

UNIT-IV

Definition of Law, Court, Judge, Basic Terminology in Law, Introduction to Criminal Procedure Code, FIR, Difference between civil and Criminal Justice, Object of Punishment, Kinds of Punishment, Primary and Sanctioning Rights Primary and Secondary functions of Court of Law.

Law to Combat Crime-Classification – civil, criminal cases. Essential elements of criminal law. Constitution and hierarchy of criminal courts.

Criminal Procedure Code: Cognizable and non-cognizable offences.

Bailable and nonbailable offences.

Sentences which the court of Chief Judicial Magistrate may pass.

Laws specific to Forensic Science: Indian Penal Code pertaining to offences against persons – Section 121A, 299, 300, 302, 304A, 304B, 307, 309, 319, 320, 324, 326, 351, 354, 359, 362. Sections 375 & 377 and their amendments.

Indian Evidence Act – Evidence and rules of relevancy in brief. Expert witness. Cross examination and re-examination of witnesses. Sections 32, 45, 46, 47, 57, 58, 60, 73, 135, 136, 137, 138, 141. CrPC – Sections 291, 291A, 292 & 293 in the code of criminal procedure.

Introduction

- Law is a social science and grows and develops with the growth and development of society. New developments in society creates new problems and law is required to deal with those problems. In order to keep pace with society , the definition and scope of law must continue to change. The result is that a definition of law given at a particular time.

- Law is a principle and regulations established in a community by some authority and applicable to its people, whether in the form of legislation or of custom and policies recognized and enforced by state authority.

The system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

- Law is subject matter of jurisprudence. It is any rule of action and includes any standard or pattern to which actions are to be conformed.

It means a body of rules of conduct, action or behavior of person, made and enforced by the State.

It expresses a rule of human action.

It is a general rule of external human action enforced by a self-governing political authority.



Meaning:

- It means a body of rules to conduct, action or behavior of person, made and enforced by the State.

It expresses a rule of human action. It is a general rule of external human action enforced by a sovereign political authority.

- The system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

- Law is a system of rules that are enforced through social institutions to govern behavior.

Laws can be made by a collective legislature or by a single legislator, resulting in statutes, by the executive through decrees and regulations, or by judges through binding precedent, normally in common law jurisdictions.

- Laws means justice, morality, reason, order, righteousness & etc.

- Laws means statutes, Acts. Rules, regulations, orders, ordinances & etc.

- Law means and involves a uniformity of behavior, a constancy of happenings or a course of events, rules of action, whether in the phenomena of nature or in the ways of rational human beings.

- In short, it means an order of the universe, of events, of things or action as well as it is body of rules of conduct, action or behaviour of person, made and enforced by the State. It expresses a rule of human action

Definition :

In old English “Lagu” i.e. law, ordinance, rule, regulation from old Norse “lagu” law collective Plural of “Lag” is layer, measure, stroke ‘Literally’ something laid down of fixed.

- Jurists have defined law differently from different points of view.

It has been called

‘Dharma’ in Hindu jurisprudence and

‘Hukum’ in Islamic system.

Romans called it Jus & in

Germany and France it is called as Recht and Droit respectively.

Arabic, Alqanoon,

in Persian and Turkish, it is Kunoon,

in Latin it is “Legem”

in Filipino it is “Batas”

in Albanian language it is “Ligj”

in Czech it is “Zakon”

in Danish it is “Lor”

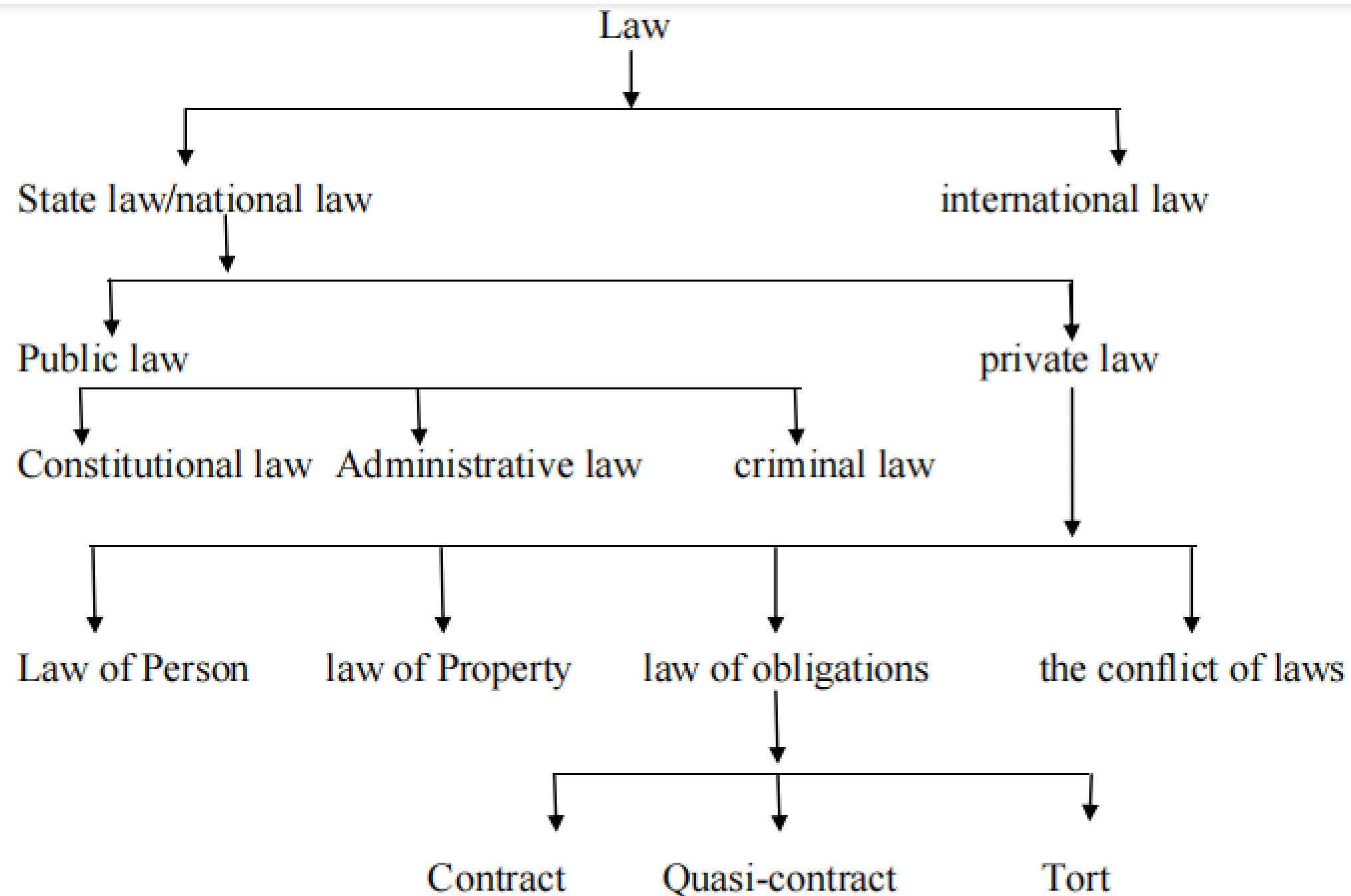
in Dutch it is “Wet” in Italian it is “Legge” and in Lithuanian it is “Teise” and so on

- **Blockstone:** law in its most general and comprehensive sense signifies a rule of action and is applied indiscriminately to all kinds of actions irrespective of gender, caste, language, race, birth, colour, and etc.
- **Salmonds :** the body of principles recognized and applied by the state in the administration of justice.

It also means a uniform rule of conduct which is applicable equally to all the people of the State.

Austin- “Law is the command of the sovereign.” “It is the command of the superior to an inferior and force is the sanction behind Law.”

Holland- “A Law is a general rule of external behaviour enforced by a sovereign political authority.”



Types / kinds

- **General Law** : The entire body of law consists of the general law and specific law.

It may be described as that part of the law, which concerns, and applies to all persons without discrimination and which is not limited in its application to a particular locality, but applies to the whole of the territory in the country. It is the ordinary law of the land. It is the law of the realm.

The general law is divided into three classes according to its sources- such as statute law, equality, common law,

- **Foreign Law/ Private International Law** :

- **Conventional Law**: Conventional law originates in agreement. Agreement is a law for those who make it or It is law for those who have agreed to be bound by it. Conventional rules create legal rights.

- **Autonomic Law**: it is that specie of enacted law which has its source in various forms of subordinate legislative authorities possessed by private persons or bodies of persons. Thus a university makes its statute

- **Special Law**: it consists of certain other bodies of legal rules which apply only under special condition.

- Sir John Salmond makes mention of the following forms of special laws

- **Local Law / Municipal law**: it is body of laws which obtains only in certain parts of the state and not throughout its territory. Such laws may either be local customary law or local enacted law. Local customary law has its roots in those immemorial customs which prevail in a particular part of the State and therefore have the force of law.

- the Local enacted law has its source in the local legislative authority or municipalities to govern their jurisdiction.

- **Customary Law** :- there are many customs which have been prevalent in the society before the state came into existence. They have assumed the force of law in course of time. It is enforced by the State as law because of its general approval by the people.

- Example: almost all law of marriage , adoption, succession etc is based on customs prevalent in ancient Hindu society.

- Early law is customary and really it is not law, but quasi law. They come into existence due to a number of reasons. When some kind of action gets general approval and is generally observed for a long time it becomes a custom. A custom becomes law, and can really be regarded as law, only upon its recognition by the law court or by statute.

- **International Law:** the law of nations of the 18th century was named as international law by Bentham in 1780. it consists of rules regulate relations between states. Oppenheim has defined International law as “ the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other.

- It is a body of customs, usages, conventions and principles of international property and natural justice as accepted by the nations of world.

- it is an aggregate of rules and regulations recognized and accepted by states in their relations with each other.

- **Private Law:** it is concerned with the matters concerning the individual more than the public. It regulates and governs the relations of citizens with each other.

The parties in such cases are private individual and the state adjudicates the matters in dispute between individuals through its judicial organs. Here the state acts as an arbiter.

The state does not regulates all the conducts and relations of the citizens.

It deals with matters such as contracts, insurance, carriage, damages, personal injuries, civil wrongs, sales of good, partnership, regulations of companies, trans of property, trusts and the like.

- **Public law:** it seeks to regulate the activities of the state. The important sub-division of public law are-constitutional law, administrative law. It deals with the rights and obligations of the state towards its citizens .

- **Constitutional Law:** it provides for the working of the constitution of a country. Constitution defines the composition and functions of the organs of governments. It decides the nature of political structure of the country. It determines the rights and liberties of the individuals. Constitutional law is above and superior to the ordinary law of the land. It is the fundamental law of a state which contains the principles on which government is formed.

- **Administrative Law:** it is the law and rules concerning the administration of the executive departments of a state. It deals with the structure, power and functions of the organs of administration, limit of their power,, the methods and procedures followed by them in exercising their powers and functions and etc. it covers legislative and judicial powers of the executive. It deals with day to day activities of official in relations to the members of the public.

- **Substantive and Procedural Law:** Substantive law is that which defines a right and legal powers while procedural law determines the remedies. Procedural law is also called law in action as it governs the process of litigation. Substantive law is concerned with ends which the administration of justice seeks to achieved.
- For example: Law of contract, trans of property, negotiable instruments, crimes etc are substantive law whereas the law of civil procedure or criminal procedure are procedural law.

Sources of Law

- Legislation.
- Custom.
- Precedent.
- Juristic opinion .
- International conventions.

1. Custom:

Custom has been one of the oldest sources of law. In ancient times, social relations gave rise to several usages, traditions and customs. These were used to settle and decide disputes among the people. Customs were practiced habitually and violations of customs were disapproved and punished by the society. Initially social institutions began working on the basis of several accepted customs. Gradually, the State emerged as the organised political institution of the people having the responsibility to maintain peace, law and order; naturally, it also began acting by making and enforcing rules based upon customs and traditions. In fact, most of the laws had their birth when the State began converting the customs into authoritative and binding rules. Custom has been indeed a rich source of Law.

Courts

Introduction:

A court is any person or institution, often as a government institution, with the authority to adjudicate legal disputes between parties and carry out the administration of justice in civil, criminal, and administrative matters in accordance with the rule of law.

Sections 6 to 25 of Cr.P.C deal with constitution of Criminal Courts and Offices.

In both common law and civil law legal systems, courts are the central means for dispute resolution, and it is generally understood that all people have an ability to bring their claims before a court. Similarly, the rights of those accused of a crime include the right to present a defense before a court.

Types of Courts

Courts of law are of two types
:
(1) Civil (2)Criminal.

Supreme Court

High Courts

Session Courts

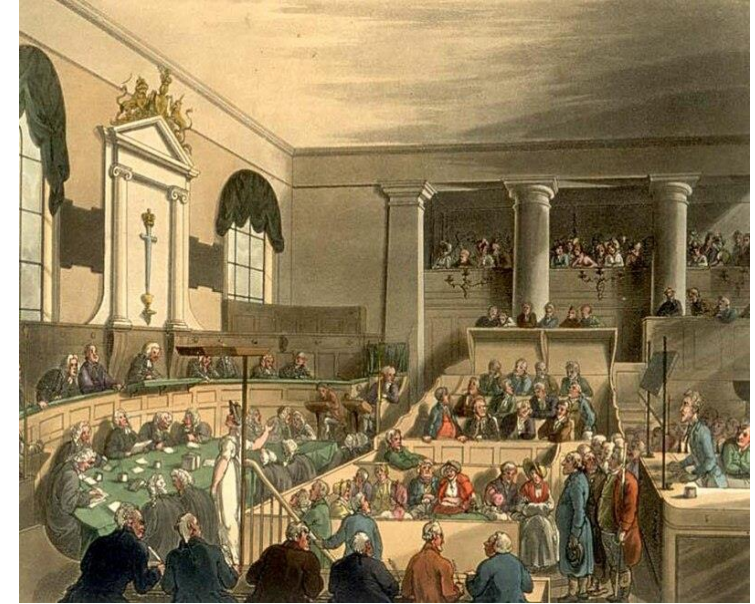
Magistrates Courts

Chief judicial Magistrate

Judicial Magistrate of First Class

Judicial Magistrate of second Class

Executive Magistrate







**DISTRICT MAGISTRATE
(DM)**

**ADDITIONAL DISTRICT
MAGISTRATE
(ADM)**

**SUB-DIVISIONAL
DISTRICT MAGISTRATE
(SDM)**

Supremecourt NewDelhi Highest court of appeal Passes any sentence.

Usually considers appeal from lower courts Power of supervision over all Courts in India High court capital of state It may try any offence and pass any sentence authorised by law Judges of High Court are appointed by the president of India Criminal courts of India

Sessions Courts District HQ Can try only offences committed to it by Magistrate.

Can pass any sentence, death sentence to be confirmed by High Court Appointment of district Judge is done either by the state Government in consultation with the High Court or by way of elevation of Judges courts subordinate to district courts Magistrates courts

(1) Chief Judicial Magistrate

(2) First Class Judicial Magistrate

(3) Second Class Judicial Magistrate Sessions judges and magistrates are appointed by the High Court The High Court appoints the Judicial Magistrate of first class to the Chief Judicial Magistrate Sub division of district

(4) Executivemagistrate Not Judicial Appointed by High Court.

Deputy Commissioner/ Collector/Tahsildar. Conducts Magistrate's inquest. Can pass an order

“Sentences Authorised by Law” Death Sentence Life imprisonment Imprisonment/ rigorous/simple/solitary Monetary Fine Forfeiture of Property Training and rehabilitation of young offenders

International courts

A courtroom of the Permanent Court of Arbitration

International judicial institution

International Court of Justice

International Criminal Court

International Court of Arbitration

Types and organization of courts

Administrative court

Admiralty court

Appellate court

Circuit court

City court

Constitutional court

Commercial Court (disambiguation)

Community court

Court of cassation

Court of marine inquiry

Court of record

Court-martial

District court

Domestic violence court

Drug court

DWI court

Ecclesiastical court

Equity court

Extraordinary court

Family court

Girl's court

High court

International court

Juvenile court

Labor court

Land court

Livability court

Lower court

Mental health court

Ordinary court

Patent court

Probate court

Small claims court

Specialized court

Superior court

Supreme court

Tax court

Teen court

Trial court

Veterans' court

Judge

A judge is a person who presides over court proceedings, either alone or as a part of a panel of judges.

In an adversarial system the judge hears all the witnesses and any other evidence presented by the **barristers** or solicitors of the case, assesses the credibility and arguments of the parties, and then issues a ruling in the case based on their interpretation of the law and their own personal judgment. A judge is expected to conduct the trial impartially and, typically, in an open court.

Judges must be able to research and process extensive lengths of documents, witness testimonies, and other case material, understand complex cases and possess a thorough understanding of the law and legal procedure, which requires excellent skills in logical reasoning, analysis and decision-making.

Excellent writing skills are also a necessity, given the finality and authority of the documents written. Judges work with people all the time; by the nature of the job, good dispute resolution and interpersonal skills are a necessity. Judges are required to have good moral character, i.e. there must be no history of crime.



Introduction to Criminal Procedure Code

The Code of Criminal Procedure commonly called Criminal Procedure Code (CrPC) is the main legislation on procedure for administration of substantive criminal law in India.

It was enacted in 1973 and came into force on 1 April 1974. It provides the machinery for the investigation of crime, apprehension of suspected criminals, collection of evidence, determination of guilt or innocence of the accused person and the determination of punishment of the guilty. It also deals with public nuisance, prevention of offences and maintenance of wife, child and parents.

On 11 August 2023, a Bill to replace the CrPC with the Bharatiya Nagarik Suraksha Sanhita (BNSS) was introduced in the Lok Sabha.

The Code of Criminal Procedure, 1973 is the procedural law providing the machinery for punishment of offenders under substantive criminal law.

- The code contains elaborate details about the procedure to be followed in every investigation, inquiry and trial, for every offence under the IPC or any other law.
- The Code also provides machinery for punishment of offences under other Acts.
- The code is complete code with respect to matters provided under it, thus the code must be deemed to be exhaustive.

It provides the machinery for

- i. the investigation of crime,**
- ii. apprehension of suspected criminals,**
- iii. collection of evidence,**
- iv. determination of guilt or innocence of the accused person and the determination of punishment of the guilty.**
- v. It also deals with public nuisance,**
- vi. prevention of offences and maintenance of wife, child and parents.**

At present, the act contains 565 sections, 5 schedules and 56 forms.

The sections are divided into 46 chapters.

PURPOSE AND OBJECT: The basic purpose of the Criminal Procedure Code, among other things, is to ensure a fair trial where none of the rights of the accused are compromised nor are they unjustifiably favoured.

Furthermore, to ensure that the judge concerned hears all parties who are relevant to the trial, their presence at the trial is obviously important.

That is why an entire chapter of the Code concerns itself with the process of ensuring the attendance of any person concerned with the case, including an accused or a witness, through various measures summons, warrant, proclamation and attachment of property.

Many would argue that the simplest way to ensure the presence of a person, especially an accused, would be to arrest him in all circumstances and detain him so that his presence is beyond doubt. However, such an action would go against the fundamental right that this Constitution provides with, the right to personal liberty under Article 21.

Criminal law hinges on that right and no person can be deprived of this right unless very cogent reasons are present which argue against his release. This is why the Code envisages both warrant and summons to procure the attendance of persons concerned.

Criminal Procedure or Code of Criminal Procedure, 1973 (hereinafter Code) being one such procedural law provides a track on which laws relating to crimes can scamper smoothly.

History

The Code of Criminal Procedure as it stands today is a hybrid law, with an improved form as a result of numerous legislative changes. The evolution of Code of Criminal Procedure can be traced back to the 1861 when the first code was enacted after the enactment of the Indian Penal Code, 1860.

Subsequently, the Code was succeeded by Act 10 of 1882 and the latter was followed by Act 10 of 1882. As many as sixteen acts related to Criminal Procedure were passed since 1882. The code was again replaced by the Code of Criminal Procedure in 1898

Subsequently, the 1898 code was amended by the Code of Criminal Procedure Amendment Act, 1923. In 1958, the First Law Commission in its 14th Report made extensive recommendations on the reform of the criminal justice system.

Functionaries under the code: include the Magistrates and Judges of the Supreme Court and high Court, Police, Public Prosecutors, Defence Counsels Correctional services personnel such as Prison and jail authorities.

Functions, Duties and Powers of these Machineries:

a)Police: The code does not mention anything about the constitution of police. It assumes the existence of police and devolves various powers and responsibilities on to it. The police force is an instrument for the prevention and detection of crime. The administration of police in a district is done by DSP(District Superintendent of Police) under the direction and control of District Magistrate.

b)Prosecutor •If the crime is of cognizable in nature, the state participates in a criminal trial as a party against the accused. Public Prosecutor or Assistant Public Prosecutor is the state counsel for such trials. Its main duty is to conduct Prosecutions on behalf of the state. The public Prosecutor cannot appear on behalf of accused.

•According to the prevailing practice, in respect of cases initiated on police reports, the prosecution is conducted by the Assistant Public Prosecutor and in cases initiated on a private complaint; the prosecution is either conducted by the complainant himself or by his duly authorized counsel.

c) Defence Counsel According to section 303, any person accused of an offence before a criminal court has a right to be defended by a pleader of his choice.

Such pleaders are not in regular employment of the state and are paid remuneration by the accused person. Since, a qualified legal practitioner on behalf of the accused is essential for ensuring a fair trial, Section 304 provides that if the accused does not have means to hire a pleader, the court shall assign a pleader for him at state's expense.

At present there are several schemes through which an indigent accused can get free legal aid such as Legal Aid Scheme of State, Bar Association, Legal Aid and Service Board and Supreme Court Senior Advocates Free Legal Aid society.

The Legal Services Authorities Act, 1987 also provides free legal aid for the needy.

d) Prison authorities and Correctional Services Personnel:

The court presumes the existence of Prisons and the Prison authorities. It empowers Magistrates and judges under certain circumstances to order detention of under trial prisoners in jail during the pendency of the proceedings. It also empowers the courts to impose sentences of imprisonment on convicted persons and to send them to prison authorities. However, the code does not make specific provisions for creation, working and control of such machinery. These matters are dealt with in separate acts such as The Prisons Act 1894, The Prisoners Act 1900 and The Probation of Offenders Act 1958.

Basic Concepts

Bailable Offence "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; and "non-bailable offence" means any other offence

Definitions Bailable offence is defined under section 2(a) of CrpC 1973 and it 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.

Non- bailable offence means any other offence.

Non-Bailable Offence

A non-bailable offence is a serious offence and for it, the accused cannot demand to be released on bail as a right. Under these offences, the accused can be released on bail only by the order of the competent court.

Cognizable offence is defined under section 2 (c) of Crpc and it means an offence for which, and" cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.

Non-cognizable Offence

"Non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant

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.

Explanation.- A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant; (Section 2(d) Cr.Pc

Charge

"Charge" includes any head of charge when the charge contains more heads than one

Definitions Charge is defined under section 2 (b) of Crpc and includes any head of charge when the charge contains more heads than one.

Police report is defined under section 2 (r) of Crpc and it means a report forwarded by a police officer to Magistrate under sub- section (2) of section 173.

"Police report" means a report forwarded by a police officer or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf

Investigation is defined under section 2 (h) of Crpc and means all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

Inquiry is defined under section 2 (g) of Crpc and means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.

Trial is not defined under Cr.Pc. But it can be defined as a formal examination of evidence by a judge, typically before a jury, in order to decide guilt in a case of criminal or civil proceedings.

It is commonly understood to mean a judicial proceeding where evidences are allowed to be proved or disproved and guilt of a person is judged leading to acquittal or conviction.

Definitions **Summons**- case is defined under section 2 (w) of Cr.Pc and means a case relating to an offence, and not being a warrant- case.

Warrant- case is defined under section 2(x) of Cr.Pc and means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

Arrest and Rights of an Arrested Person

Under Section 57/167 of the CrPC, the accused must be produced before a Magistrate within 24 hours of arrest. If the investigation cannot be concluded within this time, a Magistrate may order for the remand of the arrested person to police custody u/s 167 (3) of the Cr.P.C.

The Magistrate should be fully satisfied that there is good ground to remand the accused to police custody.

Under Section 50 of the CrPC, the arrested person is to be informed of the particulars of the offence or any other grounds for arrest. Further, if arrested without a warrant for an offence which is bailable, he/she must be informed that he/she is entitled to be released on bail.

“Arrest” means:

“a seizure or forcible restraint; an exercise of the power to deprive a person of his or her liberty; the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge.”

The purpose of an arrest is to bring the arrestee before a court or otherwise secure the administration of the law. An arrest serves the function of notifying the community that an individual has been accused of a crime and also may admonish and deter the arrested individual from committing other crimes. Arrests can be made on both criminal charges and civil charges, although civil arrest is a drastic measure that is not looked upon with favor by the courts. The federal Constitution imposes limits on both civil and criminal arrests.

Arrest means the apprehension of a person by legal authority resulting in deprivation of his liberty.

An arrest consists of taking into custody of another person's authority empowered by law for the purpose of holding or detaining him to answer a criminal charge and preventing the commission of the criminal offense.

The second question comes in mind

ARREST HOW MADE

Section 46 of Criminal Procedure Code (hereinafter Cr.P.C)

An arrest can be made by

- (I) A Police officer,
- (II) A Magistrate (Sec. 44) or
- (III) A Private Person.

Yes, u/Sec. 43 of CrPc, a private person including me and you can also arrest a person in case the person committed a non- bailable and cognizable offense or if that person is a Proclaimed Offender (sec.82).

The most common form of an arrest is the arrest made by police, under sec. 41 police officer can make an arrest without a warrant in any cognizable offenses and with a warrant in non-cognizable offenses. Cognizable offenses are more of serious nature as compared to non-cognizable offenses i.e. Murder, Kidnapping etc.

Right to be informed of the grounds of arrest under sec. 50 of CrPc and article 22 of Indian Constitution, it's a fundamental right to be informed.

It is the duty of the police officer to inform you and also tell whether the offense is bailable or non-bailable.

Normally, Bailable offenses are those where bail can be granted and it is right of the person to be granted bail and Non- bailable offenses are where bail can't be granted generally and it's the discretion of the court.

- In non- cognizable cases, arrests are made with a warrant and the person going to be arrested has a right to see the warrant under Sec. 75 of CrPc.

Warrant of arrest should fulfill certain requirements such as it should be in writing such as signed by the presiding officer, should have the seal of the court, Name and address of the accused and offense under which arrest is made. If any of these is missing, the warrant is illegal. Right of arrested person to meet an advocate of his choice during interrogation U/sec. 41D and sec. 303 CrPc.

- An arrested person has a right to inform a family member, relative or friend about his arrest U/ sec 50 of CrPc.

Object of Punishment, Kinds of Punishment

INTRODUCTION The Primary object of criminals is to punish the wrongdoer and to maintain law and order in society.

Punishment is the penalty for the transgression of the law.

It is the state which punishes the criminal because we know that crime is a public wrong which affects the whole society.

punishment implies some kind of pain inflicted upon the offender for his criminal act.

It may be intended to deter him from repeating such a crime or maybe an expression of social disapproval for his Anti-social conduct.

Under the law, punishment is provided to cease the wrongdoer from committing the crime again.

Punishment is a consequence or result of a wrong committed by a person.

Provision for punishment are provided under Sec 53 and chapter III of the Indian Penal Code (IPC).

The Section defines various kinds of punishments to which the offenders are liable under the Indian Penal Code.

WHAT IS PUNISHMENT?

Punishment is any damage or pain inflicted on an offender through judicial procedure.

It is a process by which the state inflicts some pain to the person or property of a person who is found guilty of the crime.

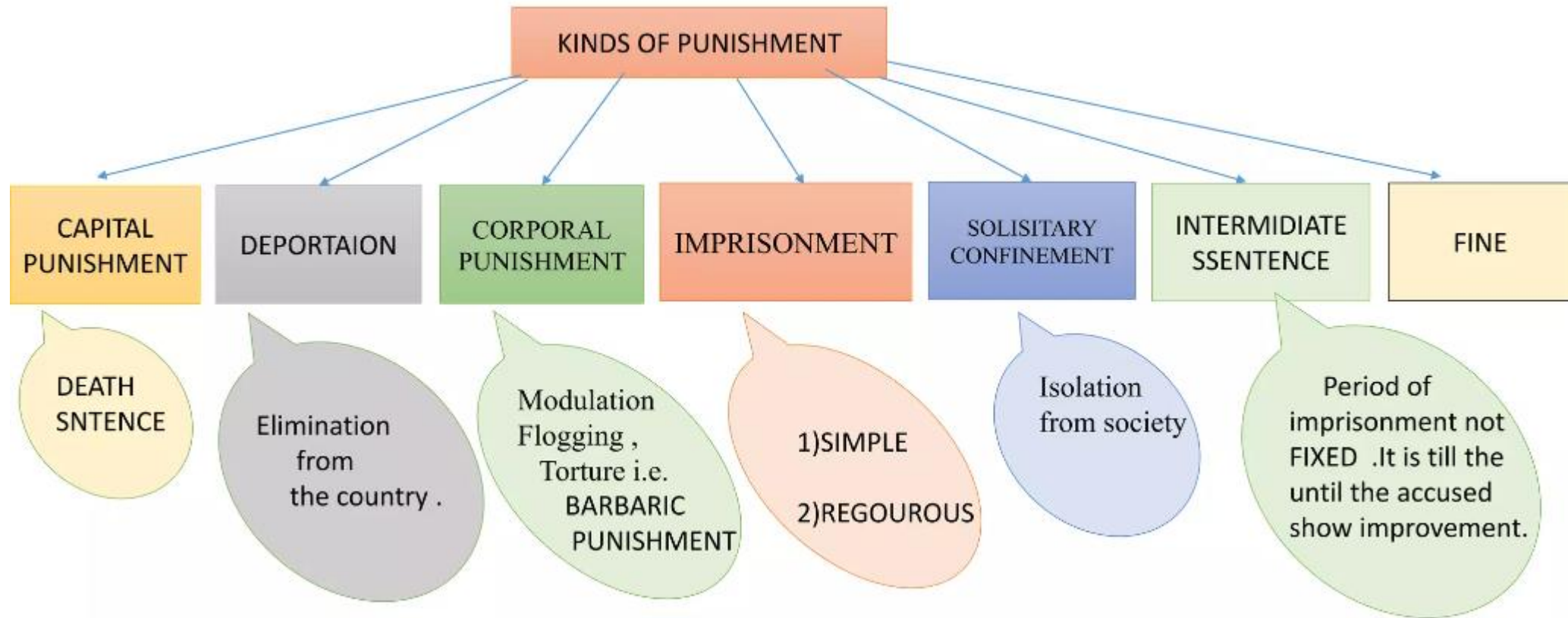
In other words, punishment is the sanction imposed on an accused for infringement of the established rules.

The term 'punishment' means torture that a person should undergo as a consequence of doing a wrong.

It is deliberately imposed on that individual without his consent and against his will.

OBJECT OF PUNISHMENT

The object of punishment is to protect society from disobedient and undesirable elements by deterring potential offenders, by proving the actual offenders from committing further offences and by reforming and turning them into law-abiding citizens.



Six kinds of punishments were originally prescribed in IPC, in the year of 1949 third punishment, “penal servitude” was removed. Now there are five kinds of punishments under IPC.

1. DEATH

• The death sentence is a punishment which is sanctioned by the government and ordered by the court where a person is put to death for a crime acted by him. Earlier times sentencing offenders to death was a very common kind of punishment, even for minor offences. In modern times death sentences have always been used as an effective punishment for murderers and dangerous offenders. It has both the deterrent and preventive effect. Some countries abolished it. Capital punishment/death penalty awarded in India in certain exceptional cases only. In India it is awarded in rarest of rare cases.

DEATH PENALTY It may be awarded as punishment in the following offences:

- Waging war against the government of India (Sec 121)
- Abetting mutually actually committed (Sec 132)
- Giving or fabricating false evidence upon which an innocent person suffers death (Sec 194)
- Murder (Sec 302)
- Murder by life convicts (Sec 303)
- Abetment of suicide of a minor or an insane or intoxicated person (Sec 305)
- Dacoity accompanied with murder (Sec 396)
- Kidnapping for ransom (Sec 364A) etc.

2. IMPRISONMENT FOR LIFE The words imprisonment for life was substituted for transportation for life by Act XXVI (26) of 1955.

In its ordinary connotation imprisonment for life means imprisonment for the whole of the remaining life period of the convicted person's natural life.

According to Sec 57 imprisonment for life shall be reckoned as equivalent to imprisonment for 20 year's. But only for calculating fractions of terms of punishment imprisonment for life shall be reckoned as equivalent to imprisonment for 20yrs. But otherwise the sentence of imprisonment for life is of indefinite duration.

In IPC it is provided about fifty offences like,

- Waging war (alternative with death section 121)
- Conspiracy against State (section 121 A)
- Sedition (section 124 A) etc.

3. IMPRISONMENT – RIGOROUS AND SIMPLE i. Rigorous In case of rigorous imprisonment, the offender is put into hard labour such as grinding corn, digging the earth, drawing water, cutting firewood, mowing grass etc.

IPC prescribes this punishment for offences includes, Personating a public servant (section 170) Causing miscarriage (section 312) etc..

ii. Simple Simple imprisonment is imposed for small offences like wrongful restraint, defamation etc.

In such cases, the offender is confined to jail and is not put to any kind of work.

Some offence punishable with this includes; Refusing to take an oath (section 178) Defamation (section 500)

SOLITARY CONFINEMENT It means keeping a person isolated from any kind of contact with outside. Harsh and hardened convict may be confined in a separate cell to correct his conduct, the court can award this punishment only when the offence is punishable with rigorous imprisonment along with certain restrictions as per sections 73 and 74 IPC.

4. FORFEITURE OF PROPERTY Forfeiture of property means taking away the property of criminals by the state as punishment. The punishment of absolute forfeiture of all property of offenders is now abolished.

It is imposed for the following offences :

- Committing depredation on territories of Power at peace with the government of India. (section 126)
- Receiving property taken by war or depredation. (section 127)
- The property purchased or bid by a public servant unlawfully. (section 169)

5. FINE Fine is derived from 'finis' and is so-called because its payment puts an end to the offence for which it is imposed. It is a pecuniary punishment.

IPC prescribes fine as penalty both independent and along with other penalties.

The amount of fine varies with offences.

It is at the discretion of the court as to whether either imprisonment or fine or both are to be awarded in a particular case.

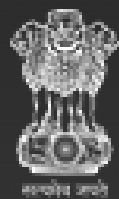
Fine is the only punishment for some offences including :

- False statement in connection with the election. (section 171 G)
- Failure to keep election accounts. (section 171 I)
- Illegal payments in connection with the election. (section 171 H)

Penal Powers of Various courts in India

High Court	any Sentence Authorized by Law
Sessions Judge or Additional Sessions Judge	any Sentence Authorized by Law but Death Sentence with the confirmation of High Court
Assistant Sessions Judge	any Sentence Authorized by Law except Death Sentence or Imprisonment for life or Imprisonment for a Term exceeding 10 years
Chief Judicial Magistrate or Chief Metropolitan Magistrate	any Sentence Authorized by Law except Death Sentence or Imprisonment for life or Imprisonment for a Term exceeding 7 years
Judicial Magistrate First Class	can pass Imprisonment for a term not Exceeding 3 years or Fine not exceeding five thousand rupees or both.
Judicial Magistrate Second Class	can pass Imprisonment for a term not Exceeding 1 year or Fine not exceeding one thousand rupees or both.

Indian Penal
Code, 1860



Code of
Criminal
Procedure,



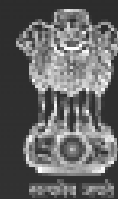
Negotiable
Instruments
Act, 1881



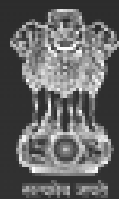
Indian
Divorce Act,
1869



Hindu
Marriage
Act, 1955



The Indian
Evidence
Act, 1872



Civil
Procedure
Code, 1908



The
Juvenile
Justice Act,



The Motor
Vehicles Act,
1988



Laws

Sections of Indian Evidence Act, 1872

Introduction

Originally passed by the imperial legislative council in 1872 in British India
After 15 Aug 1947, it continued in India and Pak.

Kanun A Shah

Pak replaced it in 1984 by Evidence In order.

Bangladesh 1979 adopted it with few ammendment.

The IEA has 11 chapters and 167 sections.

MEANING OF THE WORD 'EVIDENCE'

Derived from Latin word 'evidera' It means 'to ascertain or to prove'.

Phipson : Evidence means oral or documentary, which may be legally received in order to prove or disprove some facts in dispute.

SECTION 3 in Indian Evidence Act defines the word evidence in detail.

Evidence Act may be divided in four questions.

Question 1 What is the Evidence given of?

Answer 1 of Facts ("Issue of Facts" or "Relevant Facts")

Question 2 How the Evidence of such Facts are Given

Answer 2 The Evidence of Such Facts is Given Either by way of "Oral Evidence" or "Documentary Evidence"

Question 3 On whom does the Burden of proof lie?

Answer 3 "Burden of Proof"(of particular fact) or "Onus of proof" (to prove whole case) lies on the Prosecution incharge

Question 4 What are the Evaluation of the Facts.

Answer 4 The Evaluation is "Prove" or "Presumption"(of prove); The fact is either 'proved', 'disproved', or 'Not proved'; or there may be presumption that proof of facts "may presume", 'shall presume', or 'conclusive proof'.

Evidence and rules of relevancy in brief

There are two essential components of relevance:

With respect to the matters required to be proved, nothing which isn't logically verified is to be received.

Everything which is probative or verified should come in, unless the law or policies explicitly excludes it.

Relevancy act as a link between a statement of proof and a statement that needs to be proved

The Indian Evidence Act doesn't particularly give a meaning of relevancy or relevant fact and the depiction is when one fact becomes applicable on another.

Section 6 to Section 55 of the Act depict what idea of relevancy.

The fact which is related to the fact in issue is relevant but it might not be admissible.

The assurance of the determination of a particular thing of evidence lays on whether verification of that evidence would sensible in general assistance settle the essential issue at trial.

Section 32: Cases in which statement of relevant fact by person who is dead or cannot be found, etc ., is relevant.

Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured, without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases—

1. when it relates to cause of death: When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

2. or is made in course of business: When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

3. or against interest of maker: When the statement is against the pecuniary or proprietary interest of the person making it or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

4. or gives opinion as to public right or custom, or matters of general interests: When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen.

5. or relates to existence of relationship: When the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

6. or is made in will or deed relating to family affairs: When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait, or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

7. or is document relating to transaction mentioned in section 13, clause (a): When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in section 13, clause (a).

8. or is made by several persons and expresses feelings relevant to matter in question: When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

Section 45: Opinion of Experts.

When the Court has to form an opinion upon a point of foreign law or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts. Such persons are called experts.

Section 46: Fact Bearing upon Opinion of Experts.

Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinion of experts, when such opinions are relevant.

Section 47: Opinion as to handwriting, when relevant

When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Section 47 A Opinion as to digital signature: When the Court has to form an opinion as to the digital signature of any person, the opinion of the Certifying Authority which has issued the Digital Signature Certificate is a relevant fact.

Section 57: Facts of which Court must take judicial notice.

The Court shall take judicial notice of the following facts—

1. All laws in force in the territory of India;
2. All public Acts passed or hereafter to be passed by Parliament of the United Kingdom and all local and personal Acts directed by Parliament of the United Kingdom to be judicially noticed
3. Articles of War for the Indian Army Navy or Air Force
4. The course of proceeding of Parliament of the United Kingdom, of the Constituent Assembly of India, of Parliament and of the legislatures established under any law for the time being in force in a Province or in the States.
5. The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.
6. All seals of which English Courts take judicial notice : the seals of all the Courts in India and all Courts out of India established by the authority of the Central Government or the Crown Representative; the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by the Constitution or an Act of Parliament of the United Kingdom or an Act or Regulation having the force of law in India.

7. The accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in any State, if the fact of their appointment to such office is notified in any Official Gazette.
8. The existence, title and national flag of every State or Sovereign recognized by the Government of India;
9. The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the Official Gazette
10. The territories under the dominion of the Government of India;
11. The commencement, continuance, and termination of hostilities between the Government of India and any other State or body of persons.
12. The names of the members and officers of the Court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of or all advocates, attorneys, proctors, vakils pleaders and other persons authorized by law to appear or act before it.
13. The rule of the road
1 on land or at sea.

In all these cases, and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so, unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Section 58: Facts admitted need not be proved.

No fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings;

Provided that the court may, in its discretion, require the facts admitted to be proved otherwise than by such admission.

Section 60: Oral Evidence must be direct.

Oral evidence must, in all cases whatever, be direct; that is to say—

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds;

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

Section 73: Comparison of signature, writing and seal with others admitted or Proved .

In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

The Court may direct any person present in court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

This section applies also, with any necessary modifications, to finger-impressions.

Section 73A: Proof as verification of Digital Signature.

In order to ascertain whether a digital signature is that of the person by whom it purports to have been affixed, the Court may direct—

that person or the Controller or the Certifying Authority to produce the Digital Signature Certificate;
any other person to apply the public key listed in the Digital Signature Certificate and verify the digital signature purported to have been affixed by that person.

Section 135: Order of production and examination of witnesses.

The order in which the witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and in the absence of any such law, by the discretion of the Court.

Section 136: Judge to decide the admissibility of the evidence.

When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Section 137: Examination-in-Chief.

The examination of a witness by the party who calls him shall be called his examination-in-chief.

Cross-examination: The examination of a witness by the adverse party shall be called his cross-examination.

Re-examination: The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

Section 138: Order of Examination.

Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief

Direction of re-examination: The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

Section 141: Leading Questions.

Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.

Indian Peanel Coad Sections

Laws specific to Forensic Science: Indian Penal Code pertaining to offences against persons – Section 121A, 299, 300, 302, 304A, 304B, 307, 309, 319, 320, 324, 326, 351, 354, 359, 362. Sections 375 & 377 and their amendments.

SECTION 121A:



Whoever within or without India conspires to commit any of the three kinds of offences punishable under section 121, that is to say, waging war against the Government of India, or attempt to wage such war, or abetment of waging such war, shall be punishable under this section.

(Punishment- life imprisonment, or imprisonment which may extend to ten years and also liable to fine)

299.CULPABLE HOMICIDE

■“Whoever causes death:

i. by doing an act with the intention of causing death

or

II with the intention of causing such bodily injury as is likely to cause death

or

III with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide

❖ ORIGIN AND MEANING OF HOMICIDE :-

The word “**HOMICIDE**” means ‘**killing of another person**’, which is actually an old French word (HOMICIDE). It has been used since 13th Century.

The old French word “**HOMICIDE**” has been derived from the Latin word ‘**HOMICIDIUM**’ meaning ‘**manslaughter**’, which is rooted from the Latin word ‘**HOMO**’ which means **man** and ‘**CIDIUM**’ means **act of killing**.

• ORIGIN OF THE WORD HOMICIDE :-

↓
Latin: Homo

↓
Latin: Homocidium

↓
Old French: Homicide

• **DEFINITION OF THE WORD HOMICIDE :-**

Generally the term 'HOMICIDE' means the killing of another person. It can be defined as the killing of a Human Being due to the act or omission of another.

- According to Blackstone, it is the killing of any Human Creature.
- According to Hawkins, the killing of a man by a man is known as Homicide.

Homicide may perhaps be described to be the destruction of the life of one human being, either by himself, or by the act, procurement, or culpable omission of another.

LEGAL CONCEPT OF CULPABLE HOMICIDE

According to **Section 299** of Indian Penal Code, 1860 ; CULPABLE HOMICIDE

Whoever → causes → Culpable Homicide → Death

→ With intention of causing Death

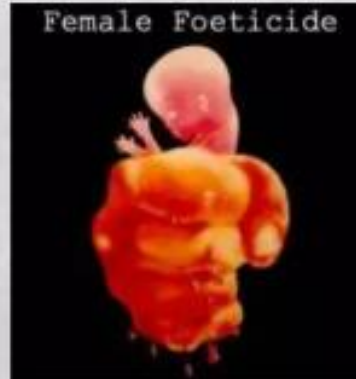
→ With intention of causing Bodily Injury

→ With knowledge as is likely to cause death

Explanation 1: A person who caused bodily injury to another who is labouring under a disorder, disease or bodily infirmity thereby accelerates the death of that of other shall be deemed to have caused his death.

Explanation 2: Where Death is caused by bodily injury. The person who causes such bodily injury shall be deemed to have caused the death although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3: Causing of the Death of child in the mother's womb is not Homicide however it may amount to Culpable Homicide to cause the death of a living child if any part of that child may not have been breathed or been completely born.



ESSENTIALS OF CULPABLE HOMICIDE

Causing of
Death of
Human
Being

Such Death
must have
been caused
by doing an
Act

Act must
have been
done by :-

- with the intention of causing death
- with the intention of causing such bodily injury as is likely to cause death
- with the knowledge that the doer is likely by such act to cause death

PUNISHMENT FOR CULPABLE HOMICIDE

Section 304 of Indian Penal Code, 1860 deals with the punishment of Culpable Homicide.

According to this Section;

- i. Whoever commits Culpable Homicide not amounting to murder shall be punished with:
 - a. Imprisonment for life
 - b. Imprisonment of either description for a term which may extend to 10yrs and shall also be liable to fine
- ii. If the Act is done with the knowledge that it is likely to cause death, but without intention to cause death/bodily injury:
 - a. Punished with imprisonment of either description for a term which may extend to 10yrs or fine or both

300. Murder-

- **“Except in the cases hereinafter excepted, culpable homicide is murder,**

Firstly - if the act by which the death is caused is done with the intention of causing death, or—

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

Thirdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as afore said.

GENERAL CONCEPT OF MURDER

❖ ORIGIN AND MEANING OF MURDER :-

The modern English word 'MURDER'



Descends from the Proto – Indo – European



“MRTRO” which meant to die

• DEFINITION OF THE WORD MURDER :-

Murder is considered the most serious form of Homicide, in which one person kills another with the intention to unlawfully cause either death or serious injury. Murder occurs when one Human Being unlawfully kills another Human Being.

LEGAL CONCEPT OF MURDER

According to Section 300 of Indian Penal Code, 1860 Murder is the most serious type of Criminal Homicide. According to this Section:

1. Culpable Homicide is Murder, if the Act by which the Death is caused is done with the intention of causing Death
2. If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused
3. If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death
4. If the person committing the act knows that it will so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death and commit such act without any excuse for incurring the risk of causing death.

When culpable homicide is not murder

- I. Culpable homicide is not murder if the offender, whilst deprived of the power of
- II. self-control by grave and sudden provocation, causes the death of the person who
- III. gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

Firstly—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defense.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

EXCEPTIONS OF SECTION 300

Exception 1 to 5 of Section 300 of Indian Penal Code, 1860 defines conditions when Culpable Homicide does not amount to Murder. Following are the exceptions:-

1. Provocation
2. Exceeding the power of Self Defence
3. Public Servant exceeding its power
4. Sudden Fight
5. Consent

302. Punishment for murder.

- whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

- Punishment—Death, or imprisonment for life, and fine—
- Cognizable— Non-bailable—Triable by Court of Session—Non-compoundable.

Serial No.	Grounds	Culpable Homicide	Murder
1.	Section	Section 299	Section 300
2.	Actus Reus	A person commits Culpable Homicide, if the act by which the death is caused is done	Subject to certain exceptions, Culpable Homicide is Murder if the act by which death is caused is done.
3.	Mens Rea	<ul style="list-style-type: none"> ➤ Intention: <ul style="list-style-type: none"> a. Intention of causing death b. Intention of causing such bodily injury as is likely to cause death ➤ Knowledge: <ul style="list-style-type: none"> c. The knowledge that the act is likely to cause death 	<ul style="list-style-type: none"> ➤ Intention: <ul style="list-style-type: none"> a. Intention of causing death b. Intention of causing such bodily injury as is likely to cause death ➤ Knowledge: <ul style="list-style-type: none"> c. That the act is dangerous that it must in all probability cause death
4.	Punishment	Under Section 304	Under Section 302

Section 302: Punishment for Murder.

Chapter XVI

Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

Classification u/schedule 1 CrPC		
Offence	Punishment	
Murder	Death or Imprisonment for Life + Fine	
Cognizance	Bail	Triable By
Cognizable	Non-Bailable	Court of Session

Section 304A: Causing the deth by Negligence

Chapter XVI

Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Classification u/schedule 1 CrPC		
Offence		Punishment
Causing death by rash or negligent act		2 Years or Fine or Both
Cognizance	Bail	Triable By
Cognizable	Bailable	Magistrate First Class

Section 304B. Dowry death

- “ Where the death of a woman is caused
 - 1) by any burns or bodily injury or
 - 2) occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry,
Such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.”

Explanation.—

- (1)For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the *Dowry Prohibition Act, 1961 (28 of 1961)*.
- (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Classification u/schedule 1 CrPC		
Offence	Punishment	
Dowry death	Imprisonment for not less than 7 Years, but upto Life	
Cognizance	Bail	Triable By
Cognizable	Non-Bailable	Court of Session

Section 307: Attempt to Murder

Chapter XVI

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by Life Convicts: When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with c

Classification u/schedule 1 CrPC		
Offence		Punishment
(1) Attempt to murder		(1) 10 Years + Fine
(2) If such act causes hurt to any person		(2) Imprisonment for Life or 10 Years + Fine
(3) Attempt by life-convict to murder, if hurt is caused		(3) Death or 10 Years + Fine
Cognizance	Bail	Triable By
(1) Cognizable	(1) Non-Bailable	(1) Court of Session
(2) Cognizable	(2) Non-Bailable	(2) Court of Session
(3) Cognizable	(3) Non-Bailable	(3) Court of Session

Section 309: Attempt to commit Suicide

Chapter XVI

Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both.

Classification u/schedule 1 CrPC		
Offence	Punishment	
Attempt to commit suicide	Simple Imprisonment for 1 Year or Fine or Both	
Cognizance	Bail	Triable By
Cognizable	Bailable	Any Magistrate

Section 319: hurt

Chapter XVI

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 320: Grievous hurt

Chapter XVI

The following kinds of hurt only are designated as “grievous”:

1. Emasculation.
2. Permanent privation of the sight of either eye.
3. Permanent privation of the hearing of either ear.
4. Privation of any member or joint.
5. Destruction or permanent impairing of the powers of any member or joint.
6. Permanent disfiguration of the head or face.
7. Fracture or dislocation of a bone or tooth.
8. Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Section 324: Voluntarily causing Grievous hurt by dangerous weapons or means

Chapter XVI

Whoever, except in the case provided for by section **334**, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Classification u/schedule 1 CrPC		
Offence		Punishment
Voluntarily causing hurt by dangerous weapons or means		3 Years or Fine or Both
Cognizance	Bail	Triable By
Cognizable	Non-Bailable	Any Magistrate

Section 334: Voluntarily causing hurt by Provocation

Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Section 326: Voluntarily causing Grievous hurt by dangerous weapons or means

Chapter XVI

Whoever, except in the case provided for by **section 335**, voluntarily causes grievous hurt by means of any instrument for **shooting, stabbing or cutting**, or any instrument which, used as a **weapon** of offence, is likely to **cause death**, or by means of fire or any heated substance, or by means of any **poison or any corrosive substance**, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Classification u/schedule 1 CrPC		
Offence		Punishment
Voluntarily causing grievous hurt by dangerous weapons or means		Imprisonment for Life or 10 Years + Fine
Cognizance	Bail	Triable By
Cognizable	Non-Bailable	Magistrate First Class; Session in M.P.

Section 334: Voluntarily causing grievous hurt by Provocation

Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Section 351: Assault

Chapter XVI

Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Section 359: Kidnapping

Chapter XVI

Kidnapping is of two kinds: kidnapping from India, and kidnapping from lawful guardianship.

Section 360 Whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from India.

Section 361 Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Section 362: Abduction

Chapter XVI

Whoever by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.

Section 375: Rape

Chapter XXVI

a) A man is said to commit “rape” if he—

penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person;

or b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person;

or c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person;

or d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions

1. Against her will.

2. Without her consent.

3. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

4. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

5. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.

6. With or without her consent, when she is under eighteen years of age.
7. When she is unable to communicate consent.

Explanations

1. For the purposes of this section, “vagina” shall also include labia majora.
2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act;

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exceptions

1. A medical procedure or intervention shall not constitute rape.
2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

Section 377: Unnatural Offence

Chapter XVI

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1 This Section was partly struck down by Supreme Court of India on 06 Sep 2018, to the extent of decriminalizing same-sex relations between consenting adults.

Classification u/schedule 1 CrPC		
Offence	Punishment	
Unnatural offences	Imprisonment for Life or 10 Years + Fine	
Cognizance	Bail	Triable By
Cognizable	Non-Bailable	Magistrate First Class
Composition u/s 320 CrPC		
Offence is NOT listed under Compoundable Offences		

CrPC. Section 291: Deposition of medical witness

☐ The deposition of a civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused,

or

taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code,

although the deponent is not called as a witness.

The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

CrPC. Section 291 A: Identification Report of Magistrate

Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Code, although such Magistrate is not called as a witness

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 21, section 32, section 33, section 155 or section 157, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), apply, such statement shall not be used under this Sub-Section except in accordance with the provisions of those sections.

The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject matter of the said report.

Do you agree that in order to save time of the Court, a new section 291A be inserted in the following manner, as laid down in clause 29 of the Code of Criminal Procedure (Amendment) Bill, 1994, with a view to making memorandum of identification prepared by the Magistrate admissible in evidence without formal proof of facts stated therein with a provision that the Court may, if it thinks fit, on the application of the prosecution or the accused, summon or examine the Magistrate as to the subject matter contained in the memorandum of identification

Section 292: Evidence of officers of the Mint

▪Any document purporting to be a report under the hand of any such gazetted officer of the Mint or of any Note Printing Press or of the India Security Press (including the office of the Controller of Stamps and Stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents

as the case may be as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code

▪may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of this report; Provided that no such officer shall be summoned to produce any records on which the report is based.

Without prejudice to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) no such officer shall, except with the permission of the General Manager or any officer in charge of any Mint or of any Note Printing Press or of any Security Printing Press or of any Forensic Department or any officer in charge of the Forensic Science Laboratory or of the Government Examiner of Questioned Documents Organisation or of the State Examiner of Questioned Documents Organisation, as the case may be, be permitted—

to give any evidence derived from any unpublished official records on which the report is based; or to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

Section 293: Reports of certain Government scientific experts

Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

Where any such expert is summoned by a Court and he is unable to attend personally, he may unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

This section applies to the following Government scientific experts, namely;

- any Chemical Examiner or Assistant Chemical Examiner to Government;
- the Chief Inspector of Explosives;
- the Director of the Finger Print Bureau;
- the Director, Haffkeine Institute, Bombay;
- the Director or Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State forensic Science Laboratory;
- the Serologist to the Government.
- any other Government scientific Expert specified by notification by the Central Government for this purpose.