

1.

**a) Define- Bailable offences, cognizable offence, complaint, Enquiry, Investigation, non-cognizable offence. Sections: 4(b), 4(c), 4(h), 4(n), 4(f)**

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*(b) "Bailable offence" means an offence shown as Bailable in the second schedule, or which is made Bailable by any other law for the time being in force; and "non-Bailable offence" means any other offence:*

*(c) "Charge" includes any head of charge when the charge contains more heads than one:*

*(h) "Complaint" means the 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 it does not include the report of a police-officer:*

*n) "Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, may not arrest without warrant:*

*(f) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant:*

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Here are the definitions of the legal terms you've asked about:

#### 1. Bailable Offences:

- 🕒 Definition: Bailable offences are those offences for which the accused has a right to be released on bail upon providing a suitable surety or bond. The police or the court is obliged to grant bail as a matter of right.
- 🕒 Examples: Minor theft, simple assault, and other less severe crimes.

#### 2. Cognizable Offence:

- 🕒 Definition: Cognizable offences are serious crimes where the police have the authority to arrest the accused without a warrant and to start an investigation without the permission of the court.
- 🕒 Examples: Murder, rape, kidnapping, and robbery.

#### 3. Complaint:

- 🕒 Definition: A complaint is a formal allegation made to a magistrate that some person, known or unknown has committed an offence. It is the first step in initiating criminal proceedings.
- 🕒 Examples: Filing a complaint about theft, fraud, or assault.

#### 4. Enquiry:

- ☉ Definition: An enquiry is a preliminary investigation or official examination by a judicial magistrate to determine whether there is sufficient evidence to proceed with a trial.
- ☉ Examples: Judicial magistrate conducting an enquiry to decide on the issuance of a warrant or summons.

#### 5. Investigation:

- ☉ Definition: An investigation is the systematic collection of facts and evidence by the police or investigative agencies to uncover the details of an alleged crime. It includes all procedures for gathering information and evidence.
- ☉ Examples: Police gathering evidence, questioning witnesses, and inspecting the crime scene.

#### 6. Non-Cognizable Offence:

- ☉ Definition: Non-cognizable offences are less serious crimes where the police do not have the authority to arrest without a warrant and cannot start an investigation without the direction of the court.
- ☉ Examples: Public nuisance, minor assault, and defamation.

#### ***b) Enumerate the different classes of criminal court. (Section 6)***

6.(1) *Besides the Supreme Court and the Courts constituted under any law for the time being in force, other than this Code, there shall be two classes of Criminal Courts in Bangladesh, namely:*

- a. Courts of Sessions; and*
- b. Courts of Magistrates.*

*(2) There shall be two classes of Magistrate, namely:*

- (a) Judicial Magistrate; and*
- (b) Executive Magistrate.*

*(3) There shall be four classes of judicial Magistrate, namely: \_*

- a) Chief Metropolitan Magistrate in Metropolitan Area and Chief judicial Magistrate to other areas;*
- c) Magistrate of the first class, who shall in Metropolitan area, be known as Metropolitan Magistrate;*
- d) Magistrate of the second class; and*
- e) Magistrate of the third class.*

*Explanation: For the purpose of this sub-section, the word "Chief Metropolitan Magistrate" and "Chief judicial Magistrate" shall include "Additional Chief Metropolitan Magistrate" and "Additional Chief judicial Magistrate" respectively.]*

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Section 6 of the Code of Criminal Procedure (CrPC), 1973, enumerates the different classes of criminal courts in India. According to this section, the classes of criminal courts are as follows:

1. Courts of Session:

These are the highest criminal courts in a district. Each district in a state is divided into session's divisions and has a Sessions Court. The Sessions Judge presides over these courts.

2. Judicial Magistrates of the First Class and, in any metropolitan area, Metropolitan Magistrates:

These magistrates handle less severe criminal cases compared to the Sessions Courts. In metropolitan areas, the equivalent of the Judicial Magistrate of the First Class is the Metropolitan Magistrate.

3. Judicial Magistrates of the Second Class:

These magistrates deal with even less severe offences and have limited sentencing powers compared to the Judicial Magistrates of the First Class.

4. Executive Magistrates:

These are magistrates who handle administrative and executive functions, such as maintaining law and order and dealing with preventive measures. They do not typically handle judicial functions in criminal trials.

These classes of courts form the hierarchy within the criminal justice system in India, each with its specific jurisdiction and powers.

***f) Enumerate the sentences which Magistrate may impose. (Section 32)***

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32. (1) *The Courts of Magistrates may pass the following sentences namely:*

- b) Courts [of Metropolitan Magistrates and] of Magistrates of the first class: Imprisonment for a term not exceeding [five years], including such solitary confinement as is authorized by law; Fine not exceeding [ten thousand taka]; Whipping.*
- c) Courts of Magistrates of the second class: Imprisonment for a term not exceeding [three years], including such solitary confinement as is authorized by law; Fine not exceeding [five thousand taka];*

d) *Courts of Magistrates of the third class: Imprisonment for a term not exceeding [two year]; Fine not exceeding [two thousand taka].*

(2) *The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.*

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Section 32 of the Code of Criminal Procedure (CrPC), 1973, outlines the limits of sentences that various classes of Magistrates may impose. Here are the details:

1. Chief Judicial Magistrate (or Chief Metropolitan Magistrate):

- ☉ May pass any sentence authorized by law except for a sentence of death, imprisonment for life, or imprisonment for a term exceeding seven years.

2. Judicial Magistrates of the First Class (or Metropolitan Magistrates):

- ☉ May pass a sentence of imprisonment for a term not exceeding three years.
- ☉ May impose a fine not exceeding ten thousand rupees.
- ☉ May impose both imprisonment and fine within these limits.

3. Judicial Magistrates of the Second Class:

- ☉ May pass a sentence of imprisonment for a term not exceeding one year.
- ☉ May impose a fine not exceeding five thousand rupees.
- ☉ May impose both imprisonment and fine within these limits.

4. Executive Magistrates:

- ☉ May impose a sentence of imprisonment for a term not exceeding one month.
- ☉ May impose a fine not exceeding two hundred rupees.
- ☉ May impose both imprisonment and fine within these limits.

These limits ensure that the sentencing powers of Magistrates are proportional to their rank and the severity of the offences they are authorized to adjudicate.

2.

a) ***Discuss the circumstances under which a police may arrest a person without warrant. (Section 54)***

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Section 54 of the Code of Criminal Procedure (CrPC), 1973, provides the circumstances under which a police officer may arrest a person without a warrant. These circumstances are designed to address situations where immediate action is necessary to prevent the escape of an offender or to protect public safety. The specific provisions under which a police officer may arrest without a warrant include:

Sure, here are the nine points:

1. Any person involved in a **cognizable offence** of it can be arrested without a warrant.
2. Any person found with **house-breaking tools** without a valid reason can be arrested.
3. Any person **declared an offender by the government** can be arrested.
4. Any person found with suspected **stolen property** can be arrested.
5. Any person who **obstructs a police officer or escapes from custody** can be arrested.
6. Any person suspected of **deserting the armed forces** can be arrested.
7. Any person involved in a **crime outside Bangladesh** that is also a crime in Bangladesh can be arrested.
8. Any released convict **breaking their release conditions** can be arrested.
9. Any person specified in a **requisition from another police officer** can be arrested.

These provisions allow the police to act swiftly in situations where obtaining a warrant is impractical due to the urgency of the circumstances, thereby enabling the maintenance of law and order and the prevention of crime.

***b) How arrest is made?( Section 46) Write the directions given in blast case.(Section 54)***

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### **How Arrest is Made (Section 46 of the Code of Criminal Procedure)**

Section 46 of the Code of Criminal Procedure (CrPC) describes the procedure for making an arrest. Here's a simplified explanation:

🕒 Physical Touch or Confinement:

To make an arrest, the police officer or person making the arrest must actually touch or physically confine the person being arrested unless the person submits to custody willingly by word or action.

🕒 Use of Necessary Force:

If the person resists or tries to escape, the arresting officer or person may use all necessary means to make the arrest. However, this does not give the right to cause the death of a person unless the person is accused of an offense punishable by death or life imprisonment.

🕒 Prohibition against Causing Death:

The section explicitly states that in general cases, the force used during arrest should not lead to the death of the person being arrested unless they are being arrested for a very serious crime, such as one that carries the death penalty. These provisions are designed to ensure that arrests are made fairly, with the appropriate level of force, and within legal boundaries.

**The guidelines for law enforcement agencies in a blast case:**

1. Prepare Arrest Memorandum: Officer must create an arrest memo immediately and get the arrestee's signature with date and time.
2. Inform Relatives: Notify a relative or friend of the arrestee within 12 hours about the arrest and location.
3. Diary Entry: Record the reason for arrest, informant's details, and the notified relative or friend's information in the diary.
4. Register Case: Register a case to seek the arrestee's detention in custody.
5. Special Powers Act: Do not arrest someone under Section 54 for detention under Section 3 of the Special Powers Act, 1974.
6. Show Identity: Officer must show identity and identity card if asked by the arrestee or others present.
7. Record Injuries: Record reasons for any injuries on the arrestee and get a medical certificate from the nearest hospital.
8. Inform Relatives (Not Home/Work Arrest): Inform the nearest relative in writing within 12 hours if the arrest was not made at home or workplace.
9. Consult Lawyer: Allow the arrestee to consult a lawyer or meet a nearest relative if they wish.
10. Magistrate Forwarding: Explain to the Magistrate why the investigation cannot be completed in 24 hours and why the arrest is justified, including case diary copies.

3.

***a) A person can claim bail as of right in case of Bailable offences to us the granting of bail is a discretion any power of court in case of non-Bailable of offences. Explain it. Section 496 (1st part) 497 (2nd part) 19 DLR 41 PLR***

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In the context of bail under the Code of Criminal Procedure (CrPC), the distinction between Bailable and non-Bailable offences is crucial. Here's an explanation based on Sections 496 and 497 of the CrPC, including relevant case law:

### **Bailable Offences**

#### **Section 496 CrPC :**

- ☉ Right to Bail: In the case of Bailable offences, the accused has an absolute right to be granted bail. This means that once the accused furnishes the required bond and surety, the police or the court must release the person on bail.
- ☉ No Discretion: The authority (whether police or court) does not have any discretion to deny bail in such cases. It is mandatory to grant bail upon the fulfillment of bail conditions.

### **Non-Bailable Offences**

#### **Section 497 CrPC :**

- ☯ Discretionary Power: In the case of non-Bailable offences, the granting of bail is at the discretion of the court. The court has the authority to grant or deny bail based on the circumstances of the case.

#### Factors for Consideration:

- ☯ Nature and Gravity of the Offence: The seriousness of the offence is a primary consideration.
- ☯ Likelihood of the Accused Fleeing: If there is a risk that the accused might abscond and not be available for trial, bail may be denied.
- ☯ Potential for Tampering with Evidence: If there is a possibility that the accused may tamper with evidence or influence witnesses, the court may refuse bail.
- ☯ Previous Criminal Record: The criminal history of the accused can also influence the court's decision.
- ☯ Health, Age, and Gender: The court may also consider the health, age, and gender of the accused in making its decision.

#### Relevant Case Law

19 DLR 41 PLR:

- ☯ The case law further elucidates the principles surrounding the discretionary power of the court in granting bail for non-Bailable offences. It reinforces the need for the court to balance the interests of justice with the rights of the accused.
- ☯ The judgment emphasizes that while the accused does not have an absolute right to bail in non-Bailable offences; the denial of bail should not be arbitrary and must be based on sound judicial reasoning.

#### Summary

- ☯ Bailable Offences: The accused has an absolute right to bail upon fulfilling the required conditions, and the authority must grant bail without discretion.
  - ☯ Non-Bailable Offences: The court exercises discretion in granting bail, taking into account various factors such as the seriousness of the offence, the risk of absconding, the possibility of tampering with evidence, and the accused's background. The decision to grant or deny bail must be made judiciously, considering the overall interests of justice.
- b) What do you know about the different stages of trial procedure which are followed before the Court of Session? (Section 265) (A-L)***

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Under the Code of Criminal Procedure (CrPC) in India, Sections 265A to 265L outline the procedures for **plea bargaining**, which is an alternative method of resolving criminal cases

before a trial, specifically in the Court of Session and other criminal courts. Here's a simple breakdown of the stages involved:

### **Stages of Plea Bargaining Before the Court of Session (Sections 265A to 265L)**

#### **1. Eligibility for Plea Bargaining (Section 265A):**

- ☉ Plea bargaining is available for offenses that are not punishable by death, life imprisonment, or imprisonment for more than seven years.
- ☉ It does not apply to offenses affecting the socio-economic condition of the country or offenses against women or children below 14 years.

#### **2. Application for Plea Bargaining (Section 265B):**

- ☉ The accused must voluntarily file an application for plea bargaining in the court where the trial is pending.
- ☉ The application should include a brief description of the case and any previous convictions.

#### **3. Examination of the Accused (Section 265B):**

- ☉ The court examines the accused in camera (privately) to ensure the application is filed voluntarily.
- ☉ The court explains the consequences of plea bargaining to the accused.

#### **4. Notice to the Public Prosecutor and Victim (Section 265C):**

- ☉ Upon accepting the application, the court issues notice to the public prosecutor or the complainant, and the victim (if any) to participate in the process.

#### **5. Mutual Satisfaction Process (Section 265C):**

- ☉ The court facilitates a meeting between the accused, the victim, and the prosecution to work towards a mutually satisfactory disposition.
- ☉ The terms of the plea agreement are discussed, including compensation to the victim and the punishment to be imposed.

#### **6. Report of the Mutual Satisfaction (Section 265D):**

- ☉ If a settlement is reached, a report is prepared and signed by all parties involved and submitted to the court.
- ☉ If no agreement is reached, the case proceeds to trial as usual.

#### **7. Court's Satisfaction (Section 265E):**

- ☉ The court evaluates the report to ensure that the plea agreement is fair and voluntary.
- ☉ If the court is satisfied, it can accept the plea agreement.



#### 8. Judgment (Section 265E):

- ☉ Based on the plea agreement, the court delivers its judgment, which may include a reduced sentence or alternative punishment as agreed.
- ☉ The judgment is final and cannot be appealed except for the legality of the plea bargaining process.

#### 9. Disposal of the Case (Section 265F):

- ☉ The case is disposed of in accordance with the judgment, which includes the imposition of the agreed-upon sentence and any compensation to the victim.

#### 10. Finality of the Judgment (Section 265G):

- ☉ The judgment based on a plea agreement is final and binding, except for issues related to the legality of the plea bargaining process itself.

#### 11. Saving Clause (Section 265H):

- ☉ The provisions of plea bargaining do not affect the power of the court to proceed with the trial if the plea bargaining fails.

#### 12. Statements Made During Plea Bargaining (Section 265K):

- ☉ Any statements made by the accused during the plea bargaining process cannot be used against them in any other proceedings.

#### 13. Non-Applicability of Other Provisions (Section 265L):

- ☉ The plea bargaining provisions do not apply to juvenile offenders or to offenses that affect the socio-economic conditions of the country.

#### **Key Points to Remember**

- ☉ **Voluntary Process:** Plea bargaining is a voluntary process initiated by the accused, ensuring they understand the consequences.
- ☉ **Victim's Role:** The victim's involvement is crucial, as their satisfaction is considered in the agreement.
- ☉ **Legal Safeguards:** The process includes checks to ensure that the plea is not coerced and is in the interest of justice.
- ☉ **Finality and Speed:** Plea bargaining aims to resolve cases quickly, providing closure to all parties without the need for a lengthy trial.

This process is designed to expedite the resolution of criminal cases, reduce the burden on courts, and offer a more collaborative approach to justice.

***a) Discuss the preventive measures or preventive action taken by police officer provision contained according to CrPC ( Section 149-153)***

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Sections 149 to 153 of the Code of Criminal Procedure (CrPC), 1973, outline the preventive measures or actions that police officers can take to prevent the commission of cognizable offences. These provisions empower the police to act proactively to maintain public order and safety. Here's a discussion of these sections:

**Section 149: Police to Prevent Cognizable Offences**

- ☉ **Authority to Act:** Police officers have the authority to intervene and prevent the commission of any cognizable offence.
- ☉ **Duty to Act:** It is the duty of every police officer to prevent such offences and to use all lawful means to prevent the same.

**Section 150: Information of Design to Commit Cognizable Offences**

- ☉ **Duty to Inform:** Any person aware of a design to commit a cognizable offence must inform the nearest police officer or magistrate.
- ☉ **Police Action:** Upon receiving such information, the police officer must take necessary measures to prevent the offence.

**Section 151: Arrest to Prevent the Commission of Cognizable Offences**

- ☉ **Arrest without Warrant:** A police officer can arrest, without a warrant, any person who is designing to commit a cognizable offence if it appears that the commission of the offence cannot be otherwise prevented.
- ☉ **Detention Period:** A person arrested under this section cannot be detained for more than 24 hours unless further detention is authorized under other legal provisions.

**Section 152: Prevention of Injury to Public Property**

- ☉ **Protection of Public Property:** Police officers have the authority to prevent injury to public property, including removing obstructions and taking necessary action to safeguard such property.
- ☉ **Immediate Action:** They can take immediate preventive action when they find any person attempting to cause injury to public property.

**Section 153: Inspection of Weights and Measures**

- ☉ **Power to Inspect:** Police officers have the power to inspect weights and measures used in trade to ensure they are correct and not fraudulent.

- 🕒 Seizure of Fraudulent Items: If fraudulent weights or measures are found, the officer can seize them and report the matter to the magistrate for appropriate action.

### **Summary**

- 🕒 Preventive Measures: Sections 149-153 of the CrPC empower police officers to take various preventive actions to avert the commission of cognizable offences and protect public order.
- 🕒 Proactive Approach: These sections enable a proactive approach by the police, allowing them to act based on information or immediate threats, thus preventing crimes before they occur.
- 🕒 Authority and Responsibility: The provisions grant police officers the authority and responsibility to act swiftly and effectively in the interest of public safety and order.

By enabling these preventive actions, the CrPC ensures that the police can maintain law and order and protect citizens and public property from potential harm.

### ***b) Write down the cases which can be tried summarily under the provision of summary trial of (section 260 list)***

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#### Summary Trial Offenses under Section 260 of the Code of Criminal Procedure

Under Section 260 of the Code of Criminal Procedure (CrPC), certain offenses can be tried summarily, which means the trial process is quicker and simpler. The following types of cases can be tried summarily:

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*260 (1) notwithstanding anything contained in this Code*

*(a) The Metropolitan Magistrate*

*(b) Any Magistrate of the first class and*

*(c) Any Bench of Magistrates invested with the powers of a Magistrate of the first class, shall] try in a summary way all or any of the following offences:*

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- 🕒 Offenses Not Punishable with Death, Transportation, or Imprisonment Exceeding Two Years:

Any offense that is not punishable by death, transportation (a form of exile or banishment), or imprisonment for more than two years can be tried summarily.

☯ Offenses Related to Weights and Measures:

Offenses under Sections 264, 265, and 266 of the Penal Code, which relate to using incorrect weights and measures, can be tried summarily.

☯ Hurt (Simple Injuries):

Offenses under Section 323 of the Penal Code, which deal with causing simple injuries (hurt), can be tried summarily.

☯ Theft:

Theft offenses under Sections 379, 380, or 381 of the Penal Code, where the value of the property stolen does not exceed ten thousand taka, can be tried summarily.

☯ Dishonest Misappropriation of Property:

Cases under Section 403 of the Penal Code, where the value of the misappropriated property does not exceed ten thousand taka, can be tried summarily.

☯ Receiving or Retaining Stolen Property:

Offenses under Section 411 of the Penal Code, where the value of the stolen property received or retained does not exceed ten thousand taka, can be tried summarily.

☯ Assisting in the Concealment or Disposal of Stolen Property:

Offenses under Section 414 of the Penal Code, where the value of the property concealed or disposed of does not exceed ten thousand taka, can be tried summarily.

☯ Mischief:

Offenses under Sections 426 and 427 of the Penal Code, which involve causing damage or loss to property, can be tried summarily.

☯ Criminal Trespass and House Trespass:

Offenses under Sections 447, 448, and other related sections of the Penal Code, which involve trespassing onto someone's property, can be tried summarily.

☯ Insult with Intent to Provoke a Breach of Peace and Criminal Intimidation:

Offenses under Sections 504 and 506 of the Penal Code, which involve insulting someone with the intention of provoking a breach of peace or committing criminal intimidation, can be tried summarily.

☯ Bribery and Personation at an Election:

Offenses under Sections 171E and 171F of the Penal Code related to bribery and personation (impersonation) during elections can be tried summarily.

🕒 Abetment of the Above Offenses:

Abetment or assisting in the commission of any of the above offenses can also be tried summarily.

🕒 Attempt to Commit the Above Offenses:

Attempts to commit any of the above offenses, when the attempt itself is an offense, can be tried summarily.

🕒 Offenses Under the Cattle-Trespass Act, 1871:

Offenses under Section 20 of the Cattle-Trespass Act, 1871, can be tried summarily.

These provisions allow for a quicker and more efficient trial process for certain types of offenses, helping to reduce the burden on the courts and speed up the delivery of justice for minor offenses.

**5.**

***a) What specific details and instructions must be included in a contents of order issued under Section 144 of the Code of Criminal Procedure (CrPC)?(Section 144)***

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**Contents of an Order Issued Under Section 144 of the Code of Criminal Procedure**

Under Section 144 of the Code of Criminal Procedure (CrPC), when a Magistrate issues an order to prevent potential danger or to maintain public order, the following specific details and instructions must be included in the order:

🕒 Material Facts:

The order must state the material facts of the case. This includes the reasons and circumstances that led the Magistrate to believe that immediate prevention or speedy remedy is desirable. This explanation provides the legal justification for issuing the order.

🕒 Direction to Abstain or Act:

The order must clearly direct the person(s) to either abstain from a specific act or to take a certain action with property in their possession or under their management. This direction should be aimed at preventing obstruction, annoyance, injury, danger to human life, health or safety, or preventing disturbances of public tranquility, riots, or affrays.

🕒 Emergency Clause:

In cases of emergency, or when circumstances do not allow for serving notice in due time, the order may be passed ex parte, meaning without the presence of the person against whom the order is directed.

#### 🕒 Target of the Order:

The order can be directed to a specific individual or to the public generally, especially if it concerns people frequenting or visiting a particular place.

#### 🕒 Provision for Revision:

The order must include a provision that allows for revision. Any person aggrieved by the order has the right to apply for its rescindment or alteration. The Magistrate must then provide an early opportunity for the applicant to appear, either in person or by pleader, and show cause against the order.

#### 🕒 Duration of the Order:

The order under Section 144 cannot remain in force for more than two months from the date it was made. However, in cases of danger to human life, health, or safety, or a likelihood of a riot or affray, the government can extend this duration through a notification in the official Gazette.

These requirements ensure that orders issued under Section 144 are legally justified, clearly communicated, and limited in their duration, with options for review and appeal by those affected.

### ***b) What do you mean the process arising land dispute? (Section 145)***

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Section 145 of the Code of Criminal Procedure (CrPC) outlines the legal process to be followed when there is a dispute concerning land or water that is likely to cause a breach of peace. Here's a detailed explanation in simple terms:

#### 🕒 Initiating the Process:

When a District Magistrate or an Executive Magistrate receives information (such as a police report) that a dispute over land or water could lead to a breach of the peace, the Magistrate can issue a written order. This order must state the reasons why the Magistrate believes there is a risk of disturbance.

#### 🕒 Summoning the Parties:

The Magistrate will require all the parties involved in the dispute to appear in court. They are asked to present their claims and provide written statements about who has actual possession of the disputed land or water.

#### 🕒 Scope of the Term "Land or Water":

The term "land or water" in this context includes buildings, markets, fisheries, crops, or any other produce of the land, as well as the rents or profits from such property.

🕒 Serving the Order:

A copy of the Magistrate's order is served to the parties involved. Additionally, a copy must be posted in a prominent place near the disputed property.

🕒 Inquiry and Decision:

The Magistrate then conducts an inquiry, where they review the statements, hear from the parties, and consider any evidence presented. The purpose of this inquiry is to determine which party was in possession of the property at the time the dispute arose.

If it is found that a party was wrongfully and forcibly dispossessed within two months before the order was made, the Magistrate may treat that party as being in possession at the time of the dispute.

🕒 Emergency Situations:

If the Magistrate believes that the situation is urgent, they may temporarily take possession of the disputed property (attach it) until a final decision is made.

🕒 Resolution:

After reviewing the evidence, the Magistrate makes a decision about which party is entitled to possession of the property. This decision is effective until the matter is legally resolved in court.

🕒 Finality and Appeal:

The Magistrate's decision is final in the sense that it stays in effect until any subsequent legal actions in a higher court change it. However, any party can appeal to show that no such dispute exists or that the order was unnecessary, which could lead to the cancellation of the order.

This process helps prevent violent conflicts over land by legally determining who has the right to possess the property until the matter can be resolved in court .

6.

- a) Discuss the various modes of delivering Judgment (section 366) and contents of Judgment. (Section 367 subsection 3) What do you know about Judgment in alternative? Sentence of death. (Sec 368)***

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**Modes of Delivering Judgment (Section 366 of the Code of Criminal Procedure)**

Section 366 of the Code of Criminal Procedure outlines how judgments should be delivered in a criminal trial. Here's how it works:

1. Pronouncement in Open Court:

- ☉ The judgment in every trial must be pronounced in open court. This can be done immediately after the trial ends or at a later time, with notice given to the parties or their lawyers.

2. Language of the Court:

- ☉ The judgment should be delivered in the language of the court, or in a language that the accused or their lawyer understands.

3. Reading the Judgment:

- ☉ If requested by either the prosecution or the defense, the presiding judge must read out the entire judgment.

4. Presence of the Accused:

- ☉ The accused must be present in court to hear the judgment, unless their attendance was excused during the trial. If the accused is not in custody and the sentence is a fine or acquittal, the judgment can be delivered in the presence of their lawyer.

**Contents of Judgment (Section 367 Subsections 3)**

1. Written by the Presiding Officer:

- ☉ The judgment should be written by the presiding officer of the court in the language of the court or in English.

2. Points for Determination:

- ☉ The judgment must include the points or issues that need to be resolved, the decision on each point, and the reasons for each decision.

3. Judgment in Alternative:

- ☉ If the court is uncertain under which section of the law the offense falls, the judgment should be expressed in the alternative, meaning it should clearly state the possible options and the corresponding judgments.

4. Dated and Signed:

- ☉ The judgment must be dated and signed by the presiding officer in open court at the time of pronouncement. If it is not written by the presiding officer's hand, every page of the judgment should be signed.

**Judgment in Alternative and Sentence of Death (Section 368)**

- ☉ This concept means that when there is doubt about the exact legal provision under which the accused should be convicted, the judgment may include alternative conclusions. For example, if it's unclear whether an offense falls under one section or another, the court can express both possibilities and issue a judgment accordingly.

**Sentence of Death (Section 368):**



- ☉ When a person is sentenced to death, the judgment must clearly direct that the person be "hanged by the neck till he is dead."
- ☉ The judgment must be precise, leaving no ambiguity about the execution of the sentence. The sentence of death is only carried out after the judgment has been confirmed by a higher court, usually the High Court Division.

These sections ensure that judgments are delivered in a clear, lawful manner, and that the accused understands the verdict and the reasons behind it.

***b) Power of high court division to confirm sentences or annul conviction. (Section 376)***

**Power of High Court Division to Confirm Sentences or Annul Conviction (Section 376 of the Code of Criminal Procedure)**

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Section 376 of the Code of Criminal Procedure (CrPC) outlines the powers of the High Court Division when a case is submitted to it for confirmation of a sentence, particularly in cases involving the death penalty. Here's a detailed explanation in simple terms:

1. Confirmation of Sentence:

- ☉ The High Court Division has the authority to confirm the sentence passed by the lower court, such as a death sentence or any other punishment that the Sessions Court may have imposed.

2. Passing a New Sentence:

- ☉ If the High Court Division deems it appropriate, it can pass any other sentence that is warranted by law. This means that the High Court can alter the sentence given by the lower court, either by increasing or reducing the severity of the punishment.

3. Annulment of Conviction:

- ☉ The High Court Division also has the power to annul or cancel the conviction entirely. This means that if the High Court finds that the accused was wrongfully convicted, it can overturn the conviction and set the person free.

4. Alternative Conviction:

- ☉ If the High Court Division believes that the accused should have been convicted of a different offense, it can convict the accused of any offense for which the Sessions Court could have convicted them. This includes the possibility of ordering a new trial on the same or an amended charge.

5. Acquittal:

- ☉ The High Court Division may also acquit the accused person if it finds that the evidence does not support a conviction. This means that the accused would be released from all charges.

6. Confirmation of Death Sentence:

- ☉ The High Court Division must confirm a death sentence before it can be carried out. No death sentence can be executed unless the High Court Division reviews the case and gives its approval.

7. Provision for Appeal:

- ☉ No order of confirmation of the sentence, particularly in death penalty cases, shall be made until the period allowed for preferring an appeal has expired. If an appeal is presented within that period, the High Court Division must wait until the appeal is disposed of before confirming the sentence.

These provisions ensure that the High Court Division carefully reviews serious cases, particularly those involving the death penalty, to ensure that justice is served and that any errors made in the lower courts are corrected. This process is crucial for maintaining the integrity of the legal system and protecting the rights of the accused .

7.

- a) ***What is double jeopardy? How does Section 403 of the Code of Criminal Procedure (CrPC) protect against double jeopardy? Discuss the provisions regarding effect of withdrawal from prosecution under this section? Or Person convicted can not to be tried for same offence (section 403) Art. 35(2) 51 DLR, 33 DLR***

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## Double Jeopardy

Double Jeopardy is a legal principle that protects an individual from being tried or punished more than once for the same offense. This principle ensures fairness in the legal process and prevents the state from repeatedly prosecuting a person in the hopes of securing a conviction.

### Protection against Double Jeopardy (Section 403)

1. No Second Trial for the Same Offense:

- ☉ If a person has been tried by a competent court and either convicted or acquitted of an offense, they cannot be tried again for the same offense as long as the conviction or acquittal remains in force.

2. No Trial on Same Facts for Different Offense:

- ☉ A person cannot be tried again on the same facts for a different offense if the charge could have been made during the original trial.

3. Exceptions to the Rule:

- ☉ However, the section allows for certain exceptions. For example, if new facts or evidence emerge, or if the original court was not competent to try the new charge, a person may be tried again.

### Effect of Withdrawal from Prosecution under Section 494

Section 494 of the CrPC deals with the withdrawal of prosecution. Here's how it affects double jeopardy:

1. Before Charge is framed:

- ☛ If the prosecution is withdrawn before a charge is framed, the accused is discharged. This discharge does not amount to an acquittal, meaning the accused could potentially face trial again if new charges are brought.

2. After Charge is framed:

- ☛ If the prosecution is withdrawn after the charge is framed, the accused is acquitted of the charges. This acquittal falls under the protection of Section 403, meaning the accused cannot be tried again for the same offense.

### **Constitutional Protection (Article 35(2))**

Article 35(2) of the Constitution of Bangladesh further reinforces the protection against double jeopardy by stating that no person shall be prosecuted and punished for the same offense more than once.

This combination of statutory and constitutional protections ensures that once a person has been tried and either convicted or acquitted, they cannot be subjected to the stress and uncertainty of facing the same charges again.

### ***b) What is the inherent power of High court division (Section 561A)***

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### **Inherent Power of the High Court Division (Section 561A)**

Section 561A of the Code of Criminal Procedure (CrPC) gives the High Court Division of Bangladesh certain inherent powers to ensure justice is served and to prevent the misuse of the legal process. Here's a detailed explanation in simple terms:

1. Purpose of Inherent Powers:

- ☛ The High Court Division has the authority to make any orders necessary to carry out the provisions of the CrPC. This means that if a specific situation arises that isn't explicitly covered by the existing laws, the High Court can step in to ensure justice is done.

2. Preventing Abuse of the Court Process:

- ☛ If the legal process is being abused, such as through frivolous litigation or attempts to unfairly delay justice, the High Court Division can issue orders to stop this. This helps maintain the integrity of the judicial system.

3. Securing the Ends of Justice:

- ☛ The primary goal of these inherent powers is to secure justice. The High Court Division can take whatever steps are necessary to make sure that the outcome of legal proceedings is fair and just.

4. Broad Scope of Power:

- ☹ These powers are very broad, meaning the High Court Division can address a wide range of issues as long as its actions are aimed at ensuring justice and preventing the misuse of the court system.

These inherent powers give the High Court Division the flexibility to handle situations that might not be specifically addressed by existing laws, allowing the court to act in the best interest of justice. This ensures that legal proceedings are not misused and that justice is effectively served.

8.

***a) What is FIR? Enumerate the elements or essentials of FIR.***

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**First Information Report (FIR) - Section 154 of the Code of Criminal Procedure**

First Information Report (FIR) is the initial step in the criminal justice process. It is the formal document prepared by the police when they receive information about the commission of a cognizable offense. The FIR is important because it sets the law in motion, enabling the police to begin their investigation.

**Essentials of an FIR:**

1. Nature of Offense:

- ☹ The FIR must clearly state the nature of the offense that has been reported, whether it is a cognizable offense, which means an offense for which the police can arrest the accused without a warrant.

2. Details of the Incident:

- ☹ The FIR must include all relevant details of the incident, including the time, date, and place where the offense occurred. It should also mention how the crime was committed.

3. Identification of the Accused:

- ☹ If the person reporting the offense knows the identity of the accused, their name and other identifying details should be included in the FIR.

4. Name and Address of the Complainant:

- ☹ The name, address, and other contact details of the person lodging the FIR must be clearly mentioned. This is important for follow-up and to ensure the credibility of the information.

5. Witnesses:

- ☹ If there are any witnesses to the offense, their names and addresses should be included in the FIR. This helps in gathering further evidence and strengthens the investigation.

6. Signatures:

- ☉ The FIR should be signed by the person giving the information. If they are unable to sign, a thumb impression may be used. The police officer who writes the FIR must also sign it.
- 7. Official Entry:
  - ☉ The FIR must be recorded in a prescribed format and entered into the official register maintained at the police station. This ensures that it is an official record of the crime reported.
- 8. Read Aloud:
  - ☉ After writing the FIR, the police officer should read it out to the complainant to ensure that all the details are correct. The complainant has the right to ask for any necessary corrections.
- 9. Significance of FIR:
  - ☉ The FIR is crucial because it marks the beginning of the police investigation. It is the first step that leads to the collection of evidence, the arrest of the accused, and the eventual prosecution in court. It is also a critical document that is referred to throughout the legal proceedings.

***b) How summon is served? Discuss service of summon of republic (Section 72) and out of republic (Section 73)***

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### **How Summons is served**

When a court issues a summons, it is a legal document that requires a person to appear before the court. The process of serving a summons involves delivering the document to the person it is addressed to. Here's how a summons is typically served according to the Code of Criminal Procedure (CrPC):

1. Personal Service (Section 68):
  - ☉ The summons is usually delivered personally to the person named in it. This means the document is handed directly to the individual, and the person serving the summons must obtain the signature of the recipient on the back of the summons as proof of service.
2. Service on an Agent (Section 64):
  - ☉ If the person named in the summons cannot be found, the summons may be served on an agent of the person or on any adult male member of their family residing with them.
3. Affixing the Summons (Section 65):
  - ☉ If the person to be served intentionally avoids the service, or if after due diligence the person cannot be found, the serving officer may affix a copy of the summons on the outer door or some other conspicuous part of the house where the person ordinarily resides or carries on business.

4. Service by Post (Section 69):

- ☉ In some cases, the summons can be sent by registered post, and the postal acknowledgment serves as proof of service. This method is often used when personal service is impractical.

5. Summons to a Government Servant (Section 72):

- ☉ If the person to be summoned is a government employee, the summons is sent to the head of their department or office, who then ensures it is served on the employee.

6. Summons Outside the Republic (Section 73):

- ☉ If the person to be served is outside the country, the summons is sent to the court or authority that has jurisdiction over the place where the person resides. The foreign authority then serves the summons according to its own procedures.

7. Proof of Service (Section 74):

- ☉ After the summons is served, proof of service must be returned to the court. This proof may include a signed receipt from the person served, an affidavit from the serving officer, or postal acknowledgment if served by mail.

These methods ensure that the person named in the summons is properly notified and has the opportunity to appear in court, fulfilling the legal requirement for due process.

**How Summons is Served and the Process under Sections 72 and 73 of the Code of Criminal Procedure (CrPC)**

**Section 72: Service of Summons on a Servant of the Republic**

1. Servant in Active Service:

- ☉ When the person summoned is in active service of the Republic (i.e., a government employee), the court typically sends the summons in duplicate to the head of the office where the person is employed.

2. Procedure for Serving:

- ☉ The head of the office is then responsible for ensuring that the summons is served in the manner prescribed by Section 69 of the CrPC, which involves personal delivery or tendering of one of the duplicates of the summons to the person summoned.

3. Return of the Summons:

- ☉ After serving the summons, the head of the office must return it to the court with an endorsement (a signed statement) confirming that the summons was duly served.

4. Signature as Evidence:

- ☉ The signature of the head of the office on the returned summons is considered evidence that the summons was properly served.

**Section 73: Service of Summons outside the Local Limits of the Court's Jurisdiction**

1. Sending Summons to another Magistrate:

- ☉ When a court needs to serve a summons to a person who is outside its jurisdiction (i.e., in a different area), it usually sends the summons in duplicate to a Magistrate within whose jurisdiction the person resides or is located.
- 2. Service by the Local Magistrate:
  - ☉ The local Magistrate is then responsible for serving the summons in accordance with the standard procedures outlined in the CrPC.
- 3. Proof of Service:
  - ☉ The local Magistrate provides proof that the summons was served, typically by returning one of the duplicates with an endorsement indicating how and when the summons was served.

These sections ensure that the summons process is followed correctly, both within and outside the local jurisdiction, particularly when dealing with government employees or persons residing in different areas. This process helps maintain the efficiency and effectiveness of legal proceedings across different regions.

9.

***a) Discuss the provisions regarding appeal in case of acquittal and appeal against inadequacy of sentence. (Section 417, 417A)***

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### **Appeal in Case of Acquittal (Section 417)**

Section 417 of the Code of Criminal Procedure (CrPC) allows for an appeal against an acquittal. Here's a detailed explanation:

1. Government's Right to Appeal:
  - ☉ The Government may direct the Public Prosecutor to present an appeal to the High Court Division or the Court of Session against an order of acquittal passed by any court. This applies to both original and appellate orders.
2. Complainant's Right to Appeal:
  - ☉ In cases instituted upon a complaint, if the order of acquittal involves an error of law resulting in a failure of justice, the complainant may also present an appeal. The complainant can appeal to the High Court Division if the acquittal was ordered by a Court of Session or to the Court of Session if it was ordered by a Magistrate.
3. Time Limit for Appeal:
  - ☉ The complainant's appeal must be filed within sixty days from the date of the acquittal order. Appeals filed after this period may not be entertained by the court.
4. Conditions for Admitting Appeals:
  - ☉ If the admission of an appeal from an order of acquittal is refused, no further appeal from that order of acquittal is permitted.

### **Appeal against Inadequacy of Sentence (Section 417A)**

Section 417A of the CrPC addresses the right to appeal against the inadequacy of a sentence. Here are the key points:

1. Government's Right to Appeal:

- ☉ The Government can direct the Public Prosecutor to present an appeal to the High Court Division if it believes that the sentence passed in a conviction is inadequate.

2. Complainant's Right to Appeal:

- ☉ The complainant in any case of conviction can also appeal against the inadequacy of the sentence. This appeal must be presented to the Appellate Court.

3. Time Limit for Appeal:

- ☉ Similar to the appeal in cases of acquittal, the appeal against the inadequacy of a sentence must be filed within sixty days from the date of conviction.

4. Opportunity for the Accused:

- ☉ When an appeal has been filed against the inadequacy of the sentence, the Appellate Court cannot enhance the sentence without giving the accused a reasonable opportunity to show cause against such enhancement. The accused may also argue for acquittal or a reduction in the sentence during this process.

These provisions ensure that both the Government and the complainant have avenues to challenge not only acquittals but also sentences that they believe are too lenient, thereby ensuring a fair and just legal process.

***b) What are the specific provisions and applications of Sections 509 to 512 of the Code of Criminal Procedure (CrPC) concerning special rules of evidence?***

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### **Special Rules of Evidence (Sections 509 to 512 of the Code of Criminal Procedure)**

The Code of Criminal Procedure (CrPC) provides special rules of evidence under Sections 509 to 512. These sections address situations where conventional methods of presenting evidence may not be feasible or necessary, allowing for more flexibility in legal proceedings.

#### **Section 509: Deposition of Medical Witness**

1. Deposition as Evidence:

- ☉ The deposition (testimony) of a Civil Surgeon or other medical witness, if taken and attested by a Magistrate in the presence of the accused or taken on commission, can be used as evidence in any inquiry, trial, or other proceeding under the CrPC, even if the medical witness is not called as a witness in person.

2. Court's Discretion:

- ☉ The court has the discretion to summon and examine the medical witness if it deems necessary to further clarify the deposition.

#### **Section 509A: Report of Post-Mortem Examination**



#### 1. Usage of Post-Mortem Report:

- ☉ If the report of a post-mortem examination is required as evidence, and the medical officer who conducted the examination is unavailable (due to death, incapacity, or being beyond the limits of Bangladesh), the report can be used as evidence in the inquiry, trial, or other proceedings.

### **Section 510: Report of Chemical Examiner, Serologist, etc.**

Use of Expert Reports:

Any document purported to be a report signed by a government-appointed Chemical Examiner, Assistant Chemical Examiner, serologist, handwriting expert, fingerprint expert, or firearms expert, regarding any matter submitted for examination or analysis, can be used as evidence in any proceeding under the CrPC without the expert being called as a witness.

### **Section 511: Previous Conviction or Acquittal - How Proved**

#### Proof of Previous Conviction or Acquittal:

In any inquiry, trial, or proceeding under the CrPC, a previous conviction or acquittal can be proven by:

- ☉ An extract certified by the officer holding the court records.
- ☉ A certificate from the officer in charge of the jail where the sentence was served.
- ☉ The production of the warrant of commitment.

Additionally, evidence must be provided to establish the identity of the accused with the person previously convicted or acquitted.

### **Section 512: Record of Evidence in Absence of Accused**

#### 1. Proceedings against Absconded Accused:

- ☉ If an accused person has absconded and cannot be arrested, the court may examine and record the depositions of witnesses in their absence. These depositions can be used as evidence against the accused if they are later arrested or if the witnesses become unavailable (due to death, incapacity, or impracticality of attendance).

These sections of the CrPC allow for evidence to be admitted under special circumstances, ensuring that legal proceedings can continue efficiently, even when standard methods of presenting evidence are not possible.

## **10. Short Notes**

### ***a) Habeas Corpus (Section 491)***

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### **Habeas Corpus (Section 491 of the Code of Criminal Procedure)**

Habeas Corpus is a legal action or writ by means of which individuals can seek relief from unlawful detention. The term translates to "produce the body" in Latin. In the context of the Code of Criminal Procedure (CrPC), Section 491 provides the High Court Division with specific powers related to the issuance of directions of the nature of Habeas Corpus.

#### **Key Provisions of Section 491:**

1. Power to Issue Directions:

- ☉ The High Court Division may issue orders requiring that a person within its jurisdiction who is detained be brought before the court. This can be done to ensure that the detention is lawful, and if found otherwise, the court may order the person to be released.

2. Protection against Illegal Detention:

- ☉ If a person is being held in custody unlawfully, whether in a public or private setting, the High Court Division can intervene to secure the person's release.

3. Purpose of Production:

- ☉ The court can also order the production of a detained person before itself to examine them as a witness or to consider their case more closely.

4. Transfer of Prisoners:

- ☉ The section also allows the court to order that a prisoner be brought before a Court-martial or any Commissioner for trial or examination.

5. Examination of Prisoners:

- ☉ The High Court Division may direct that a prisoner be brought before the court for examination in any matter pending in the court.

6. Rules and Regulations:

- ☉ The Supreme Court has the authority to frame rules to regulate the procedures under Section 491.

#### **Exclusion:**

The section clarifies that these powers do not apply to persons detained under any law providing for preventive detention.

These provisions ensure that the fundamental rights of individuals are protected by providing a legal mechanism to challenge unlawful detentions and maintain personal liberty under the law.

#### ***b) Trial procedure before the magistrate court (Section 242-249)***

These sections outline the steps and procedures that must be followed during a trial before a Magistrate court in Bangladesh.

1. Section 242: Charge to be Framed

- ☉ If the Magistrate, after considering the evidence and hearing both the prosecution and defense, believes there is sufficient ground to presume that the accused has committed an offense, the Magistrate must frame a formal charge. The accused is then asked whether they admit to the offense.
- 2. Section 243: Conviction on Admission of Guilt
  - ☉ If the accused admits that they have committed the offense, their admission must be recorded as accurately as possible. If the accused shows no sufficient cause why they should not be convicted, the Magistrate may convict them based on this admission.
- 3. Section 244: Procedure When No Admission is Made
  - ☉ If the accused does not admit to the charge, or if the Magistrate does not convict the accused, the Magistrate will hear the complainant and consider the evidence presented by both the prosecution and the defense. The Magistrate may also summon witnesses or documents as requested by either party.
- 4. Section 245: Acquittal
  - ☉ If, after considering the evidence, the Magistrate finds that the accused is not guilty, the Magistrate will record an order of acquittal. If the Magistrate finds the accused guilty, they will pass a sentence according to the law.
- 5. Section 246: Omitted
  - ☉ This section has been omitted by an amendment.
- 6. Section 247: Non-Appearance of Complainant
  - ☉ If the complainant does not appear on the appointed day of the hearing, the Magistrate may acquit the accused, unless the hearing is adjourned for some other reason. However, if the complainant is a public servant and their personal attendance is not required, the Magistrate may proceed with the case.
- 7. Section 248: Withdrawal of Complaint
  - ☉ At any time before the final order is passed, the complainant can withdraw the complaint if they satisfy the Magistrate that there are sufficient grounds for doing so. If permitted, the Magistrate will acquit the accused.
- 8. Section 249: Power to Stop Proceedings
  - ☉ In cases that were not initiated by a complaint, a Magistrate may, for reasons recorded, stop proceedings at any stage without pronouncing a judgment of acquittal or conviction. The Magistrate may then release the accused.

These sections provide a clear framework for conducting trials in Magistrate courts, ensuring that both the prosecution and defense have opportunities to present their cases, and those judgments are based on a thorough examination of the evidence.

### ***c) Trial in Absentia (Section 339 B)***

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Section 339B of the Code of Criminal Procedure (CrPC) outlines the provisions for conducting a trial in the absence of the accused, also known as "Trial in Absentia." This section comes

into play when an accused person intentionally absconds or hides to avoid arrest and trial. Here's a detailed explanation in simple terms:

1. Conditions for Trial in Absentia:

- ☉ The court can proceed with a trial in the absence of the accused if, after following the requirements of Sections 87 (proclamation for person absconding) and 88 (attachment of property of person absconding), the court has reason to believe that the accused has absconded or is concealing himself so that he cannot be arrested and produced for trial. Additionally, if there is no immediate prospect of arresting the accused, the court may decide to conduct the trial in their absence.

2. Publication of Notice:

- ☉ Before conducting the trial in absentia, the court must issue an order published in at least two national daily Bengali newspapers with wide circulation, directing the accused to appear before the court within a specified period. If the accused fails to comply with this direction, the trial will proceed without them.

3. Subsequent Absconding:

- ☉ If an accused, after being produced in court or released on bail, later absconds or fails to appear, the court may decide to conduct the trial in their absence without following the procedure of publication again. The court must record its decision to proceed with the trial in absentia.

These provisions ensure that justice can still be served even when an accused person tries to evade the legal process by absconding. It balances the need for a fair trial with the necessity of ensuring that criminal proceedings are not unduly delayed by the actions of the accused .

***d) Report of police officer (Section 173)***

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Section 173 of the Code of Criminal Procedure (CrPC) outlines the procedures that the police must follow at the conclusion of an investigation. This section ensures that the investigation is conducted thoroughly and that the findings are communicated to the Magistrate for further legal action.

**Key Provisions of Section 173:**

1. Completion of Investigation:

- ☉ Every investigation must be completed without unnecessary delay. Once completed, the officer in charge of the police station is required to forward a report to the Magistrate empowered to take cognizance of the offense. This report is often referred to as a "final report" or "charge sheet."

2. Contents of the Report:

The report must include:

- ☉ The names of the parties involved.

- ☉ The nature of the information received.
  - ☉ The names of the persons who appear to be acquainted with the circumstances of the case.
  - ☉ Details on whether the accused (if arrested) has been forwarded in custody or has been released on bail, and if so, whether with or without sureties.
3. Communication with the Informant:
    - ☉ The police officer must also communicate the action taken to the person who initially provided the information about the offense. This ensures transparency and keeps the informant informed about the progress of the case.
  4. Further Investigation:
    - ☉ Even after submitting the report, the officer in charge of the police station may continue further investigation if necessary. Any new evidence discovered during this further investigation must also be reported to the Magistrate in the same manner as the original report.
  5. Right to a Copy of the Report:
    - ☉ The accused is entitled to a copy of the police report before the commencement of the inquiry or trial. This allows the accused to prepare their defense effectively.

These provisions are designed to ensure a fair and transparent investigation process, with clear communication between the police, the courts, and the individuals involved in the case. This section is crucial for maintaining the integrity of the legal process and ensuring that justice is served based on a thorough investigation.

#### ***e) Public nuisance (Section 132-143)***

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Public nuisance under the Code of Criminal Procedure (CrPC) covers actions that endanger the public or obstruct the use of public spaces. **Sections 132-143** deal with various aspects of managing public nuisances.

1. Section 132: Protection Against Prosecution for Acts Done Under Chapter
  - ☉ Provides immunity to Magistrates, police officers, and others acting in good faith under this chapter. No prosecution can be initiated without government sanction.
2. Section 133: Conditional Order for Removal of Nuisance
  - ☉ A District Magistrate or any Executive Magistrate may issue a conditional order requiring a person to remove or desist from a public nuisance, such as unlawful obstructions, dangerous buildings, or activities harmful to public health.
3. Section 134: Service or Notification of Order
  - ☉ The order must be served on the person against whom it is made. If this is not possible, it should be publicly notified in a manner prescribed by the government.
4. Section 135: Person to Obey or Show Cause or Claim Jury

- ☯ The person must either comply with the order or appear before the Magistrate to show cause against it.
- 5. Section 136: Consequences of Failing to Do So
  - ☯ If the person fails to comply or show cause, they are liable to penalties under Section 188 of the Penal Code, and the order becomes absolute.
- 6. Section 137: Procedure Where Person Appears to Show Cause
  - ☯ If the person shows cause, the Magistrate examines the evidence. If the Magistrate finds the order unreasonable, no further action is taken. If the order is deemed proper, it is made absolute.

**Section 138: [Omitted]**

**Section 139: [Omitted]**

- 7. Section 139A: Procedure Where Existence of Public Right is denied
  - ☯ If the person denies the existence of a public right over the disputed land or water, the Magistrate must inquire into this claim. If there is credible evidence, proceedings are paused until a civil court resolves the matter.
- 8. Section 140: Procedure on Order Being Made Absolute and Consequences of Disobedience
  - ☯ The Magistrate may enforce the order and recover costs from the person if the order is disobeyed. If the act is not performed, the Magistrate may perform it and recover costs through the sale of the person's property.

**Section 141: [Omitted]**

- 9. Section 142: Injunction Pending Inquiry
  - ☯ If immediate measures are needed to prevent imminent danger, the Magistrate can issue an injunction. The Magistrate can take necessary actions to prevent danger or injury if the injunction is not obeyed.
- 10. Section 143: Magistrate May Prohibit Repetition or Continuance of Public Nuisance
  - ☯ The District Magistrate or any Executive Magistrate can order a person not to repeat or continue a public nuisance as defined in the Penal Code or any special law.

These sections ensure that public nuisances are managed effectively; protecting the community from harm and ensuring public spaces remain safe and accessible.