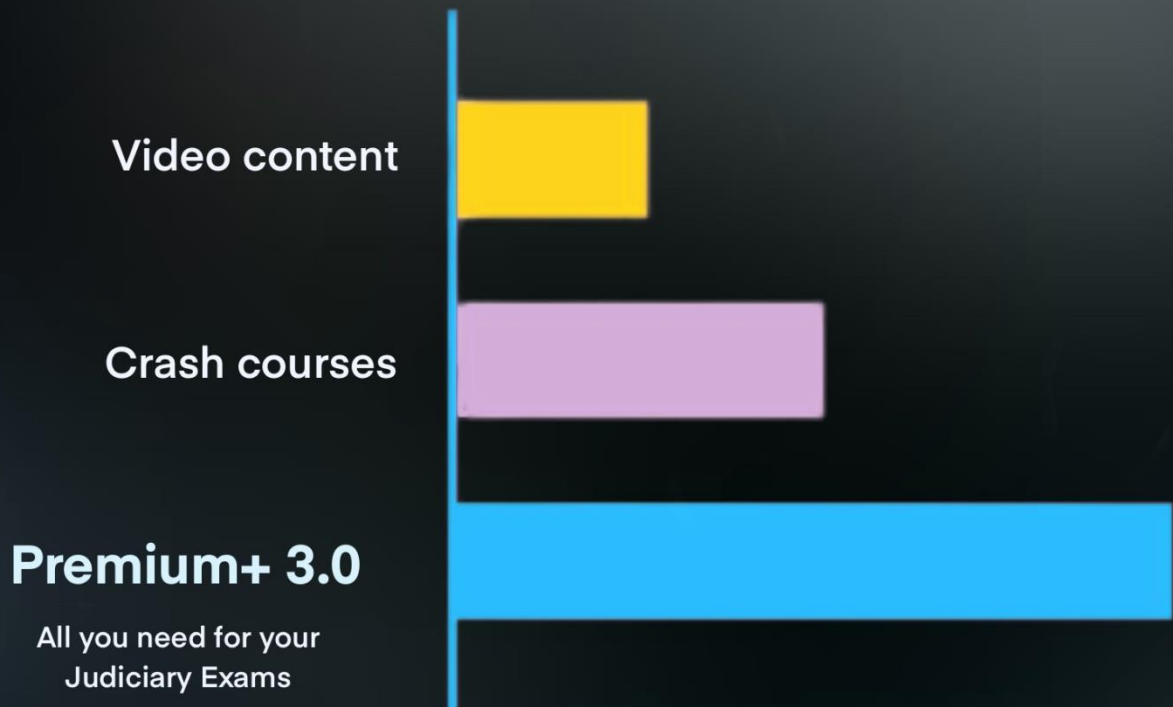
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Section 34:

ACT DONE WITH COMMON INTENTION

- Criminal act
- Several persons
- In furtherance of **common intention of all**
- Liability attached to each of such persons in the same manner as if it were done by that person alone.



Mahbub Shah vs Emperor

AIR 1945 PC 118

Facts:

- Mahbub Shah warned the deceased against collecting reeds from land belonging to them.
- Allah Dad (deceased) with a few others ignored the warning collected reed from their land.
- In the altercation and fight, Mahbub Shah and Wai Shah fired and killed Allah Dad and hurt to Hamidullah.

Issue:

- Whether rightly convicted of Murder upon the true construction of Section 34?

Held:

- ***In furtherance of the common intention of all:*** No evidence to show that they had a premeditated concert to bring about the murder of Allah Dad in carrying out their intention of rescuing Quasim Shah.
- Common intention is different from same or similar intention.

Ground	Section 34	Section 149
Offence	<ul style="list-style-type: none"> • Does not create substantive offence. • It deals only rule of evidence. • Chapter II. 	<ul style="list-style-type: none"> • Creates substantive offence. • Mentioned under Chapter VIII.
Act	<ul style="list-style-type: none"> • Active participation • Either in form of overt act or covert act is necessary. 	<ul style="list-style-type: none"> • Being a member of unlawful assembly is sufficient. • Liable even there is no act.
Common intention/ Objects	<ul style="list-style-type: none"> • Common intention is sine qua non. • Common intention is wider. 	<ul style="list-style-type: none"> • Common object is sine qua non. • Common object is limited up to five circumstances as mentioned u/s 141
Minimum persons	<ul style="list-style-type: none"> • Requires at least two persons. 	<ul style="list-style-type: none"> • Requires at least by five persons.

Barendra Kumar Ghosh Vs King Emperor

Post Office case

AIR 1925 PC 1

Facts:

- Three men fired at the post master who was counting money.
- One was waiting outside and did not fire any shot.

Issue:

- Whether omission can be act done under **Section 34**?

Held:

- They also serve who only stand and wait
- Standing and waiting of Barendra Kumar Ghosh outside of Post office was treated in participation in commission of crime.

Section 35: Joint Liability



When an act is criminal –
by reason of being done
with a **criminal knowledge**
or intention.

01

02

Such an act is **done** by
several persons.

All these persons join with
the **knowledge** or intention
to do the act.

03

04

All such person is liable for
the act in the same manner
as if done by one person
alone.

Extra Information



- Sushil intentionally impersonated a police officer.
- He did that partly by wearing a police officer's uniform and partly by omitting to tell the truth when asked if he is actually a police officer.
- In sum, he has committed offence under **S.170, IPC.**

Section 37:

Co-operation by doing one of several acts constituting an offence:

- A** • When an offence is committed by means of several acts, **whoever intentionally co-operates in the commission of that offence**
- B** • By doing any one of those acts, either singly or jointly with any other person, commits that offence.

All these people are liable for
commission of that offence.
Because they cooperated
each other.



Reference: Indian Penal Code, 1862 s 37

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Section 38:

- Where several persons are engaged or concerned in the commission of a criminal act.
- **They may be guilty of different offences by means of that act.**



I have hacked the account. Now you will have access to it.

Yes! Now will be rich. We just need to get out of this country.



Here are your forged documents.



- **Here** all these people are guilty of the offence of robbery.
- **However**, person making illegal passport will be punished under **Section 465 – Forgery**.
- **However**, Rishi, is guilty of **Sections 43 & 66, IT Act, 2000** and **Section 378, IPC – Hacking & Theft**.

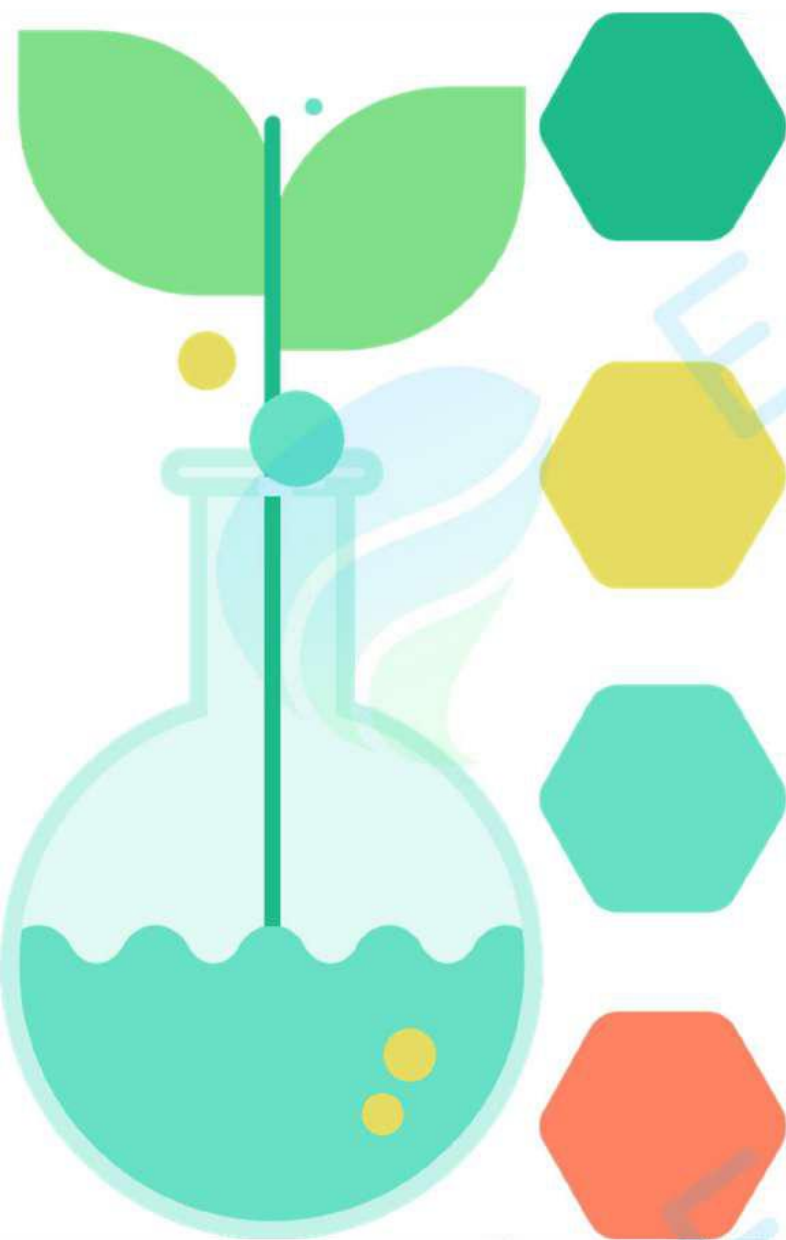


Note: Theft of movable property (**Section 378**) will apply to the theft of any data, online or otherwise.

Section 22 – Movable property → include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

Section 39:

Voluntarily:



- When the **effect** is **caused** by any means.
- With the **intention to cause it**
- With the **knowledge** at the time of employing those means reason to believe **to be likely to cause it.**
- Then, the effect I said to have been caused voluntarily.



- Effect = **hurt** .
- Means employed = **punching.**
- Intention that hurt will be caused. **OR**
- Knowledge that hurt will like to be caused.

Reference: Indian Penal Code, 1862 s 39

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Section 40:

Offence: Things **made punishable** by this Code.

Exception:

- **Chapter 4**
- **Chapter 5-A**
- Following **sections**:

✓ 64, 65, 66, 67, 71, 109, 110,
112, 114, 115, 116, 117, 118,
119 and 120

✓ 187, 194, 195, 203, 211, 213,
214, 221, 222, 223, 224, 225,
327, 328, 329, 330, 331, 347,
348, 388, 389 and 445,



**Offence = Thing punishable under this Code,
or under any special or local law.**

- In sections 141, 176, 177, 201, 202, 212, 216 and 441,
Offence =
 - Thing punishable under the special or local law
 - With imprisonment for a term of **six months or upwards, whether with or without fine.**

Section 41:

Special law → Law applicable to a particular subject.

Protection of child from sexual offences Act, 2012



Section 42:

Local law = Law applicable only to a particular part of India.

MP Land Revenue Code, 1959



Reference: Indian Penal Code, 1862 s 41, 42.

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Section 43:

Illegal =

- Offence
- Prohibited by law,
- Anything which furnishes ground for a civil action.



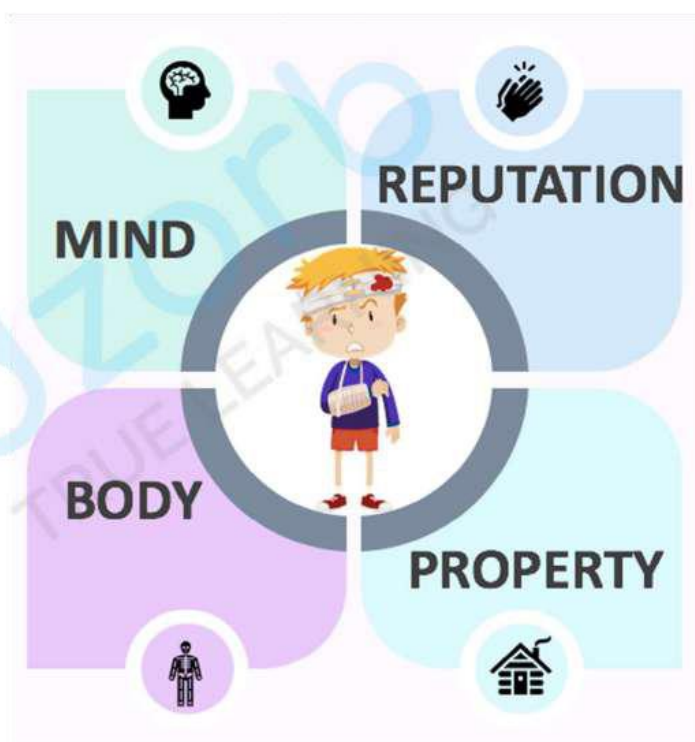
Legally bound to do:

- Whatever it is illegal in him to omit.

Section 44:

Injury

- Any harm
- Illegally caused
- To any person –in body, mind, reputation or property.



Section 45:

Life

- Human being
- Unless the contrary appears from the context.



Section 46:

Death

- Human Being
- Unless the contrary appears from the context.



Section 47:

Animal:

- Any living creature, **other than a human** being.



Section 48:

- **Vessel**: Anything made for the conveyance by water of human beings or of property.



Section 49:

- Year and Month = according to the British calendar.



Section 50:

- **Section** = Those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.



Reference: Indian Penal Code, 1862 s 48, 49, 50

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Section 97

Right to private defence = No offence

Note: This section is subject to **S.99**

First: Right of defend body.



Second: Right of defend of property.



Section 97

**Right of defend
personal body**

**Right to defend
body of any other
person**

**Types of offences:
Those affecting the
human body.**

**Right of defend
of Property**

**Right to defend
body of any other
person**

**Right to defend
body of any other
person**

**Right to defend
body of any other
person**

Theft

Robbery

Mischief

**Criminal
Trespass**

Right of Private Defence

The privilege to the private defence being a protective right is principally **intended to be preventive** in nature and not punitive.

Private Defence used as shield to ward off unwarranted attacks.



State Of U.P Vs Mukund Singh (1994) 2 SCC 191

Held:

- The injuries on the accused persons are not very serious and many of them are simple injuries and all of them could have been caused only by blunt objects.
- On the other hand, accused had firearms and they indiscriminately shot at the prosecution party.
- Victim had gunshot injuries and the punctured wounds.
- The court must take into consideration the injuries of the parties and assess if they accused had exceeded the right of private defence or not.

Darshan Singh Vs State of Punjab 2010 Cri LJ 1393 (SC)

Held:

- Right of Self-Preservation
- Danger should not be self-created
- It must be necessary to prevent harm
- Reasonable Apprehension of Harm
- Right ends as soon as the apprehension of harm ends

Surjit Singh Vs State of Punjab AIR 1996 SC 1388

Held:

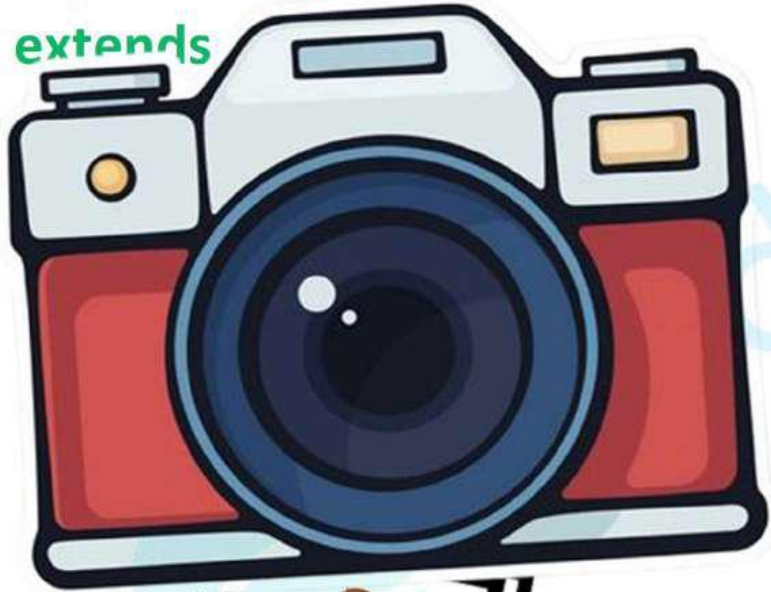
It is important to bear in mind that self-preservation of one's life is the necessary concomitant of the right of life enshrined under **Article 21** of the Constitution of India – fundamental in nature, sacred, precious and inviolable.

Chacko Vs State of Kerala, 2001 CrLJ 146

Held: Aggressor cannot seek the right of private defence.

Section 98:

Right of private
extends



defence



- Person who is **young** (< 7 years of age)
- Person who is **immature** (< 12 years of age)
- Person of **unsound mind**
- Person who is **intoxicated** (involuntarily)
- Person who is under **misconception of facts**

Remember: IPC provides for defence for offences done by all the type of people aforesaid.

S. 85. Act of a person incapable of judgment – involuntary intoxication

S. 82. Act of a child under 7 years of age

S.84 : Act of person of unsound mind



S. 83. Act of a child 7-12 years – immature understanding



Misconception
S.76 Mistake of facts and **not law.**



Section 99:

No right of private defence:



- The act is done/attempted by a **public servant** OR by the direction of a public servant
- When an act does not **reasonably cause** the **apprehension** of **death** or of **grievous hurt**.

Act or Direction

Act



Direction



Done in
good faith

Done under the
color of the office


Need not to be
strictly justifiable
by law

The act must be done

No right of private
defence:

- When there is **time to have recourse** to protection of the public authorities.





Hello emergency?
There is person who
is threatening me. I
am in danger.

Does this man have the time to take help from police?

- The court always takes into consideration the facts of the case.

Extent to which the right may be exercised:

- In private defence a person **cannot inflict more harm than it is necessary** to defend oneself.
- If Raju slaps a Sohan, would it be **'necessary'** to kill Raju?

This **Section 99** is a proviso for the application of **Section 101**.

Right of private defence of the body extending to causing death or any other harm to assailant in cases of:

Assault – Reasonably causing apprehension of causing grievous hurt.



- Ram assaulted Sita.

- She was hurt.
- However, **the fact that** she stabbed Ram while he was in sleep after one week of the incident is **not a private defence under Section 99.**



Explanation 1:

- A person has a right of private defence against an act/attempt by a public servant as well.
- However, if the person knows or has reason to believe, that the person doing the act is such public servant then they have no right to private defence.

No right to self-defence; you committed a crime, we're here to arrest you.



Explanation 2:

- A person has a right of private defence against an act/attempt **by the direction of** public servant.
- However, if the person knows or has reason to believe, that act is done **by direction of public servant**, or the person states the authority under which they are so acting
- or if the person has authority in writing, unless he produces such authority, there is no right to private defence.



Attacking a public servant who was manhandling the shopkeeper for dues.

- Is this justified??
- Why, if yes?
 - Here, the shopkeeper knew that the said officer had come to collect the dues.

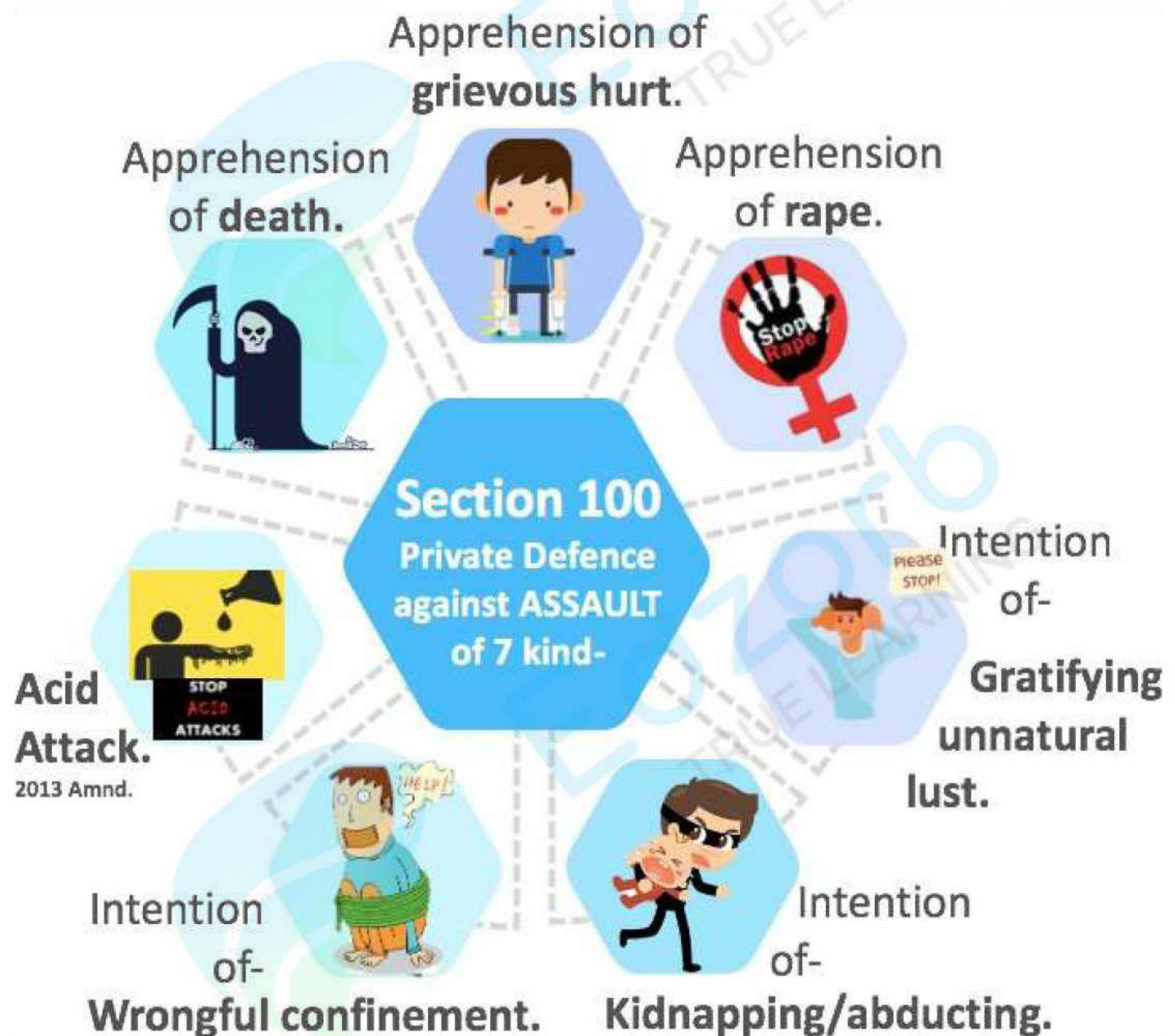


Reference: Indian Penal Code, 1862 s 99

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Section 100:

- **Note:** This section is subject to the restrictions of **Section 99.**
- Right of private defence of the body extends to causing death or any other harm to **assailant** in cases of:





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The Harvard Gazette: <https://news.harvard.edu/gazette/story/2017/05/visual-images-often-intrude-on-verbal-thinking-study-says>



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