HJS Prelims Examination 2021
SET - 1

Detailed Analysis with Explanations

Part 1 / 16

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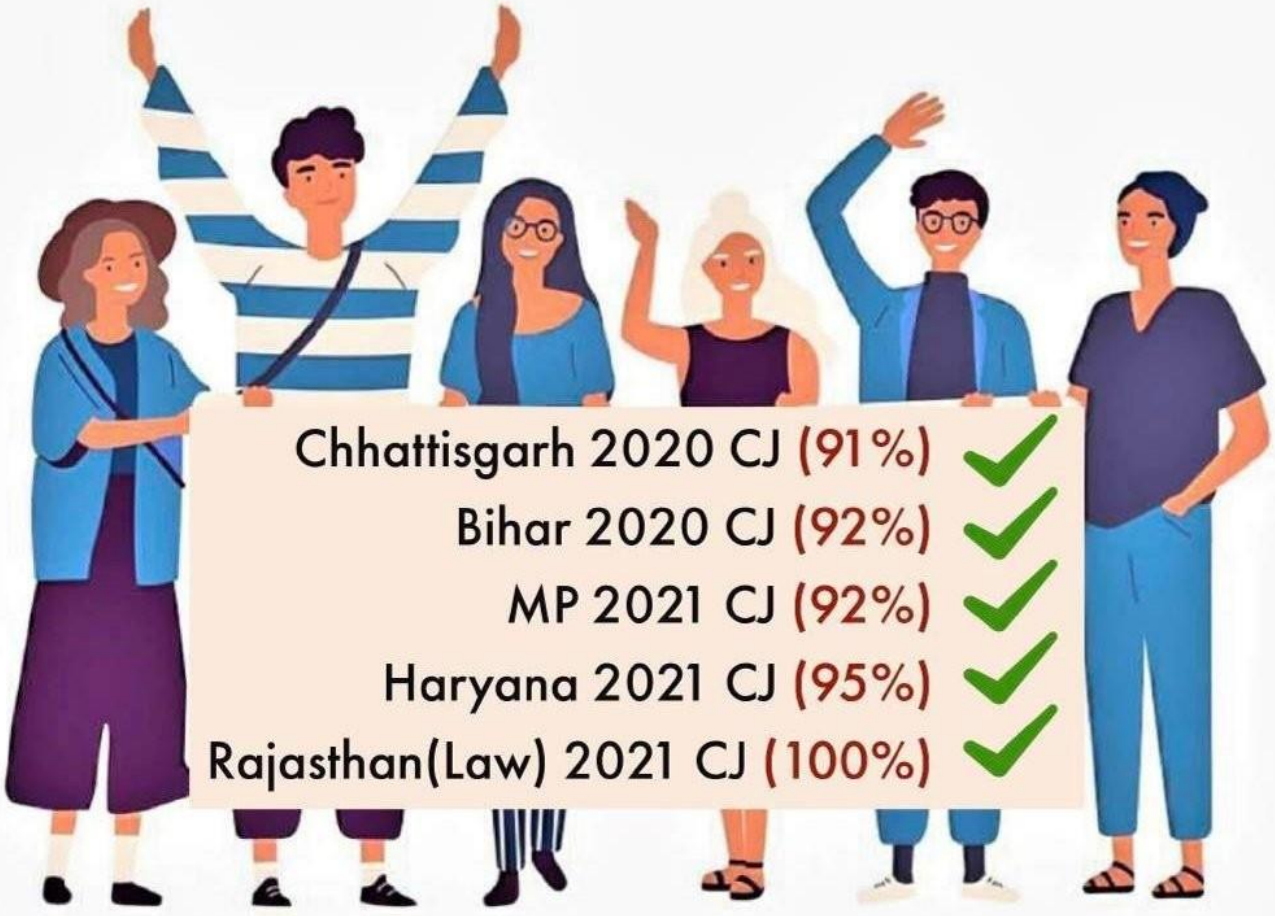

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HARYANA

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SANCTUARY & NATIONAL PARK

- Kalesar NP
- Khol-Hi-Raitan WS
- Nahar WS
- Sultanpur NP

HIGHEST PEAK

- Karoh Peak 1,467 metre (4,813 ft), which is part of Morni Hills

Tropical thorny vegetation

RANGES

- Lower Shivalik Hills
- Aravali Range

STATE ANIMAL

Blackbuck

STATE TREE

Peepal

STATE FLOWER

Lotus

STATE BIRD

Black Francolin

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HARYANA

Kakesar 2003

Leopard, Panther, Elephant

Indian Crested Porcupine

Red Jungle Fowl

Shivalik foothills, Morni Hills

Sal, Semul, Amaltas and Bahera trees

Mahadev temple

Colonial Dak Bungalow

Bird watching

Sultanpur 1991

- Blackbuck, Nilgai

Amur Falcons

Egyptian Vulture

Sociable Lapwing

Caracal

Hedge Hog

Hog Deer

Dhok, khair, Tendu, Ber, Jamun, Banyan, Neem, Berberis, Acacia

Now water is pumped from Yamuna river for reviving it.

- Bird watching

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Festivals Of India

Haryana

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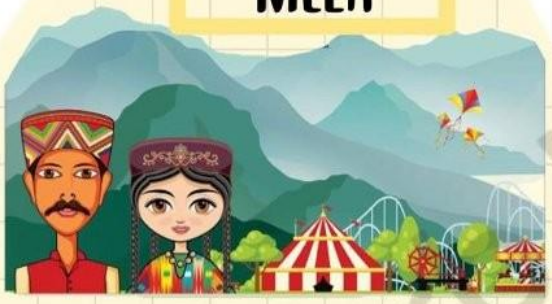
Baishakhi

- It marks the Solar New Year, Harvest festival, birth of the Khalsa, Punjabi new year.

Surajkund Mela



- Largest crafts fair in the world.
- Celebrated during the first fortnight of each February.

Gugga Naumi

- Snake worship.
- Observed in the months of August - September

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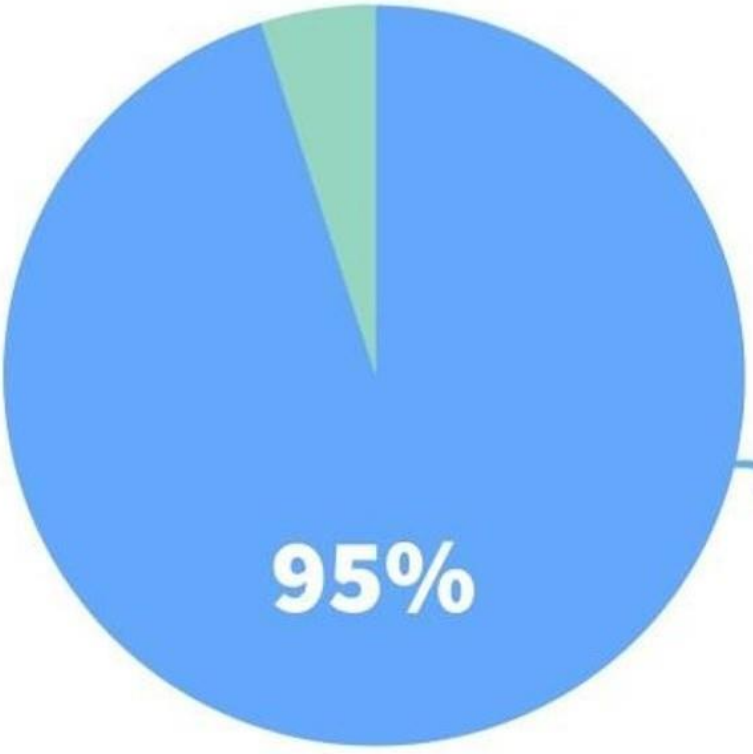
95% STRIKE RATE

In Haryana Judicial Services, 2021
Prelims - Nov 13



From Edzorb QBank, Treasures, Simplified Notes, BAR, Case Law & PYP Flashcards

Padho Utna Zaruri Jitna !

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91% STRIKE RATE
In Chhattisgarh Judicial Services Prelims, 2020

Guess How much in upcoming UP, Delhi, Himachal J Prelims, 2022?

90% + Repeats in all State Judicial Exams

2021 HJS PRELIMS PAPER PATTERN

Subjects	2021		2018	
	No. of questions	Total marks	No. of questions	Total marks
Constitution of India	11	44	9	36
Code of Criminal Procedure	17	68	14	56
Code of Civil Procedure	13	52	20	80
Indian Evidence Act	13	52	16	64
Indian Penal Code	13	52	10	40
Personal Law	17	68	15	60
Indian Contract Act	6	24	7	28

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Specific Relief Act	3	12	5	20
Sale of Goods Act	3	12	4	16
Limitation Act	3	12	4	16
Indian Partnership Act	3	12	3	12
Registration Act	3	12	2	8
Haryana Rent Control Act	3	12	2	8
Punjab Courts Act	1	4	0	0
General Knowledge	14	56	12	48
Legal Maxims	2	8	2	8
	125	**500**	**125**	**500**

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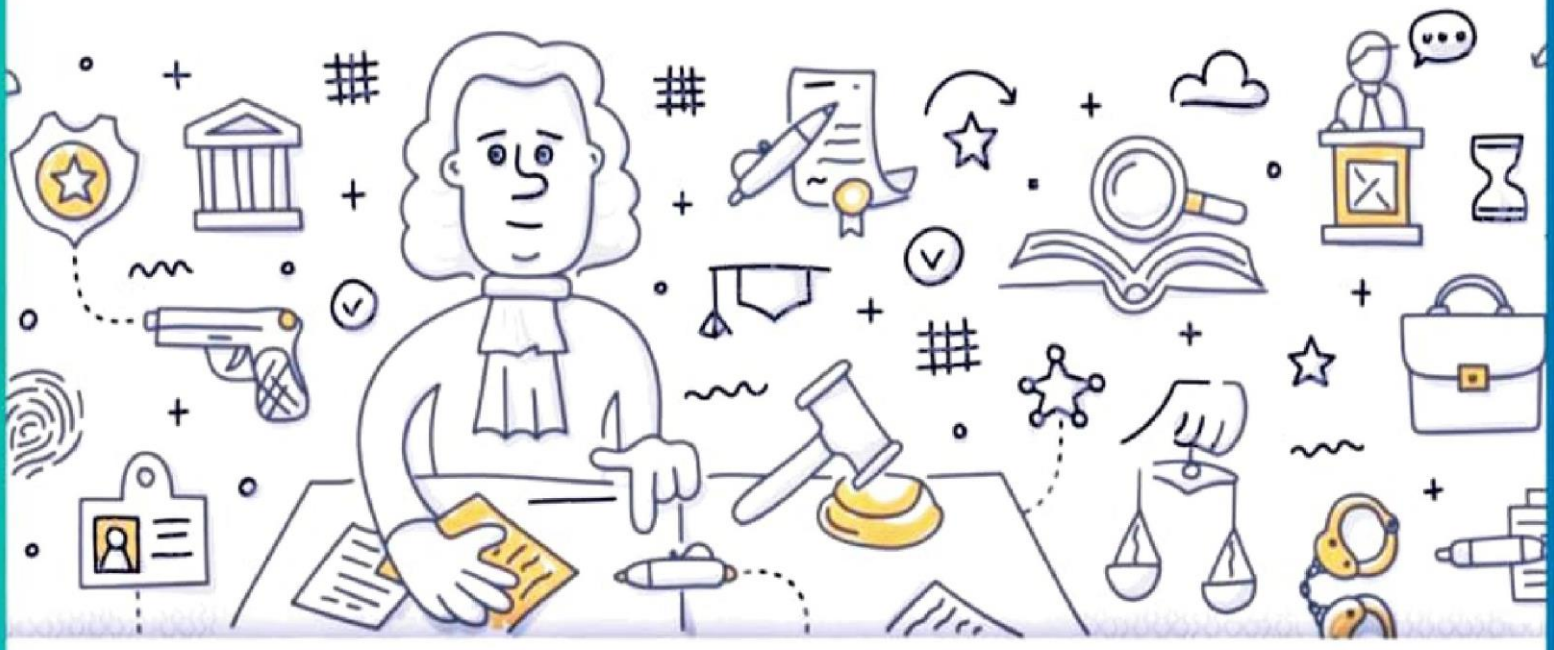
Section - 1
CrPC



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Q.1) The definition of "Victim" has been inserted in Cr.P.C. in

a) 2008

b) 2009

c) 2010

d) 2011

Ans: B

Exp:

Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part I – Section 2(wa)

Source II: Edzorb Law QBank – CrPC – Unit I – Q.26

2 (wa) Victim: It means

- A person who has suffered any loss or injury
- Injury caused by reason of the **act or omission for which the accused person has been charged.**

Rights of Victims:

- Principle of Access to Justice and Fair treatment
- Principle of Restitution
- Principle of Compensation
- Principle of Assistance

Victim includes: His or her guardian or legal heir.

Ram Phal Vs State & Ors.

2015 SCC OnLine Del 9802

The definition of ***'victim'*** as provided in Section 2 (wa) of CrPC which includes 'legal heirs' cannot exclude those who actually fall within the definition of 'victim' by **virtue of emotional harm suffered by them.**

Fact to know!

The Canadian Victims Bill of Rights defines the victim as an individual who has suffered **physical or emotional harm, property damage or economic loss** as a result of the commission of the offence.

Did you Know?

The definition of victim was added in CrPC by Criminal Law Amendment Act, 2008 which came into effect from **December 31, 2009**.

Reference: Code of Criminal Procedure, S.2&3

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Q.2) Sec.27 of the Cr.P.C. deals with

a) Trial of Persons of the Unsound Mind

b) Trial of Non-Citizens of India

c) Trial of Juveniles

d) Trial of Diplomats

Ans: C

Exp:

Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part I – Section 27

Source II: Bare Act Revolution – CrPC – Section 27

Section 27: Jurisdiction in the case of juveniles:

- **Offence:** Not punishable with **death or life imprisonment**
- **Committed by:** Any person who at the date when he appears or is brought before the Court is **under the age of 16 yrs.**
- **May be tried by:**
  - Court of **Chief Judicial Magistrate**
  - Court specially empowered under:
    - Children Act, 1960 (60 of 1960), or
    - Any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

Not punishable with death

Offence

Not punishable with life imprisonment

Committed by child under 16 years

Must be tried by

Court of CJM

Court especially Children Act

Reference: Code of Criminal Procedure, S.27

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Section 27

CrPC

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TRUE LEARNING

Jurisdiction in the Case of Juveniles

- Any **offence not punishable with death or imprisonment for life**, committed by any person who at the date when he appears or is brought before the Court is **under the age of sixteen years**, may be **tried by** -
- The **Court of a Chief Judicial Magistrate**, or
- By any **Court specially empowered under the Children Act**, 1960, or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

Below the age of **16** years

Offence not punishable with death or imprisonment for life

Tried by

Court Of Chief Judicial Magistrate

Any Court specially empowered under the Children Act

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Q.3) Preventive action of Police has been discussed under

a) Chapter X of Cr.P.C.

b) Chapter XI of Cr.P.C.

c) Chapter XII of Cr.P.C.

d) No specific chapter has been prescribed

Ans: B

Exp:

Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part II – Table of Content

Source II: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part II – Chapter XI

Table of Content

Chapter	Sections	Content	Page No.
7A	105A-105L	Reciprocal arrangements for assistance in certain matters and procedure for attachment and forfeiture of property	4-48

8	106-124	Security for keeping the peace and for good behaviour	49-112
9	125-128	Order for maintenance of wives, children and parents	113-145
10	129-148	Maintenance of public order and tranquillity	146-256
	129-132	A.–Unlawful assemblies	146-165
	133-143	B.–Public nuisances	166-200
	144-144A	C.–Urgent cases of nuisance or apprehended danger	201-227
	145-148	D.–Disputes as to immovable property	228-256
11	149-153	Preventive action of the Police	257-264

Chapter XI: Preventive Action of the Police

Section 149: Police to prevent cognizable offences:

- Every police officer
  - **may interpose** for the purpose of preventing, and
  - **shall,** to the best of his ability, **prevent**,
- The commission of any cognizable offence.

Reference: Code of Criminal Procedure, S.149

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Q.4) Sec. 166A Cr.P.C deals with

a) Medical Examination of Rape Victim

b) Requisition of additional Search Warrant

c) Recording of Statement of Rape Victim

d) Investigation outside India

Ans: D

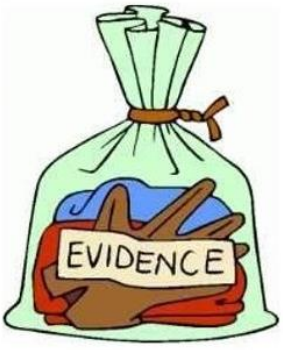
Exp:

Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part III – Section 166A

Section 166 A (1)

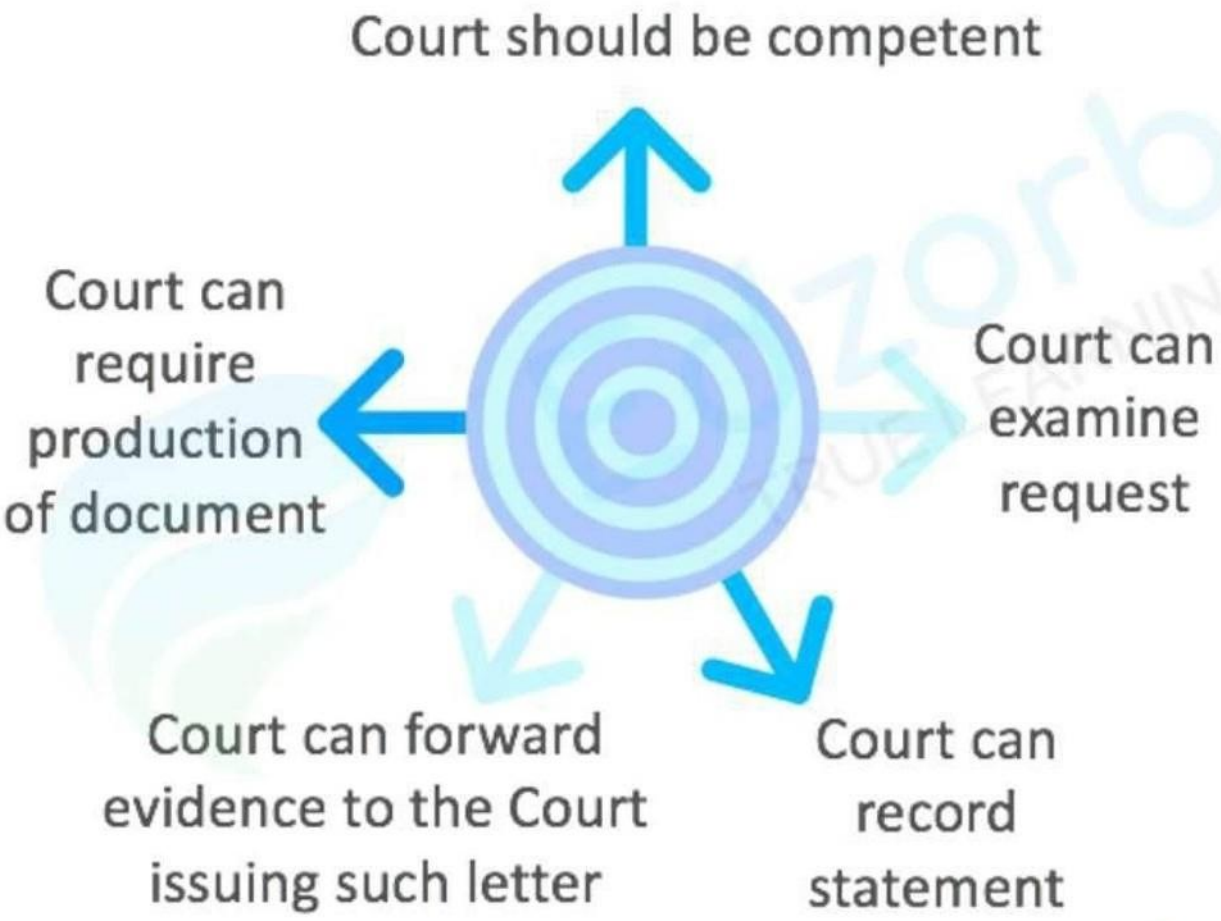
Letter of request – for investigation in a place outside India:

- Notwithstanding anything contained in this Code, in the course of an investigation into an offence
- **Application:**
  - **From:** The investigating officer or any officer superior in rank to the investigating officer
  - **Subject:** That **evidence may** be available in a **country** or **place outside India.**
  - **To:** Criminal Court.



- **Letter of Request:**
  - **From:** Criminal Court
  - **To:** Competent court or **authority in that country** or place

- **Note:** Such court should be competent:
  - **Examine:** To **deal with such request to examine orally** any person supposed to be acquainted with the facts and circumstances of the case
  - **Record statement:** To **record such person's statement** made in the course of such examination
  - **Produce document:** To require such person or any other person to **produce any document** or thing which may be in such person's possession pertaining to the case
  - **To forward** all the evidence so taken or collected or the authenticated copies thereof or the thing so collected **to the Court issuing such letter.**



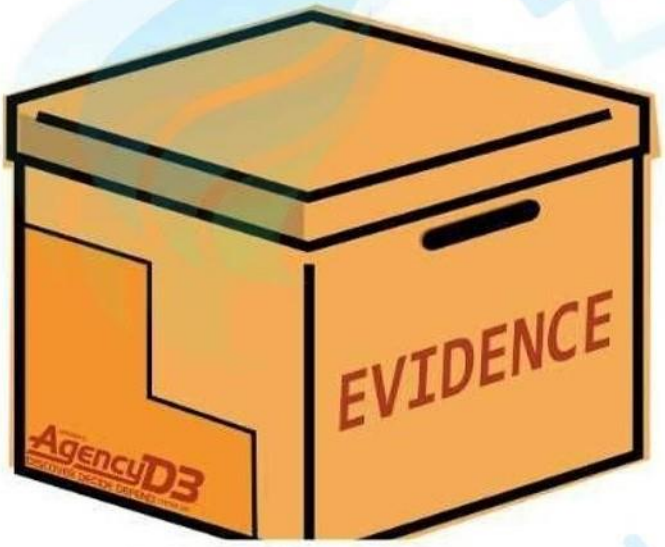
Section 166A (2)

- Manner of transmission of the letter of request = as the **Central Government may specify** in this behalf.

Section 166A (3)

- Every **statement** recorded or **document** or thing received under **Section 166A (1)** = **evidence** collected during the course of investigation under this Chapter.

Or



Reference: Code of Criminal Procedure, s.166A

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Q.5) Women detained below the age of eighteen years shall be sent to

a) Remand Home

b) Women Prison

c) Women Police Station

d) Shall not be detained

Ans: A

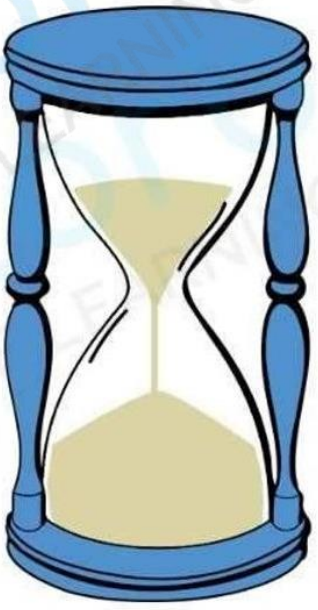
Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part III – Section 167

Section 167(1)

When investigation cannot be completed in 24 hours:

- Whenever any person is arrested and detained in custody
- It appears that the **investigation cannot be completed within the period of twenty-four hours** fixed by Section 57.



- There are **grounds for believing** that the **accusation** or information is **well- founded.**
- In case officer is not below the rank of sub-inspector, the officer in charge of the police station or the police officer making the investigation shall:
  - Forthwith/immediately **transmit a copy** of the **entries** in the diary hereinafter prescribed relating to the case
  - **To the nearest Judicial Magistrate**
  - **Forward the accused to such Magistrate.**

Forward the copy of diary entries of case to Magistrate

01

Forward the accused to Magistrate

02

Section 167(2)

Detention by Magistrate – 15 Days

- Accused is forwarded to Magistrate under this section

Note: Whether magistrate has jurisdiction or not to try the case:

- Such magistrate may authorize the detention of the accused
  - From time to time, **in such custody as such Magistrate thinks fit**

- **For a term** not exceeding fifteen days in the whole

- In case the Magistrate does not have jurisdiction to try the case or commit it for trial
- **And** considers further detention unnecessary

- Magistrate may order the **accused to be forwarded to a Magistrate having such jurisdiction**:

Proviso:

- **Detention more than 15 days**:
  - Magistrate **may authorise the detention** of the accused person, otherwise than in custody of the police, **beyond the period of fifteen days**
  - If Magistrate is satisfied that adequate grounds exist for doing so

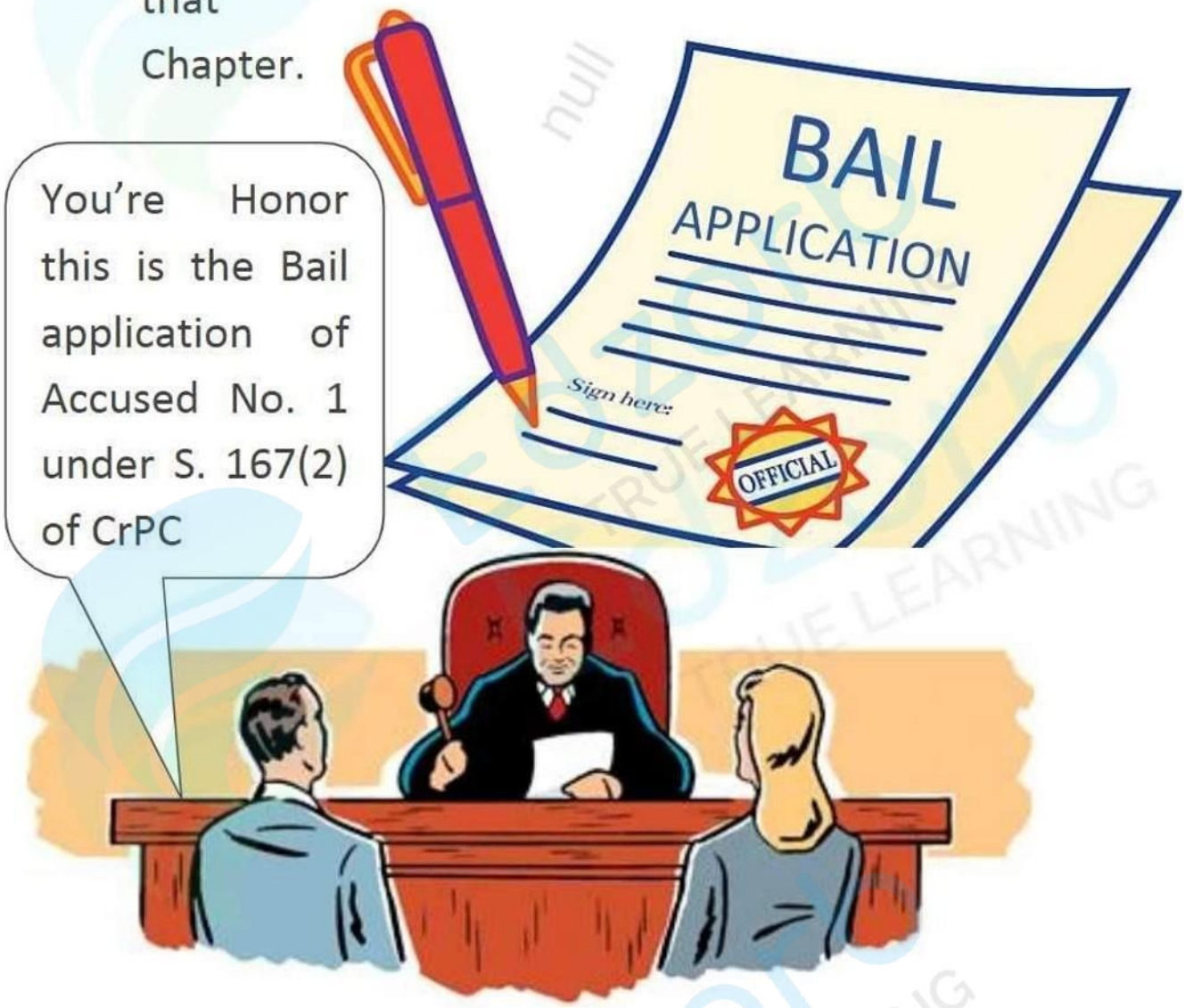
- No Magistrate shall authorize the detention of the accused person in custody under this paragraph for a **total period exceeding—**

- **90 Days** – where the investigation relates to
  - **Offence punishable with death**
  - Imprisonment for **life or**
  - **Imprisonment for a term of not less than ten years.**

- **60 Days** – where the investigation relates to any **other offence**.

- **Expiry of 90/60 Days** – The accused person shall be released on bail.
  - **Condition**: If accused is **prepared to and does furnish bail**
  - Every person released on bail under this **S.167(2)** shall be deemed to be so released under the provisions of **Chapter XXXIII** for the purposes of

that Chapter.



- **Production before Magistrate mandatory**:
  - Detention of the accused in custody of the **police can be authorized by magistrate.**
  - **Condition:** Accused is produced before Magistrate in person for the first time
    - Produced before Magistrate subsequently every time till the accused remains in the custody of the police

- **Note:** Magistrate **may extend further detention** in **judicial custody** on production of the accused either in person or through the medium of electronic video linkage.

- Detention in the custody of the police **cannot be** authorized by Magistrate of the second class
- **Exception:** If such Magistrate is specially empowered in this behalf by the High Court.

Explanation I – Mandatory to furnish bail

- For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a),
- The accused shall be **detained in custody so long as accused does not furnish bail.**

Explanation II – Proof of production of accused

- If any question arises whether an accused person was produced before the Magistrate as required under clause (b),
- The production of the accused person may be proved by his **signature on the order authorizing detention or by the order certified** by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.

Proviso

- In case of a woman **under eighteen years of** age
- , the detention shall be authorized to be in the custody of a **remand home or recognized social institution**.

State of Madhya Pradesh V. Rustam
1995 Suppl. (3) SCC 221

Facts-

The accused was sent jail on Sept. 3, 1993. Challan was submitted on December 2, 1993.(Sept 1993- 30Days ,Oct. 1993- 31Days and Nov 1993- 30Days).In this case counting of 90 and 60 days were involved.

Held:

- **Clear 90 or 60 days must expire before the right begins.** In computing the period of 90 or 60 days on either side has to be excluded as required under 9 and 10 of General Clauses Act.
- In this case challan was submitted within 90 days so there was no question of granting bail by default.

Section 167(2A)

Notwithstanding anything contained in S. 167 (1) or (2)

Who:

- Officer-in-charge of police station
- **Investigating police officer** (rank of a sub inspector or above)

To whom:

Nearest Executive Magistrate, conferred with powers of Judicial Magistrate, or Metropolitan Magistrate

When:

Judicial Magistrate is not available

What to be transmitted:

- A copy of the entry in the case diary,
- Forward the accused

Powers with the EM:

- Authorise detention of accused in custody for a **Maximum of seven days** in the aggregate

- Record reasons in writing for the same

Procedure on expiry of period of detention:

- The accused person shall be **released on bail**
- **Exception**: order for further detention of accused has been made by a competent Magistrate who shall take into account the period during which the accused person was **detained in custody by the orders of an Executive Magistrate**

Proviso:

Before the **expiry of the period (7 days)**, the Executive Magistrate shall transmit to the **nearest Judicial Magistrate:**

- The records of the case
- **Copy of the entries** in the case diary transmitted to him by the officer-in-charge of police station or the Investigating officer

	Section 167(2) & (2A)		
Section 167 (2A)	▪ **Only those Executive Magistrates** who on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been Conferred.	7 Days	Police custody & Judicial Custody or vice versa
Section 167 (2)	Judicial Magistrate	15 Days	Police custody or Judicial Custody or vice versa
Section 167 (2)	Judicial Magistrate	90 Days (90-15 =75)	Judicial Custody where the investigation relates to an offence punishable with death,

			imprisonment for life or imprisonment for a term of not less than ten years
Section 167 (2)		60 Days (60-15 =45)	Judicial Custody where the investigation relates to any other offence

Bikramjit Singh V. State of Punjab

2020 SCC OnLine SC 824

Held:

- Right to Default Bail under Proviso 1 of S. 167(2) is not a mere statutory right but a Fundamental Right under Article 21 of Constitution

CBI V. Anupam Kulkarni

AIR 1992 SC 1768

Held:

- It has been reiterated that police remand should not be resorted to after 15 days of arrest.
- Custody after the **expiry of first 15 days can only be judicial custody** during the rest of the period of 90 days or 60 days and that police custody if found necessary can be ordered only during the first period of 15 days.
- However, if the accused is involved in another case he can be **rearrested and remanded** to police custody with the permission of the Magistrate

S. 167(3)
Magistrate to **record reasons**

S. 167(4)
Forward the **copy to CJM**

S. 167(5)
Order to stop investigation after 6 months unless reasons provided

S. 167(6)
On receiving application, **order further investigation**

Section 167(3)

- **Reasons for detention:** A Magistrate authorising under this section detention in the custody of the police **shall record his reasons** for so doing.

Section 167(4)

- Any Magistrate other than the Chief Judicial Magistrate **making such order**
- **Shall forward a copy** of the order, with the reasons for making it, **to the Chief Judicial Magistrate**.

Section 167(5)

- Case which is triable by a Magistrate as a summons-case,
- **If the investigation is not concluded within a period of six months** from the date on which the accused was arrested
- The Magistrate shall make an **order stopping further investigation** into the offence
- **Unless** the **officer** making the investigation **satisfies** the Magistrate that for **special reasons** and in the interests of justice the continuation of the **investigation beyond the period of six months is necessary.**

Section 167(6)

- Application to stop further investigation under **S. 167(5)**
- Sessions Judge may, if satisfied, on an application made or otherwise,
- **That:** **further investigation** into the offence ought to **be made**
- Then, such magistrate would vacate the order made under **S. 167(5)**
- After that, **direct further investigation** to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

Reference: Code of Criminal Procedure, s.167

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Q.6) Case Diary has been discussed under

a) Sec. 169 of Cr.P.C.

b) Sec. 170 of Cr.P.C.

c) Sec. 171 of Cr.P.C.

d) Sec. 172 of Cr.P.C.

Ans: D

Exp:

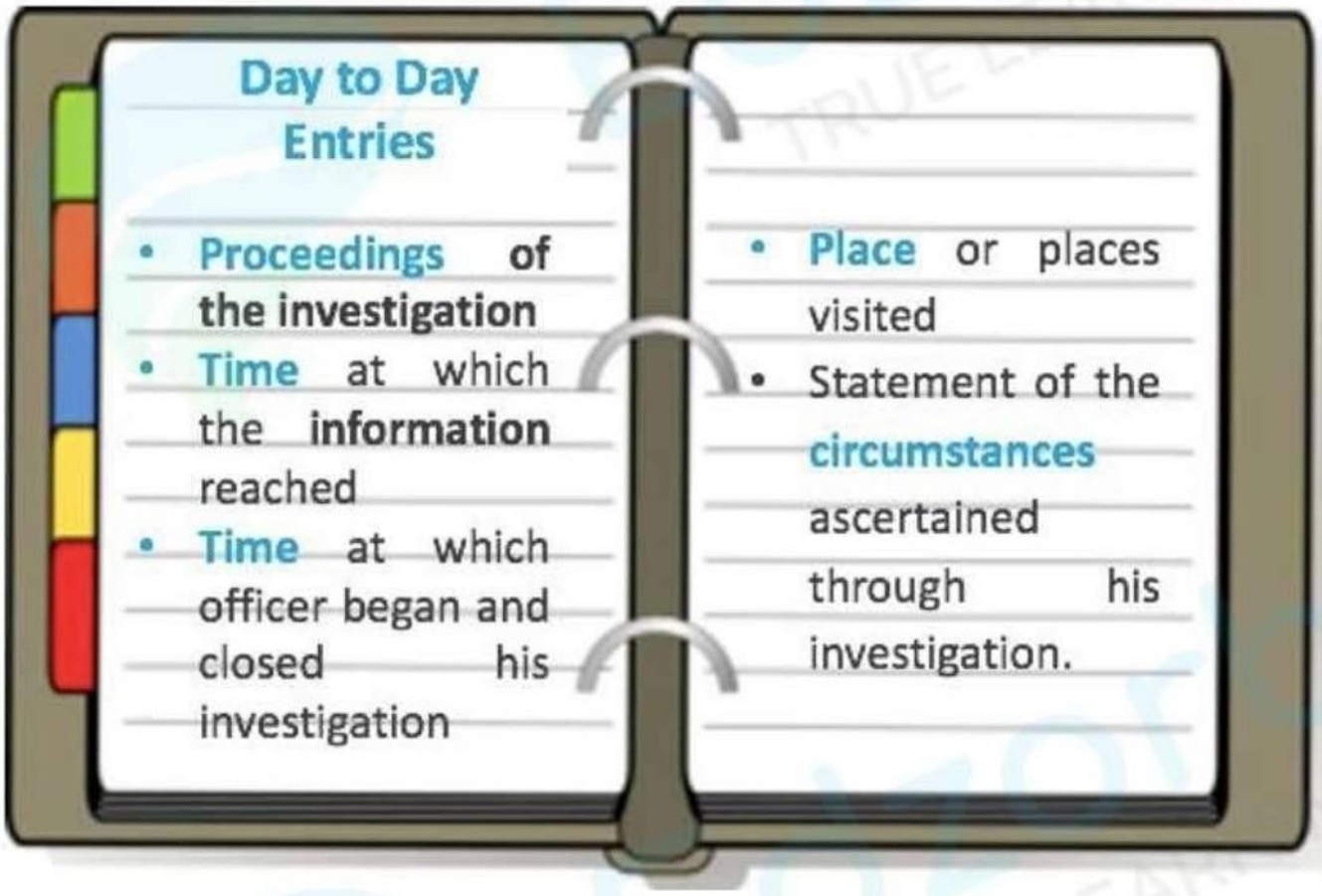
Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part III – Section 172

Source II: Edzorb Law QBank – CrPC – Unit IX – Q.8

Section 172

Diary of proceedings in investigation:

- Every police officer making an investigation under this Chapter



S.172 (1A)

- The **statements of witnesses** recorded during the course of investigation under section 161 shall be inserted in the case diary.

S.172 (1B)

- The diary referred to in **sub-section (1)** shall be
  - A volume
  - Duly paginated.

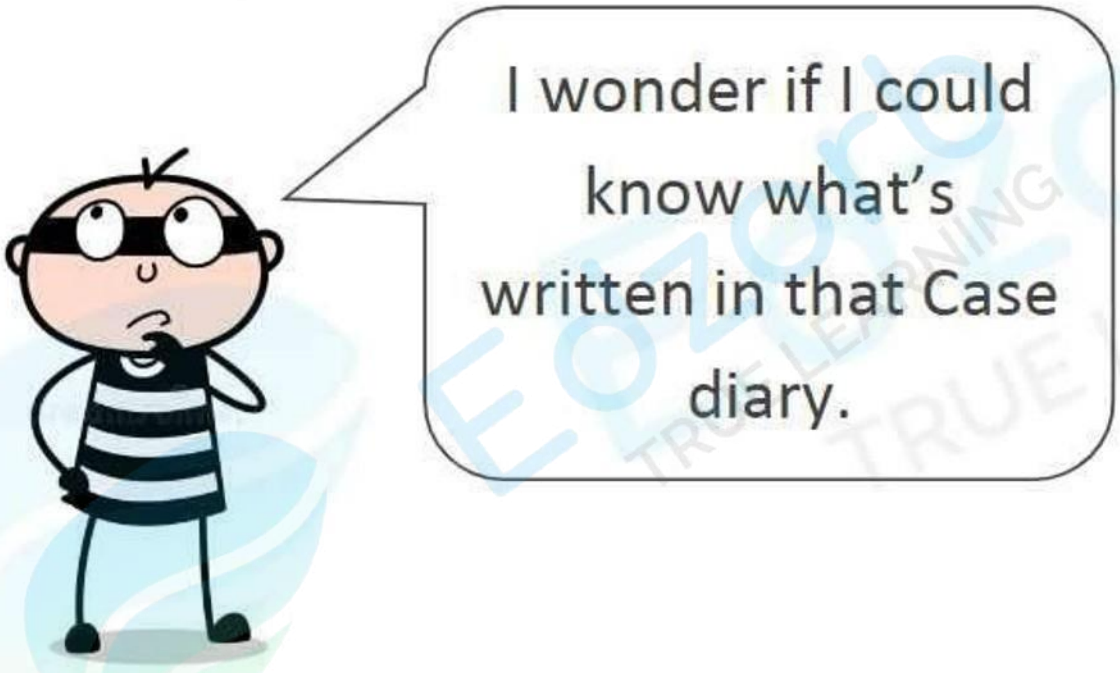
Section 172(2)

- Any **Criminal Court** may **send for** the **police diaries** of a case under inquiry or trial in such Court
- Court may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

Your Honor this is the case diary that you asked for.

Section 172(3)

- **Accused or agents of the accused shall not** be entitled to call for such diaries.
- They **shall not be entitled to see them** merely because they are referred to by the Court.
- **Section 161** or **section 145** of the Indian Evidence Act, 1872 will apply if:
  - **Diaries are used** by the police officer who made them to refresh the memory of accused.
  - Court uses them for the purpose of contradicting such police officer



Mukand Lal Vs UOI &Ors.

1989 SC

Issues:

The **constitutional validity of 172(3)** was challenged before the Supreme Court being violative of A. 21 of the Constitution

Held:

- For **public interest a fair trial** of the accused is must
- The Court is the **ultimate custodian** of such interest and can be trusted with looking in the diary.

Phamshul Kanwar Vs State of UP

(1995) 4 SCC 430

Held:

- Case diary can be used by the investigating officer for refreshing his memory **u/s 159 IEA.**
- The accused thereafter gets a **right to contradict** him u/s 161 CrPC
- The Court can also use it **u/s 165 IEA** for the purpose of asking questions or summoning of witnesses.

Section 44

The Police Act, 1861

- Duty of every officer in charge of a police- station to keep a general diary
- To record therein all complaints and charges preferred, name of complainants etc.
- The Magistrate of the district shall be at liberty to call for and inspect such diary.

Reference: Code of Criminal Procedure, s.172

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8.

MCQ, Single Correct Question

Which Section of Cr. P.C. deals with case diary?

a Section 169

b Section 171

c Section 172

d Section 157

(C)

Section 172 CrPC: Diary of proceedings in investigation.
Every Police Officer conducting the investigation shall maintain a record of investigation done on each day in a Case Diary in the prescribed form. Case Diaries are important to record the investigation carried out by an Investigating Officer. Any Court may send for the Case Diaries of a case under inquiry or trial in such Court and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

Dadan Gazi Vs Emperor
(1906) 33 Cal 1023

Section 172 does **not** deal with the recording of any **statement** made by **witness**. Oral statements of witness should not be recorded in the diary.

Section 157	Procedure for investigation preliminary inquiry.
Section 169	Release of accused when evidence deficient.
Section 171	Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 171-174.

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Q.7) The Principle of Speedy Trial and the limitation period of completing the trial of certain cases has been provided under

a) Sec. 301 of Cr.P.C.

b) Sec. 305 of Cr.P.C.

c) Sec. 308 of Cr.P.C.

d) Sec. 309 of Cr.P.C.

Ans: D

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part VI – Section 309

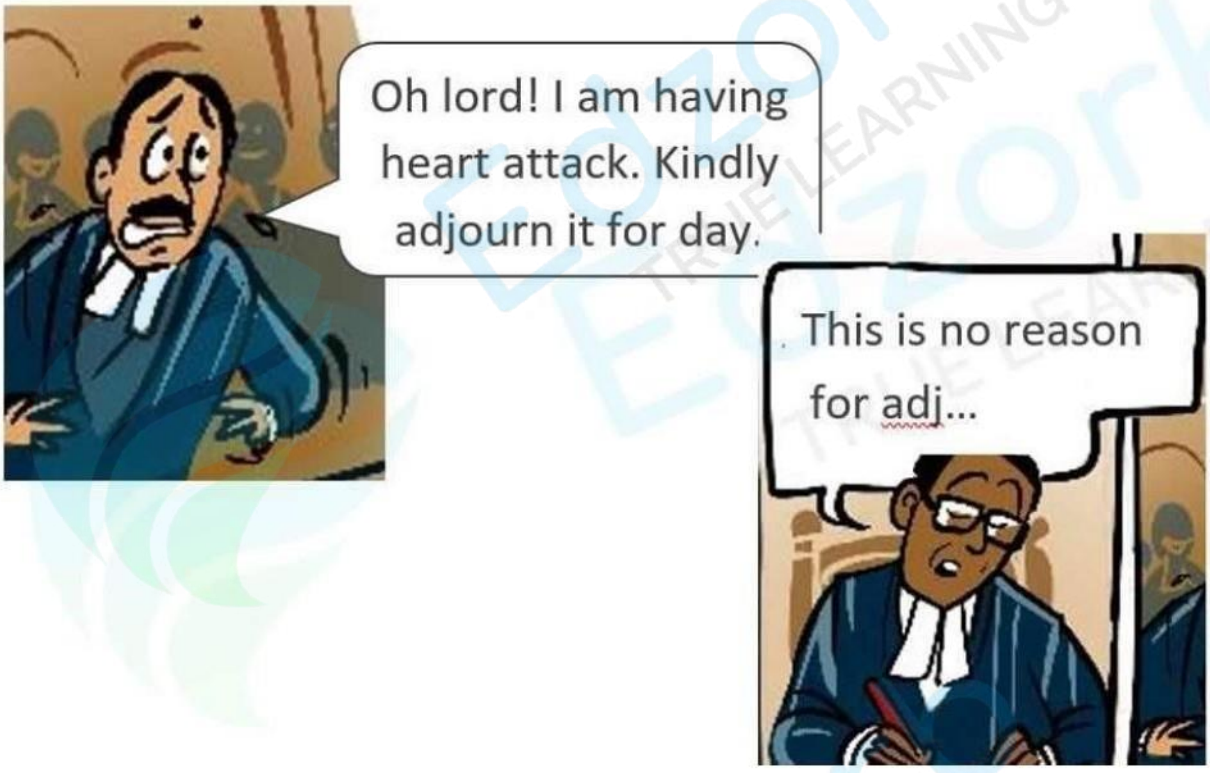
Section 309:

(1) In every inquiry or trial,

- Proceedings shall be **continued from day-to-day**.
- Until all the witnesses in attendance have been examined.

Unless:

Court finds the adjournment of the same beyond the following day to be **necessary for reasons to be recorded**.

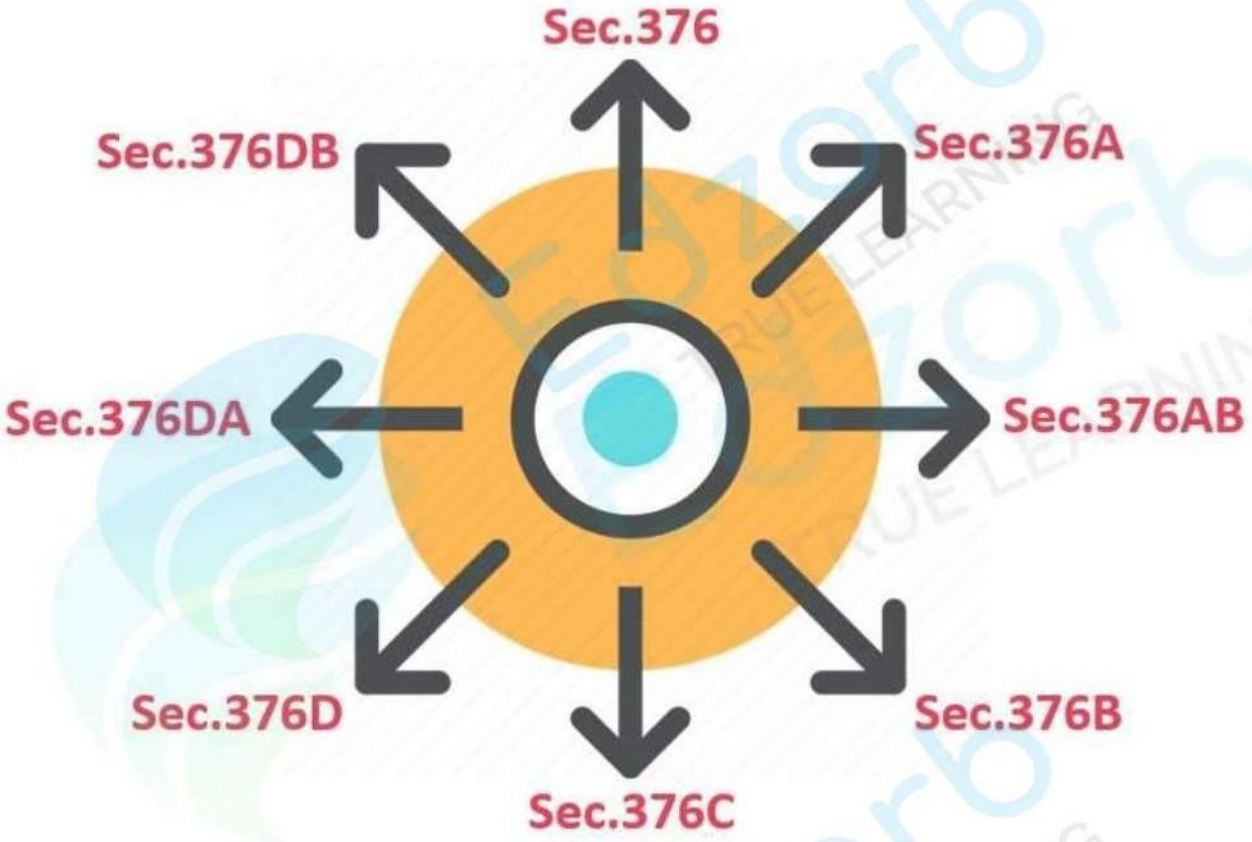


Provided that:

- When the inquiry or trial relates to **S.376-376DB IPC,**
- The inquiry or trial shall be completed within:

2 months from filing of charge sheet

Offences are as follows:

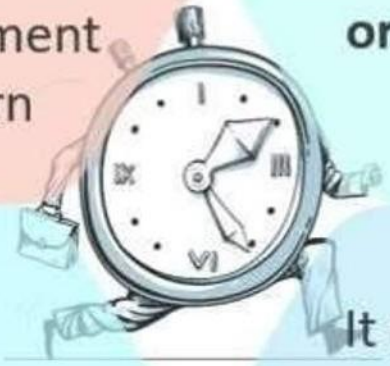


(2) Adjourning or postponing the inquiry or trial:

- After taking cognizance of an offence or commencement of trial,

1
Court **finds it necessary** or advisable to postpone the commencement or adjourn

2
It may, from time to time, for reasons to be recorded, **postpone or adjourn** the same



3
It may adjourn on **such terms** as it thinks fit and for **such time** as reasonable

4
Court may by a warrant **remand the accused** if in custody

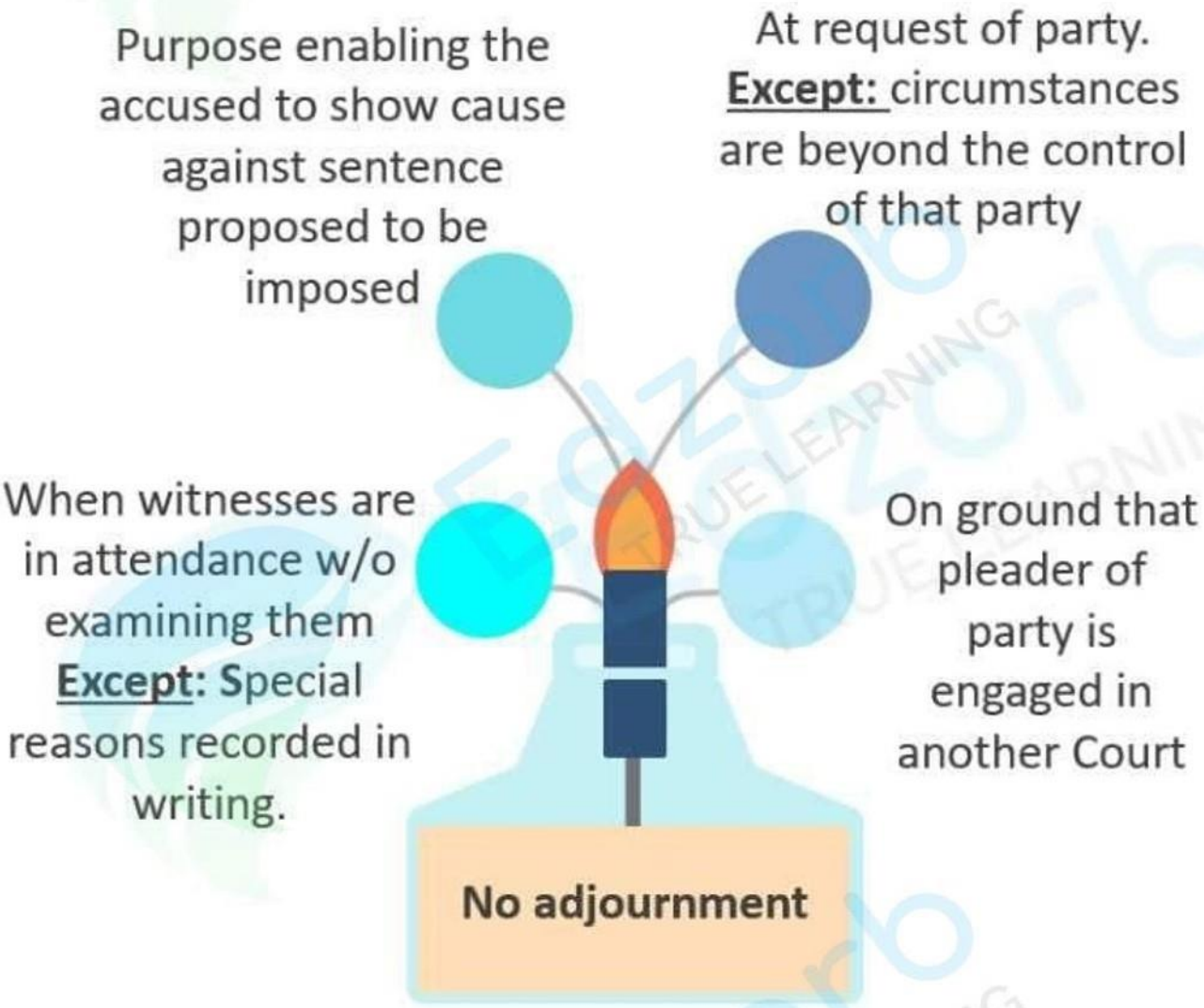
Provided that:

- **Limitation period** for which an accused shall be remanded to custody:

Not more than 15 days at a time

- **Witness is present in court:**
  - Where a witness is present in Court
  - But a **party or his pleader is not present** or they are present but **not ready to examine or cross-examine,**
  - Court may:
    - **Record the statement** of the witness and
    - Pass such orders as it thinks fit **dispensing** with the examination-in-chief or cross-examination.

- No adjournment or postponement:



I'm not ready to cross examine him. I need to be prepared well
We will only record. Cross ex. can be done tomorrow...
Ask me, if I have time

Explanation 1:

- If **sufficient evidence has been obtained** to raise a suspicion that the accused may have committed an offence, and
- It appears likely that further evidence may be obtained by a remand,
- This is a reasonable cause for a remand.

Explanation 2:

The terms on which an adjournment or postponement may be granted include, in appropriate cases, the **payment of costs** by the prosecution or the accused.

Akil Vs State

(2013) 7 SCC 125

Held:

- The **object is to avoid loss of evidence** by passage of time and unnecessary harassment to the accused
- It is well known that if the prosecution is kept pending for an **indefinite or for long time,** important evidence may be obliterated by mere lapse of time with the result that evidence would not be available at time of trail.
- All the trail judges have been advised to follow **section 309** scrupulously.
- Trail judges should conduct trail on a day –to-day basis in **de die in Diem** until trail is concluded.

Dinesh Dalmia Vs CBI

(2007) 8 SCC 770

Held:

- Makes a clear distinction between detention in custody before taking cognizance
- The former is covered by S.167 and the latter by S.309
- The two are **mutually exclusive and ought to be kept so**
- S309(2) is attracted only after cognizance of an offence has been taken or commencement of trail has proceeded.

Raj Narain Vs Supt.Central Jail ,

(1970) 2 SCC 750

Held:

The court can pass an **order of remand u/s 309(2)** even if the **accused is not present** in court

Reference: Code of Criminal Procedure, S.309

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Q.8) At which stage of the trial, prosecution of any person can be withdrawn with the consent of the court?

a) Before framing of charges

b) After the examination of accused

c) After the completion of examination of prosecution witnesses

d) At any time before the pronouncement of judgment

Ans: D

Exp:

Source I: Edzorb Law QBank – CrPC – Unit XVI – Q.17

Source II: Edzorb Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part VI – Section 321

17.

MCQ, Single Correct Question

Who among the following may withdraw prosecution of any person at any time before the judgment is pronounced?

a The State Government

b The Public Prosecutor

c The aggrieved person

d The writer of F.I.R.

Section 321 of CrPC deals with **Withdrawal from prosecution** which states:

- *The* **Public Prosecutor or Assistant Public Prosecutor** *in charge of a case may,*
- ***with the consent of the Court,***
- *at any time before the judgment is pronounced,* ***withdraw from the prosecution of any person*** *either generally or in respect of any one or more of the offences for which he is tried.*

M. N. Sankarayarayanan Nair Vs P. V. Balakrishnan

1972 AIR 496

The **consideration** weighing with the prosecution authority may be either that it will-

- **not be able to produce sufficient evidence** to sustain the charge or that subsequent information before prosecuting agency would falsify the prosecution evidence or any other similar circumstances.
- It is the duty of the Court also to see **in furtherance of justice** that the permission is not sought on ill grounds.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 23, 455

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Section 321: Withdrawal from prosecution:

- The **PP or Assistant PP** in charge of a case may,

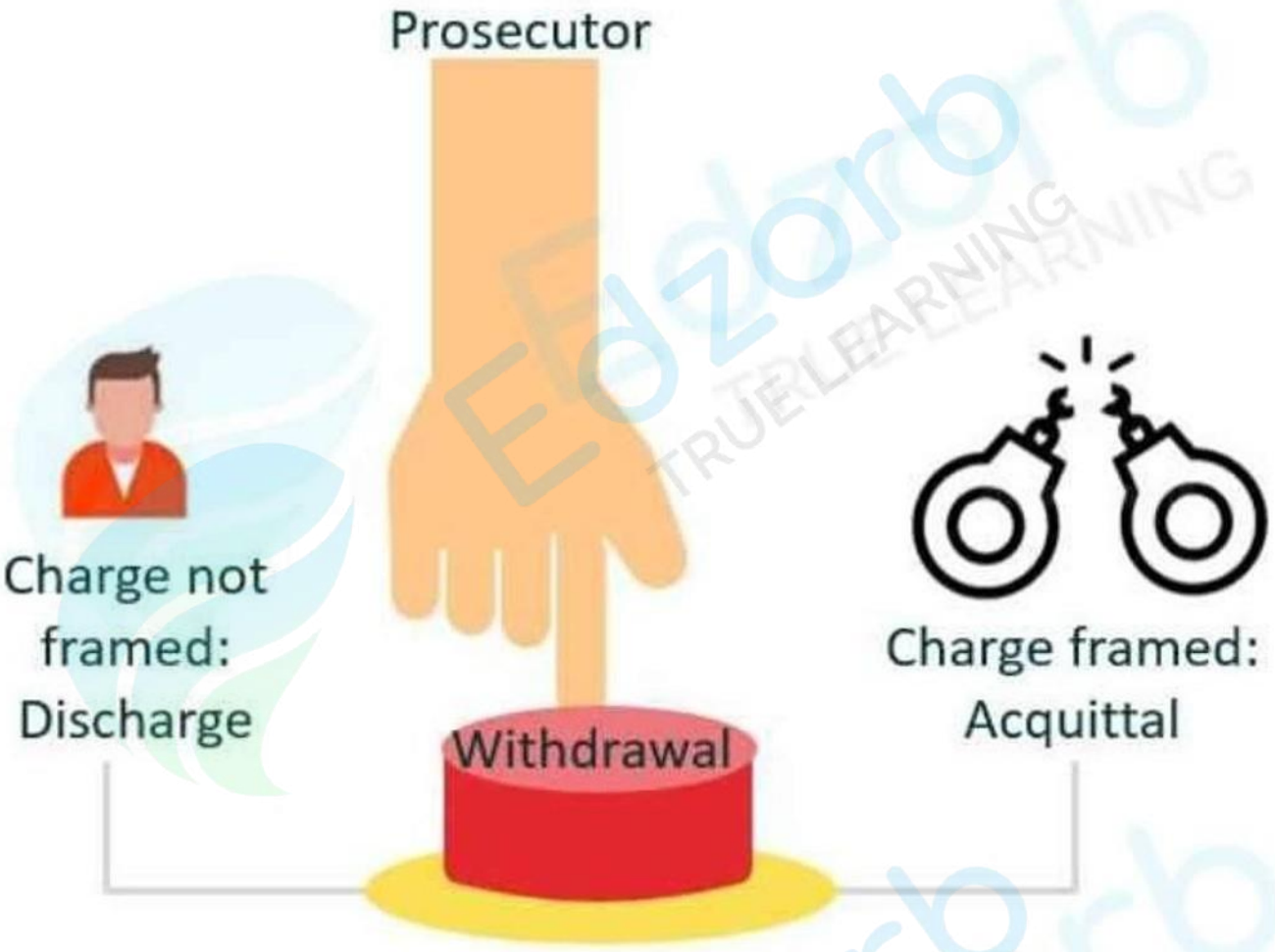
- With the **consent** of the Court,

- At any time **before the judgment** is pronounced,

- Withdraw from the **prosecution**

- Of any person **either** generally or in respect of any one or more of the **offences** for which he is **tried.**

Effect of withdrawal:



Cases in which if Public Prosecutor is not appointed by the Central Govt., must take consent from Central Govt. before moving the application to the court:

Offence: Against law relating to which the **executive power of the Union** extends

Offence: Investigated by **Delhi Special Police Establishment**

Offence: Committed **Central Govt. officer** in discharge of his duty

Offence: Involved misapp./destruction/ damage to **property of Central Govt.**

In such cases, the Court shall, before according consent,

- Direct the Prosecutor to produce before it the permission granted by the **Central Government** to withdraw from the prosecution.

Differences between Section 224 and Section 321, CrPC

Ground	Section 224	Section 321
Application by whom	• Complainant, or Officer conducting the prosecution may give application.	• Public Prosecutor or Assistant Public Prosecutor, in charge of the case, may give application.
Number of Charges	• Here there must be more than one charges.	• Here there may be single charge or may be more than one charge
Conviction	• There must be conviction in some charges.	• There must be no conviction in any charge
Court	• Court on its own accord may stay inquiry or trial.	• Here Court on its own accord can do nothing.

Landmark judgments:

Rajender Kumar Vs State through Special Police Establishment

(1980) 3SCC 435

Held:

- **Duty of PP:** To **inform the grounds** for withdrawal to the Court.
- **Duty of court:** To **appraise itself** of the reasons which prompt the PP to withdraw from the prosecution.
- **Misuse by executive**: Both have a **duty to protect** the administration of criminal justice against possible abuse or misuse by the **Executive by resorting to Section 321, CrPC.**
- **Independence of judiciary**: The **independence of the judiciary** requires that once the case has travelled to the Court, **the Court and its officers** alone must have control over the case.

Sheo Nandan Paswan Vs State of Bihar and others (1983) 1 SCC 438

Held:

- **Influence of State Govt.:** The Prosecutor cannot act like a post box or act on the dictate of the State Government. He has to act objectively.
- **Independent decision of Prosecutor**: Before moving an application, the PP has to apply his mind to case independently without any outside influence.
- **Prima facie case:** Court is also free to assess whether the prima facie case is made or not.
- **Grounds to seek withdrawal:**
  - **Lack of prospect** in the light of evidence,
  - Implication as a result of **political & personal vendetta,**
  - **Inexpediency for reasons of State** and public policy, and
- **Adverse effects** that the **continuance** of the prosecution will bring to the public interest in **the light of the changed situation.**

Sheo Nandan Paswan Vs State of Bihar and others (1983) 1 SCC 438

Held:

- Right of third party to oppose withdrawal application:

  - Since a citizen lodges an FIR or files a complaint and set machinery of Criminal law in motion,

    Therefore, any member of society must have **locus standi to oppose withdrawal.**

  - **Particularly the offences** of corruption and criminal breach of trust, being offences against society,

    Any citizen, who is interested in cleanliness of **administration,** is entitled to oppose application for withdrawal of prosecution.

Abdul Karim and others Vs State of Karnataka

(2000) 8 SCC 710

Held:

- **An application u/S.321** could not be allowed only on the ground that the State Government had taken a decision for withdrawing the prosecution.
- The Court has to see whether **the application is made in good faith**, in the interest of public policy and justice and not to thwart or **stifle the process of law.**
- **The Court,** after **considering the facts** of the case, has to see whether **the application suffers** from such **improprieties or illegalities** as would cause **manifest injustice**, if consent was given.

Reference: Code of Criminal Procedure, S.321

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Q.9) Application for Plea bargaining may be filed by

a) The Prosecutor

b) The De facto complainant

c) The Accused

d) The Legal Services Authority

Ans: C

Exp:

Source I: Edzorb Law QBank – CrPC – Unit XV – Q.5

Source II: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part V – Section 265B

5.

MCQ, Single Correct Question

Under the Criminal Procedure Code, 1973 who can file an application for plea bargaining?

a The Public Prosecutor

b The Investigating Officer

c The Victim of the offence

d The accused of the offence

(D)

Section 265B CrPC - Application for plea bargaining.

A person accused of an offence may file an application for plea bargaining in the Court in which such offence is pending for trial.

Such an application shall contain:

- a **brief description** of the case relating to which the application is filed including the offence to which the case relates.
- an **affidavit** sworn by the accused stating that he was **voluntarily preferred** and that he has **not been previously convicted** by a Court in a case in which he had been charged with the **same offence**.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 563

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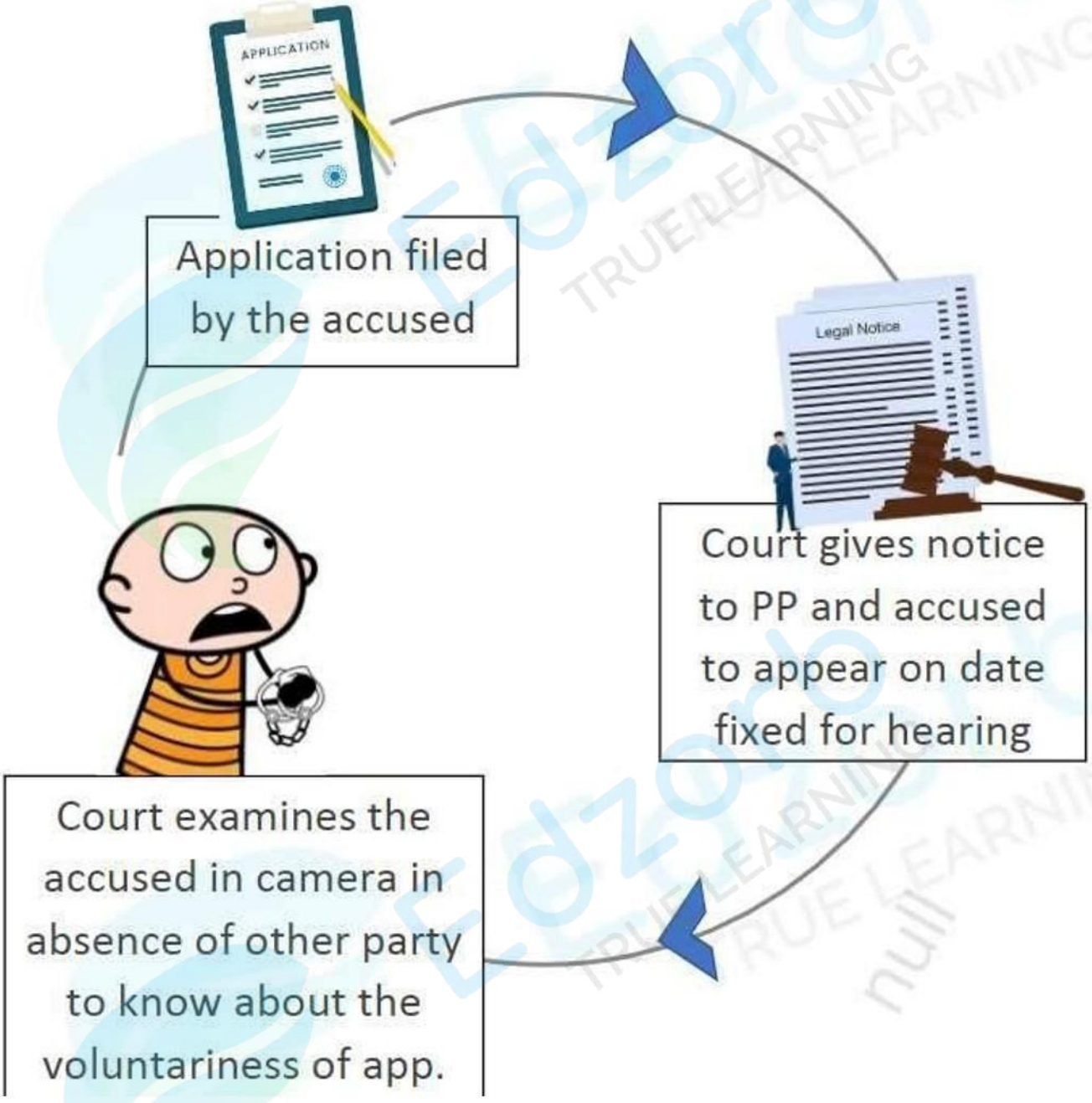
Section 265B: Application for plea bargaining:



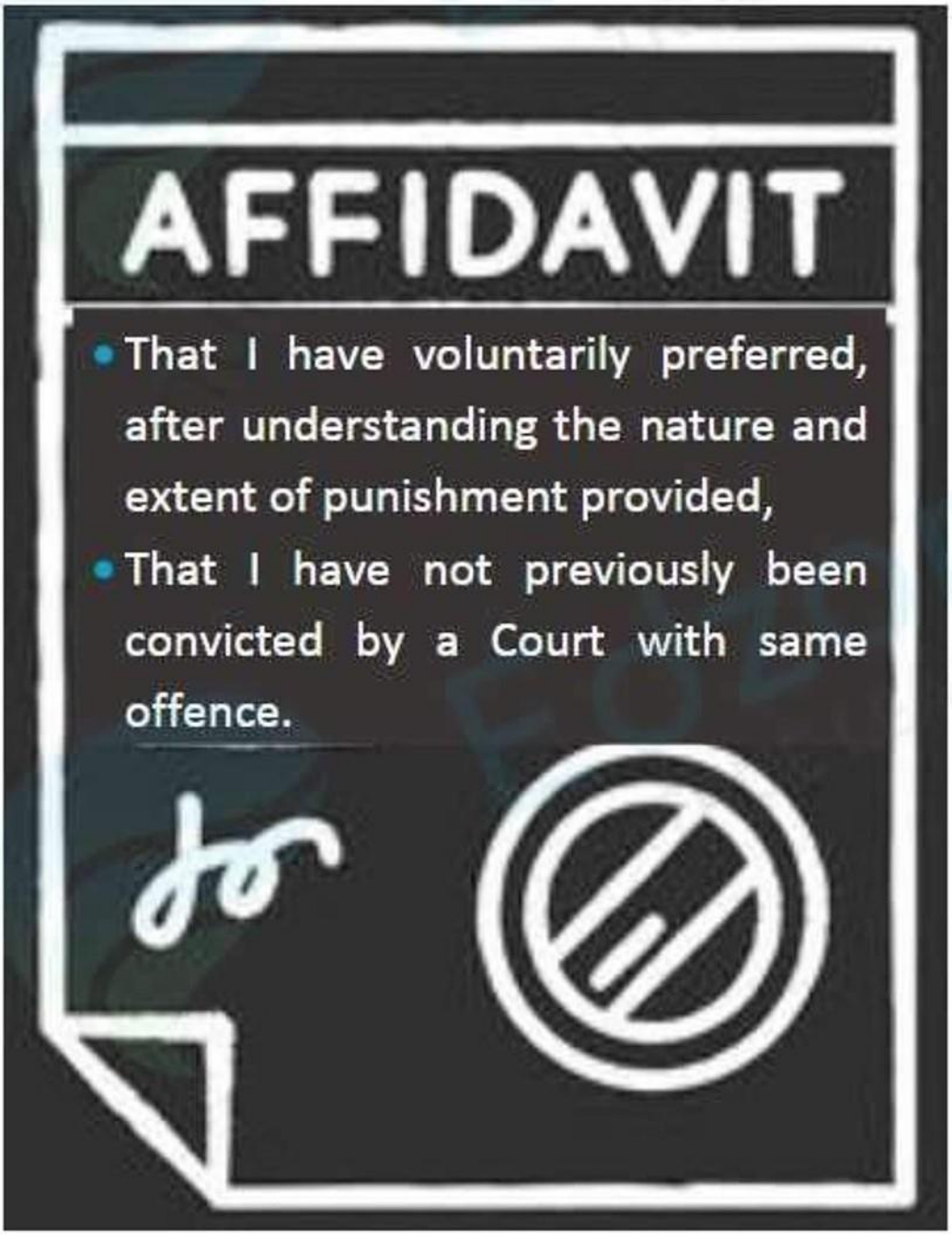
Process thereafter:

Court finds application was voluntarily filed	• Court provides time to accused and PP/complainant to work out a mutually satisfactory disposition of the case. • It may include compensation and other expenses during the case to the victim. • Thereafter fix the date for further hearing of the case
Application was involuntarily filed or accused has been previously convicted for the same offence	• Court shall proceed further in accordance with the provisions of this Code from the stage such application has been filed under ss (1).

Application must contain:

- Brief description of the case
- The offence to which the case relates

Application to be accompanied by affidavit: Affidavit sworn must state:



Reference: Code of Criminal Procedure, s. 265A&B

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Q.10) Section 394 Cr.P.C. provides the procedure relating to

a) Suspension of sentence

b) Summary dismissal of appeal

c) Abatement of appeal

d) Finality of judgment on appeal

Ans: C

Exp:

Source I: Edzorb Law QBank – CrPC – Unit XVII – Q.16

Source II: Edzorb Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part VIII – Section 394

16.

MCQ, Single Correct Question

If in a criminal appeal an accused dies and his near relatives wish to continue, within how much time they must apply?

a Four months

b Three months

c Sixty days

d Thirty days

(D)

Section 394 CrPC - **Abatement of appeals.**

Appeal	When does it abate	Saving Clause
By State Government against sentence (Section 377) Against Conviction (Section 378)	Death of the accused	Appeal against conviction- if LRs file application to continue the appeal within **thirty days of the death of the appellant**
Other appeals, **except an appeal from a sentence of fine**	Death of the appellant	None

S. V. Kameswar Vs The State (ACB Police, A.P.)
1992 CrLJ 118 (AP)

When the **legal representatives** of the accused seeking leave to continue the appeal filed the application **after ten years**, it was **rejected** as neither any explanation nor sufficient cause was given for the condonation of delay.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 488.

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Section 394

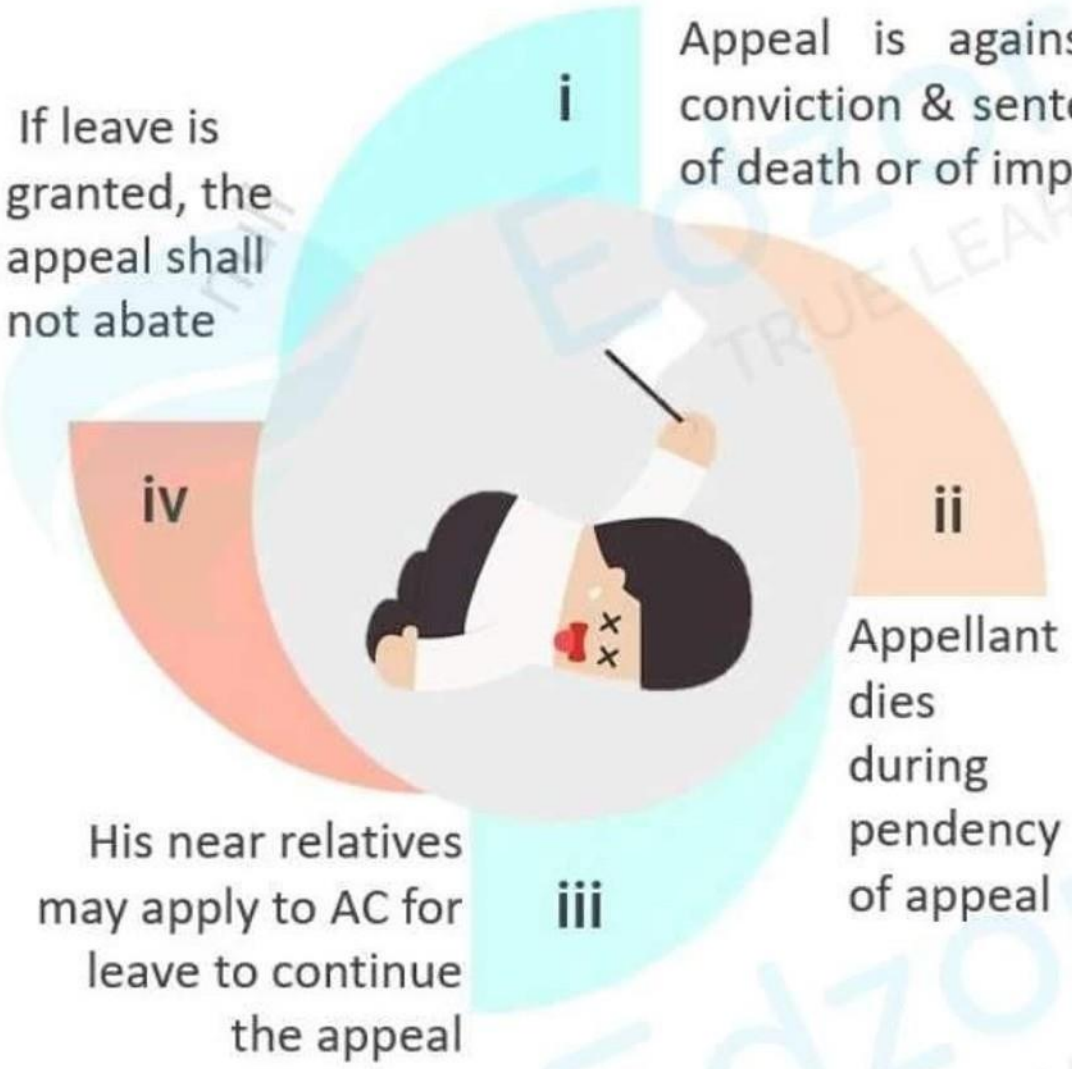
Abatement of appeals:

(1) Every appeal u/S.377 or 378 shall **finally abate on the death of the accused**.

(2) Every other appeal u/Ch.29 shall finally abate on **the death of the appellant**:

Exception: An appeal from a sentence of fine.

Provided that:

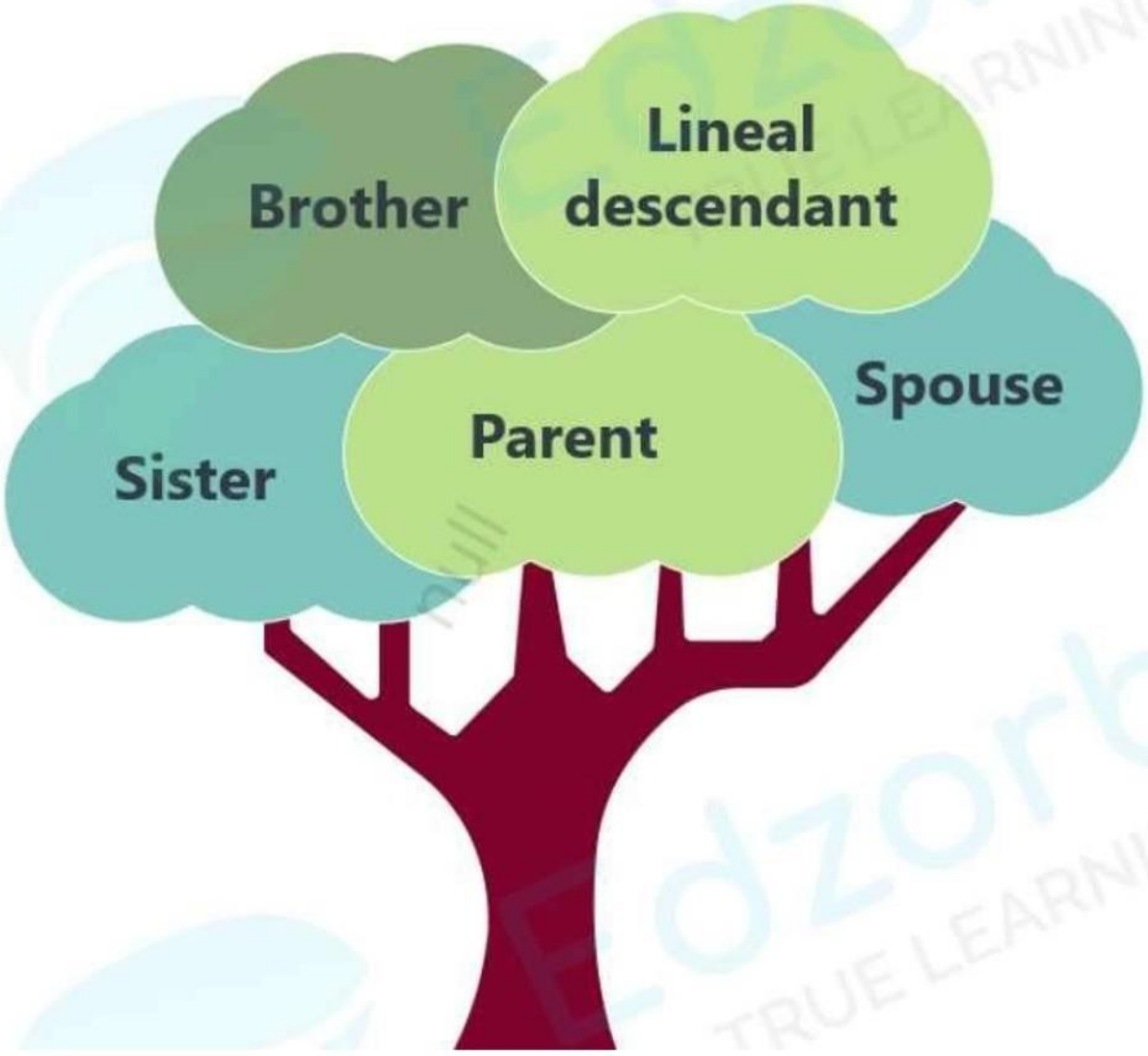


Limitation period for leave to apply:

Within 30 days of the death of the appellant.

Explanation:

In this section, ***"near relative"*** means:



Kamalakanta Rana Vs Radibandhu Rana

1996 CriLJ 1904

HELD:

- There is **no specific provision relating to the situation** where the complainant dies in an appeal filed by the convicted person.
- The State should step into the shoes of the complainant.

Hariprasad Chhapolia Vs UOI

(2008) 7 SCC 690

HELD:

- Unsatisfactory explanation given for delay eg: ignorance of legal representatives regarding substitution application and consequential failure to inform counsel regarding death of accused are without substance, so appeal abated.

P.R. Anjanappa Vs Yurej Agencies Pvt. Ltd.

2004 Cr.L.J. 2565

HELD:

- The provisions u/s. 394 CrPC can be safely applied to criminal revisions as well.

Reference: Code of Criminal Procedure, 1973 s 394

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Q.11) Commutation of a death sentence on a pregnant woman is provided under

a) Sec. 413 of Cr.P.C.

b) Sec. 414 of Cr.P.C.

c) Sec. 415 of Cr.P.C.

d) Sec. 416 of Cr.P.C.

Ans: D

Exp:

Source: Edzorb Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part VIII – Section 416

Section 416:

Postponement of capital sentence on pregnant woman:

Death sentence of Pregnant woman → Shall be commuted to life imprisonment by High Court

Reference: Code of Criminal Procedure, S.416 & 417

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Q.12) can proceed under Section 340 of the Code of Criminal Procedure, 1973 and hold a preliminary enquiry.

I. Civil Court

II. Revenue Court

III. Criminal Court

a) land II

b) II and II

c) Illand |

d) 1, II and II

Ans: D

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part VII – Section 195 & 340

Section 195:

Prosecution for contempt, offences against public justice and for offences relating to documents.

(1) No Court shall take cognizance:

- Of offences punishable under following section of IPC:

S.172-188 IPC

Conspiracy, attempt or abetment of these

S.193-196 IPC

S.199 & 200 IPC

S.476 IPC

S.475 IPC

S.205-211 IPC

S.471 IPC

S.228 IPC

S.463 IPC

Exception:

Offences	Complaint in writing of
172-188 (both inclusive)	• Public servant concerned or • Another public servant to whom he is administratively subordinate
Other offences	• Court or • by such officer of the Court as that Court may authorize in writing in this behalf, or • Some other Court to which that Court is subordinate

(2) **Complaint made by public servant in case of S.172-188:**

- **Who can withdraw such complaint:** Any authority to which he is **administratively subordinate** may order the withdrawal, and
- **How:** By **sending a copy of such order** to the Court; and
- **Action by court:** Upon its receipt by the Court, no further proceedings shall be taken on the complaint.

Provided that: No such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

Bhima Razu Prasad Vs State

S.L.P. (Criminal) No. 5102 of 2020

Issues:

- Whether S. 195(1)(b)(i) CrPC bars lodging of case u/s193 IPC in respect of offence of giving false evidence committed at the stage of investigation, prior to production of such evidence before Court

Held:

- In case such bar is applied to offences occurring during the course of investigation Court will have to wait till the end of the Trial
- This may give the accused u/s 193 to fabricate more falsehoods to hide the original act
- Thus, it will be impracticable to insist upon lodging of a written complaint by the court in such a situation u/s 195(1)(b)(i).

(3) Definition of court for offences other than S.172-188:

Court means

- A Civil, Revenue or Criminal Court
- **A tribunal** constituted by an **Act,** declared to be a Court u/S.195 CrPCby that Act

(4) For offences other than S.172-188

A **Court shall be deemed to be subordinate** to:

In case appeal lies	Appeal does not lie
• To which appeals ordinarily lie from the appealable decrees or sentences of such former Court.	• The principal Court having ordinarily original civil jurisdiction within whose local jurisdiction such Court is situate

Section 340: Procedure in cases mentioned in S.195:

(1) Court is of opinion that inquiry should be made in an offence referred in **S.195(1)(b)**

- **Upon:** Application made to it or otherwise.
- **Offence committed:**
  - In or in Relation to proceeding in that court.
  - In respect of document **produced or given** in evidence in proceeding in that court.
- Court **may, after preliminary inquiry**:

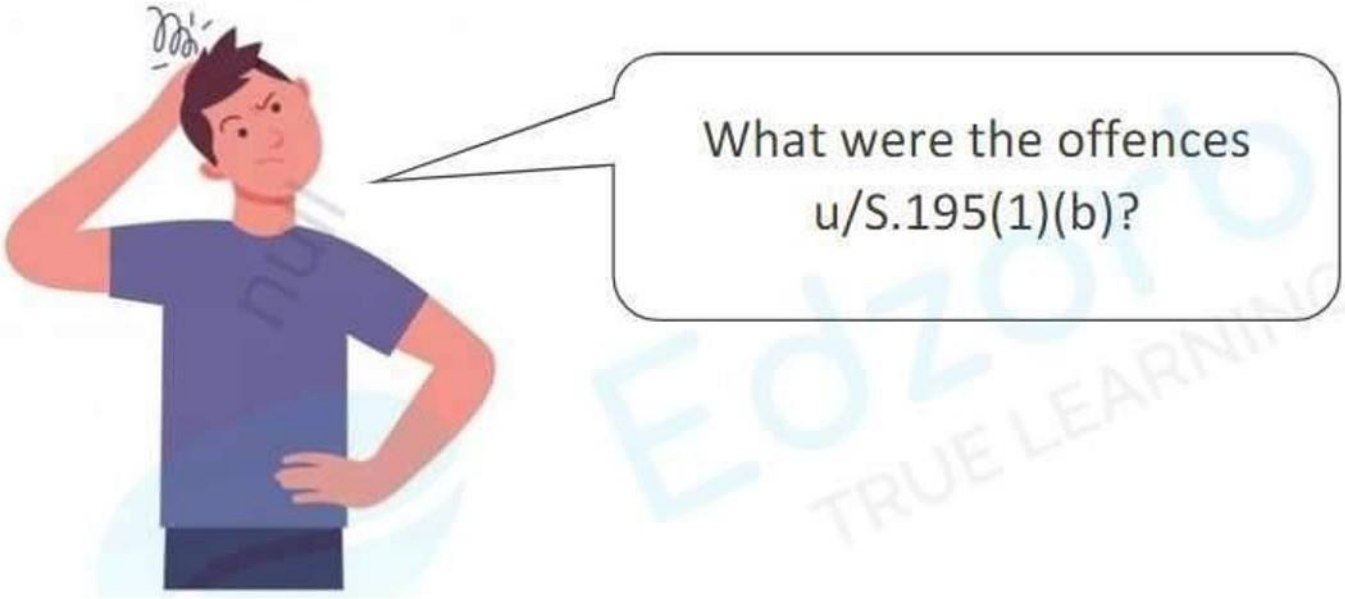
(2) Where the court has **neither made complaint u/ss. (1) nor rejected the application:**

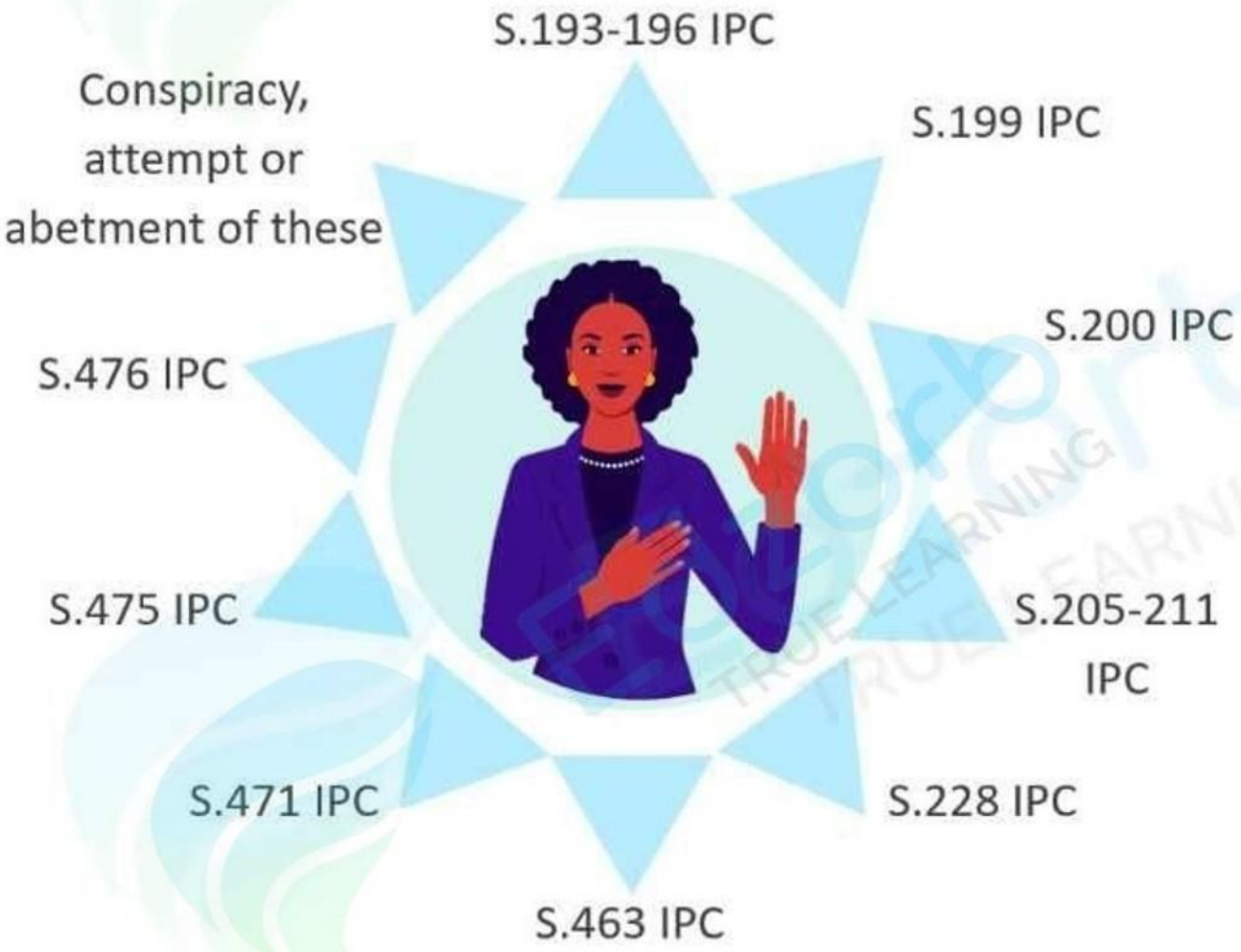
- The court to which such court is **subordinate within the meaning of S.195(4) may exercise power** provided u/ss. (1).

(3) A complaint made under this section **shall be signed:**

Complainant	Signing authority
High Court	• Officer of the Court as the Court may appoint
Other cases	• Presiding officer of the Court or by such officer of the Court as the Court may authorise in writing

(4) In this section, **"Court"** has the same meaning as in **section 195.**




S.193-196 IPC
S.199 IPC
S.200 IPC
S.205-211 IPC
S.228 IPC
S.463 IPC
S.471 IPC
S.475 IPC
S.476 IPC
Conspiracy, attempt or abetment of these

Pritish Vs State of Maharashtra & Ors.

(2002) 1 SCC 253

Held:

- Procedure of preliminary inquiry envisaged under **Section 340 CrPC is not meant to decide** the guilt or innocence of the party against whom proceedings are to be taken.
- The scope of such proceeding is confined to see whether, based on the material available, it is **expedient in the interest of justice that an inquiry be made**.
- "Principles of natural justice would not be hampered by not hearing the person concerned at the stage of deciding whether such person should be proceeded against or not."

Narendra Kumar Srivastava Vs State of Bihar

(2019) 3 SCC 318

Held:

- The **object of Section 340 CrPC is:**
  - To ascertain whether any offence affecting administration of justice has been committed in relation to any proceedings before or any document produced/ given in evidence in Court, during the time when the document or evidence was in **custodia legis** and
  - Whether it is also expedient in the **interest of justice to take such action.**

Reference: Code of Criminal Procedure, Sec.340

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Q.13) of the Cr.P.C. deals with the power of the magistrate to arrest.

a) Sec. 40

b) Sec. 44

c) Sec. 48

d) Sec. 52

Ans: B

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part I – Section 44

Section 44: Arrest by Magistrate:

(1) When any **offence is committed in the presence of a Magistrate**, **whether Executive or Judicial**, within his local jurisdiction, he may

- Himself arrest or
- Order any person to arrest the offender,

And may thereupon **commit the offender to custody.**

The sub section is subject to the provisions herein **contained as to bail**.

(2) Any Magistrate, **whether Executive or Judicial**, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person:

For whose arrest he is competent at the time

In the circumstances to issue a warrant

Directorate of Enforcement Vs Deepak Mahajan

AIR 1994 SC 1775

Held:

- In S.44(1), the offence for which the arrest is to be made, must have been committed in presence of the Magistrate, who intends to arrest such person, however, under ss. (2), **the Magistrate is empowered to arrest or to direct, arrest any person at any time, present at the time of such arrest or direction to arrest.**
- In other words, for applicability of S.44(2), the person to be arrested **should be physically present** before the Magistrate and such Magistrate must be competent at the time and in the circumstances to issue warrant of arrest.

Section 44(1)	Section 44(2)
Similarities	
• Local Jurisdiction is sine qua non. In absence of local jurisdiction section 44(1) shall not be applied.	• Local Jurisdiction is sine qua non. In absence of local jurisdiction section 44(2) shall not be applied
• Either Executive or Judicial	• Either Executive or Judicial
Differences	
• Offence is committed in the presence • of Magistrate	• Offence is not committed in the presence of Magistrate. But he is present in front of Magistrate. The

	Magistrate is competent to issue warrant for arrest.
• Commission of offence in his presence is necessary.	• Commission of offence in his presence is not necessary. But Magistrate must be competent to issue warrant for arrest.
• Magistrate has power to commit him into custody.	• Such power is not conferred here.

Reference: Code of Criminal Procedure, S.44

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Q.14) It is mandatory to produce the person arrested before the Magistrate, within 24 hours of his arrest, under:

a) Sec. 56 Cr.P.C.

b) Sec. 57 Cr.P.C.

c) Sec. 58 Cr.P.C.

d) Sec. 59 Cr.P.C.

Ans: B

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part I – Section 57

Section 57: Person arrested not to be detained more than 24 hours:

No PO shall detain in custody a person **arrested without warrant for a longer period than under all the circumstances** of the case is reasonable.

Such period:

- Shall **not**, in the absence of a special order of a Magistrate under section 167, **exceed 24 hours**.
- Time period is exclusive of the time **necessary for the journey** from the place of arrest to the Magistrate's Court.

Reference: Code of Criminal Procedure, S.57

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Q.15) Under Cr.P.C. imprisonment in default of payment of fine can be awarded

a) To run concurrently with substantive sentence imposed

b) In addition to the substantive sentence imposed

c) Court can condone it

d) None of the above

Ans: B

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part I – Section 30

Section 30: Sentence of imprisonment in default of fine:

(1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law.

I don't have money to pay
Serve punishment than.

Provided that the term:

Is not in excess of the powers of the Magistrate **under section 29**

Provided that term

Shall not, where imprisonment has been awarded as part of the substantive sentence, **exceed 1/4th of imprisonment which the Magistrate** is competent to inflict.

(2) Imprisonment under this section: May be in addition to a **substantive sentence of imprisonment for the maximum** term awardable by the Magistrate u/**S.29**.

Reference: Code of Criminal Procedure, S.30

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Q.16) Under Cr.P.C. the period of limitation for taking cognizance of an offence shall be three years

a) If the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years

b) If the offence is punishable with imprisonment for a term exceeding one year but not exceeding seven years

c) If the offence is punishable with imprisonment for a term exceeding one year but not exceeding ten years

d) If the offence is punishable with imprisonment for a term exceeding one year but not exceeding five years

Ans: A

Exp:

Source I: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part IX – Section 468

Source II: Edzorb Law QBank – CrPC – Unit 19 – Q.37

Section 468

Bar to taking cognizance after lapse of the period of limitation

(1) No Court shall **take cognizance of an offence** of the category u/**s 468(2)**

(2) The period of limitation shall be:

Limitation Period	Offence punishable with
6 months	Fine only
1 year	Less than 1 year
3 years	1-3 years
No limitation	More than three years

After 4 years

Cognizance cannot be taken as the punishment if for 3 years and complaint was filed after 3 years.

Japani Sahoo Vs Chandra Sekhar Mohanty

(2007) 7 SCC 394

The **relevant date**, for the purpose of computing the period of limitation under **Section 468** is the date of filing of the complaint or the date of institution of prosecution and not the date on which a Magistrate takes Cognizance.

(3) When offences may be tried together:

- Limitation Period shall be determined with reference to the offence **which is punishable with the more severe punishment**.

- In the present case, as offence is theft + murder.
- Limitation Period will be none as per Ss.(3).

Vijaya Vs Laxmanrao

(1998) 8 SCC 415

- Operation of limitation in respect of offence under Section 498-A IPC is excluded.
- When Section 498-A of the Indian Penal Code is brought to use in the case of cruelty on women, the law of limitation is not that rigid so as to non-suit the aggrieved wife.
- A fair dose of liberalities is warranted, so that the law as an instrument comes in aid of the aggrieved due to gender inequalities.

Sarah Mathew Vs Institute of Cardio Vascular Diseases

(2014) 2 SCC 62

- For computing the period of limitation under Section 468,
- The relevant date is date of filing of the complaint or the **date of institution of prosecution** and not the date on which the Magistrate takes cognizance.

State of H.P. Vs Tara Dutt

(2000) 1 SCC 230

- The limitation period for taking cognizance in Section 468 is in respect of the offence charged and not in respect of the offence finally proved.

Reference: Code of Criminal Procedure, S.467 & 468

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37.

MCQ, Single Correct Question

Point out the incorrect statement. The period of limitation for taking cognizance of an offence shall be :

a six months if the offence is punishable with fine only

b one year, if the offence is punishable for a term not exceeding one year

c three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years

d five years, if the offence is punishable with death sentence or life imprisonment

(D)

General Rule: There is no limitation period in criminal law.

Exception: Section 468 provides the period of limitation for taking the cognizance of an offence by the Magistrate. The period of limitation which is prescribed is:

The period of limitation shall be –

Offence punishable with fine only- Limitation period 6 months only

Offence punishable with less than 1 year- Limitation period 1 year

Offence punishable with 1 year to 3 years - Limitation period 3 years

Offence punishable with more than 3 years – No Limitation Period

Taking cognizance

When on a petition or complaint being filed before a Magistrate, he applies his mind or takes judicial notice of an offence, with a view to initiate proceedings in respect of an offence which is said to have taken place, the Magistrate is said to **have taken cognizance of the offence.** (*Sarah Mathew case*)

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 505.

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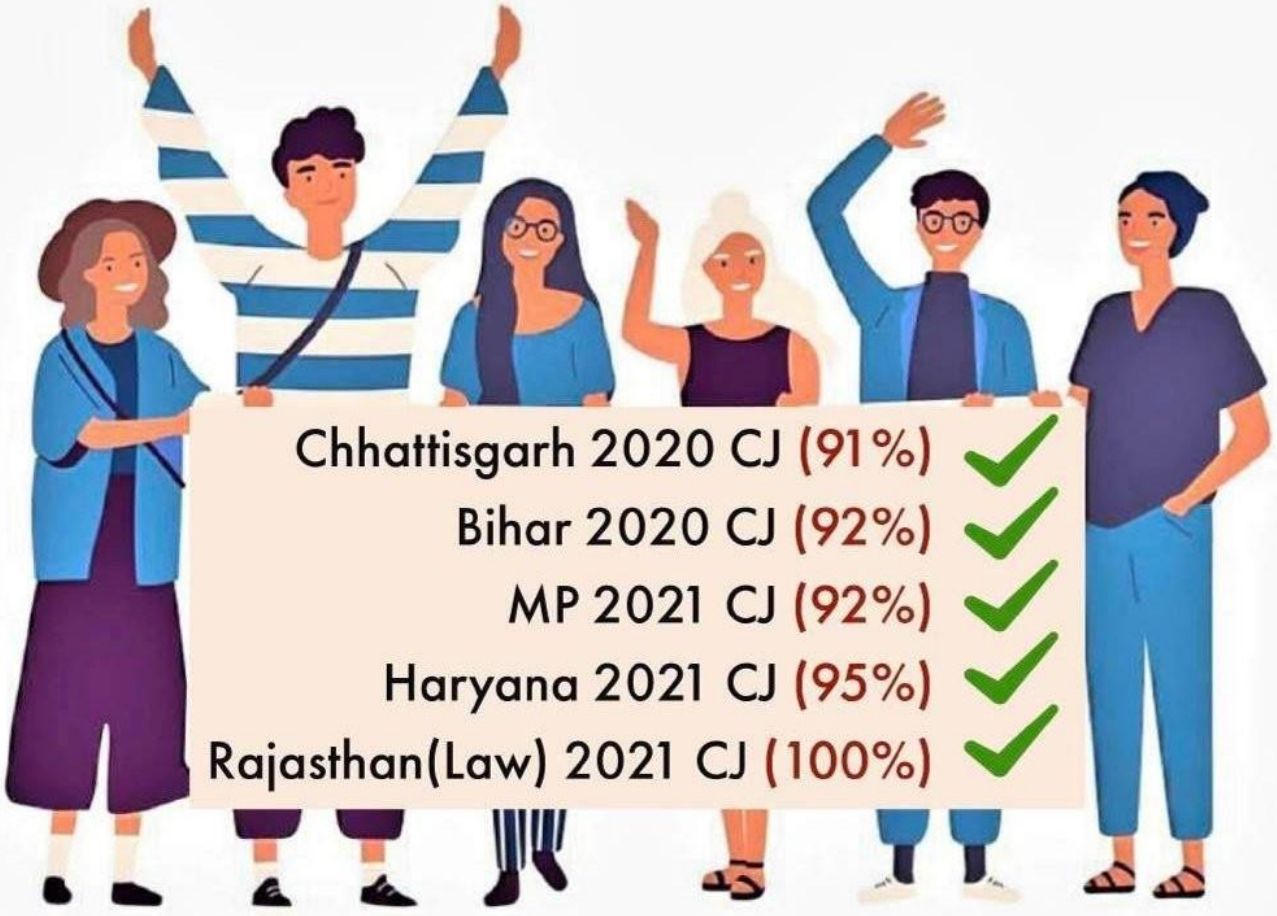

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Section - 2
Evidence

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Q.17) The contents of documents:

a) may only be proved by primary evidence

b) may only be proved by secondary evidence

c) may be proved either by primary or by secondary evidence

d) shall be proved either by primary or by secondary evidence

Ans: C

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 61

Section 61. Proof of contents of documents:

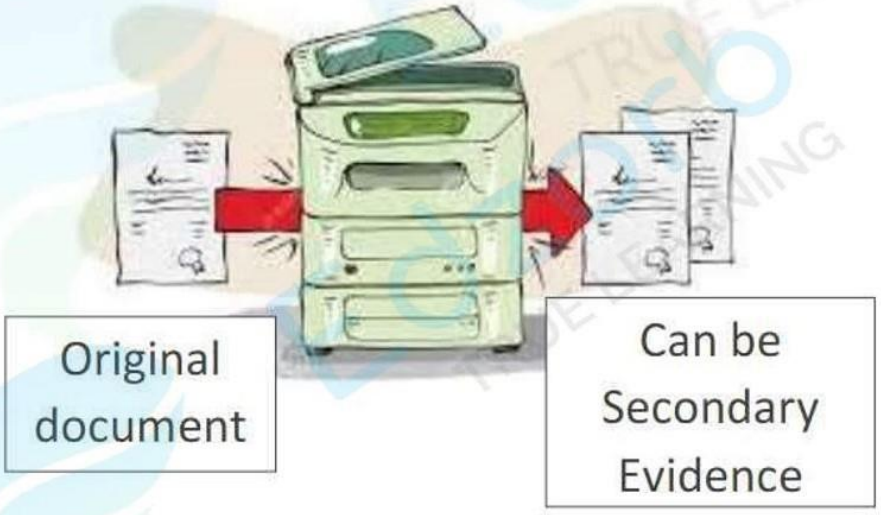
The contents of documents may be proved either by:

- **PRIMARY EVIDENCE**

  Primary evidence means the **document itself produced** for the inspection of the Court.

- **SECONDARY EVIDENCE**

Secondary Evidence is the document which is **not original document** but those documents can be produced before court under the law.



Reference: Indian Evidence Act, 1872, Section 61

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Q.18) The following documents are public documents:

a) Documents forming the acts, or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country

b) Public records kept (in any State) of private documents

c) Both (a) and (b)

d) Only documents maintained by legislative, judiciary and executive in India

Ans: C

Exp:

Source: Edzorb Law QBank- Indian Evidence Act – Unit X – Q 28

Edzorb Law Bare Act Revolution- Indian Evidence Act – Section 74

28.

MCQ, Single Correct Question

Section 74 deals with:

a Private Documents

b Public Document

c Both A and B

d Neither A nor B

Section 74: Public documents:

The following **documents are public documents**:

Here, the public officer means public officers (whether legislative, judicial and executive) of:

- Any part of India or
- Commonwealth, or
- Foreign country.

Deccan Paper Mills Co. Ltd. Vs Regency Mahavir Properties

19 August, 2020, Supreme Court

Issue: Whether a sale deed (duly registered) is a public document or a private document?

Held:

- A registered sale-deed (or any other registered document) is not a public document but a private document.
- The entry in the register book is a public document, but the original is a private document.

Section 75: Private documents: All other documents are private.

Reference: Indian Evidence Act, Section 74

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SECTION 74

IEA

Public Documents

- Documents forming the acts, or records of the acts of–
  - Sovereign authority
  - Official bodies and tribunals
  - Public officers, legislative, judicial and executive, of any part of India or of the Common wealth or of a foreign country.
- Public records kept in any State of private documents.

Examples

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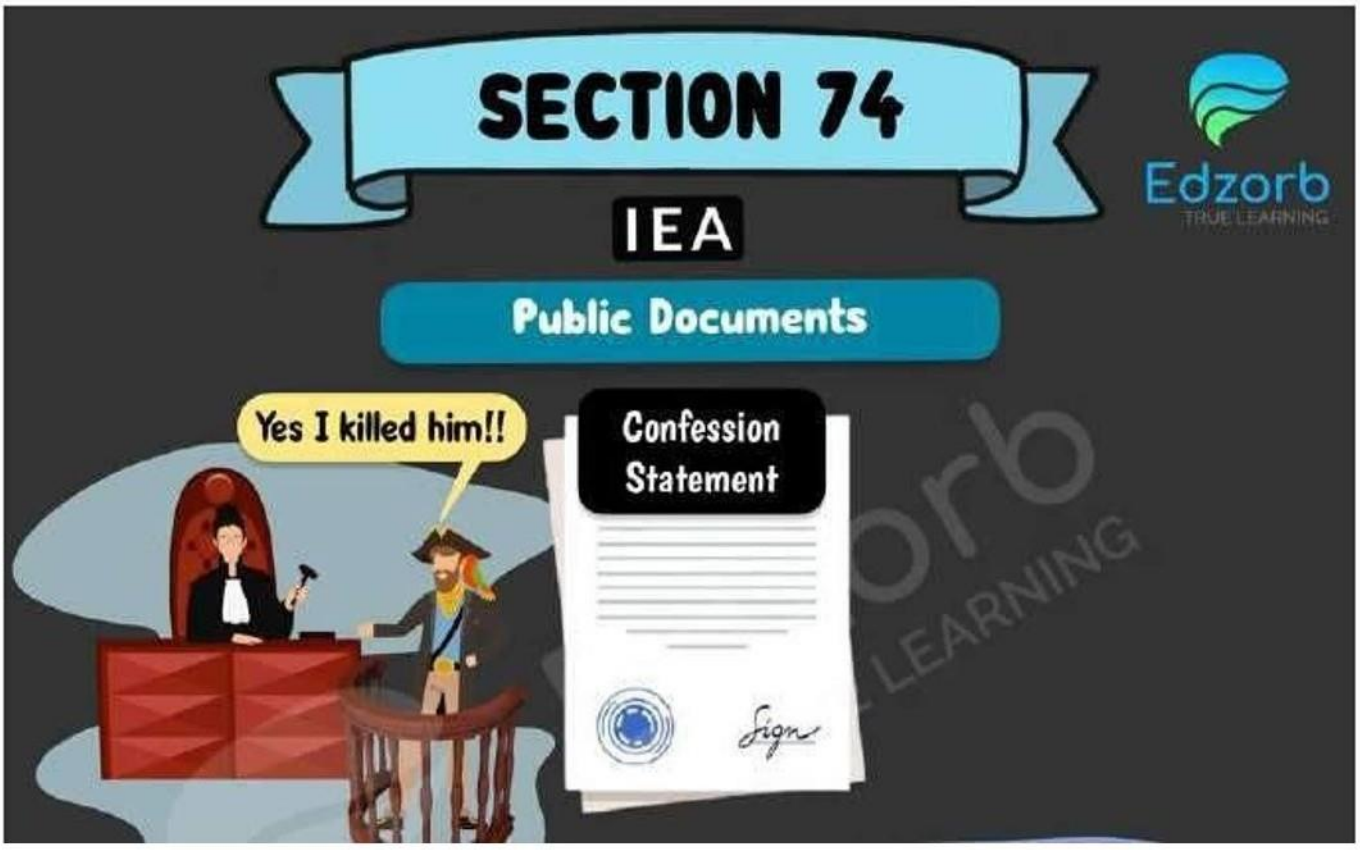

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SECTION 74

IEA

Public Documents

NOT A PUBLIC DOCUMENT

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Q.19) When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead

a) is on a person who affirms it

b) is on a person who denies it

c) is on spouse of the dead person

d) is on first blood relative of the dead person

Ans: A

Exp:

Source I: Edzorb Law QBank – Evidence Act – Unit XII – Q.21

Source II: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part II – Section 107

21.

MCQ, Single Correct Question

Under section 107 of the Indian Evidence Act, when the question is whether a man is alive or dead, and it is shown that he was alive within ..... years, the burden of proving that he is dead is on the person who affirms it.

a 7

b 30

c 12

d 10

(B)

Section 107

Person alive for 30 years:

- Raises a presumption if is shown that a person is alive 30 years.
- The burden of proving that he is dead is on the person who claims he is dead.

Can't believe law presumes this man is alive!

Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 356

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Section 107:

- When the question is **whether a man is alive or dead,** and it is shown that he was **alive within thirty years**,
- The burden of proving that **he is dead is on the person who affirms it**.

The burden of proving that he is dead is on the male lawyer now.

Reference: Indian Evidence Act, 1872, Section 107

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Q.20) Which of the following is not included in the expression 'court' under the Indian evidence Act?

a) All judges

b) All persons legally authorized to take evidence

c) All magistrates

d) Arbitrator

Ans: D

Exp:

Source I: Edzorb Law QBank – Evidence Act – Unit IV – Q.12

Source II: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 3

12.

MCQ, Single Correct Question

Which one of the following is not included in the expression 'Court' under the Indian Evidence Act?

a All judges

b All persons legally authorized to take evidence

c All Magistrates

d Arbitrator

(D)

Section 3 of IEA: Court includes:

- All judge and magistrates,
- All person

Legally authorized to take evidence.

Except- Arbitrators.

To decide a dispute in a judicial manner and to declare the rights of the parties in a definitive judgment is essential sine qua non of a court.

Sine qua non means a thing absolutely necessary.

Did you Know?

Family courts are also within the purview of this section.

Reference: the law of evidence, Ratanlal & Dhirajlal 27th Edn, Page No.5.

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Section 3: Interpretation clause: Unless a contrary intention appears:

COURT:

- It includes all Judges and Magistrates.
- The person (**except arbitrator**) must be legally authorised to take evidence.

Brijnandan Sinha Vs Jyoti Narain

AIR 1956 SC 66

Held:

- Definition of court is **not exhaustive**. Any tribunal or authority whose decision is binding is a court.
- A Commissioner appointed under the Public Servants (Inquiries) Act, 1850 is **not a court** within the meaning of the Contempt of Courts Act, 1952.

Reference: Indian Evidence Act, 1872, Section 3

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Q.21) Which of the following was included in the definition of 'evidence' under the Evidence Act by the Information Technology Act, 2000?

a) Social media

b) E-mail

c) Electronic record

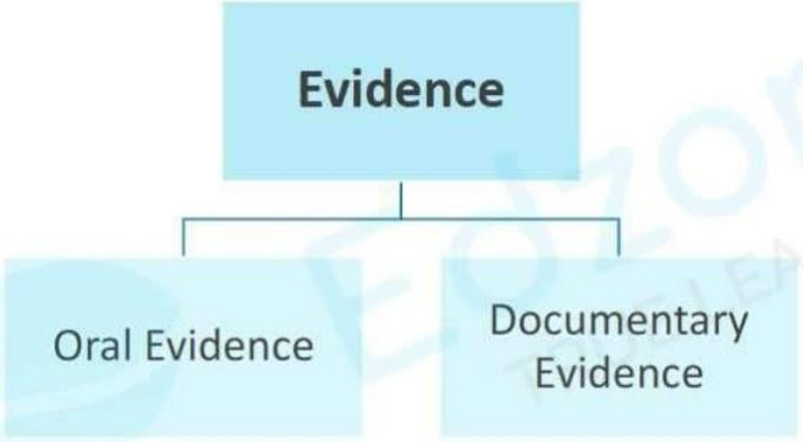
d) Compact disk

Ans: C

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 3

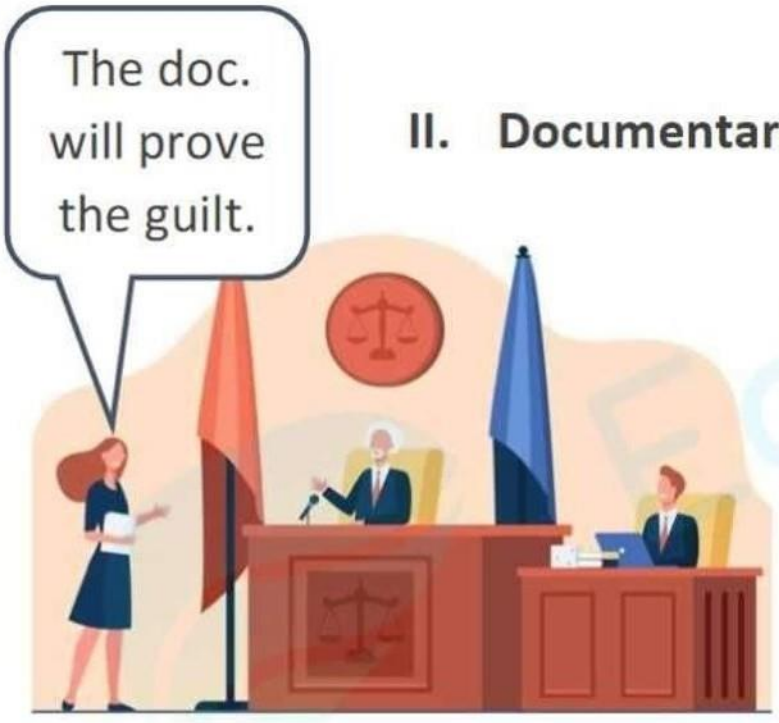
EVIDENCE: Evidence **means and includes**:



Classification of Evidences

I. Oral Evidence:

All statements which the Court permits or requires to be made before it by witnesses in relation to matter of fact under inquiry.



II. Documentary Evidence:

All documents including electronic records produced for the inspection of the Court.

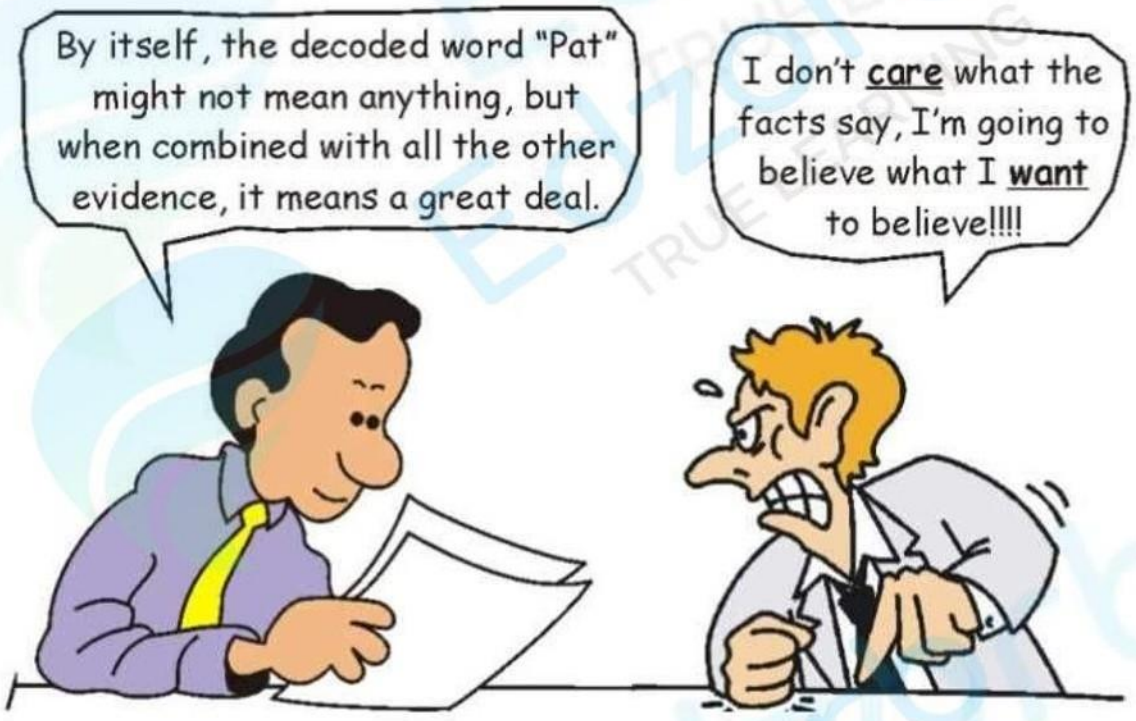
III. DIRECT EVIDENCE:

Direct evidence is that which the witness is giving on basis of his own perception.

In Breach of Contract, a copy of contract is a direct evidence.

IV. CIRCUMSTANTIAL EVIDENCE:

Circumstantial evidence does not prove the point in question directly but establishes it only by inference.



Sharad Birdhichand Sarda Vs State of Maharashtra

AIR 1984 SC 1622

The SC laid down **5 golden principles for conviction** to be based on circumstantial evidence:

- The circumstances from which conclusion of guilt is drawm must be fully established.
- The fact should be consistent with hypothesis of guilt of accused.
- Circumstances to be conclusive in nature
- They should exclude every possible hypothesis except one to be proved.
- There must be chain of evidence so complete leaves no reasonable ground for innocence of accused.

Reference: Indian Evidence Act, 1872, Section 3

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Q.22) An admission constitutes a:

a) Substantive piece of evidence

b) Corroborative piece of evidence

c) Conclusive proof

d) None of the above

Ans: A

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 31

Section 31: Admissions not conclusive proof, but may estop:

Admissions are **not conclusive proof** of the matters admitted, but they may **operate as estoppels** under the provisions hereinafter contained.

Bharat Singh Vs Bhagirathi

AIR 1966 SC 405

- **Admission** is substantive evidence of the fact admitted and
- **Admission** duly proved are admissible irrespective of whether the party making them appears as a witness or not.

Admission Vs Confession

Basis	Admission	Confession
Meaning	• Admission usually relates to civil transactions and comprises all statements amounting to admission defined u/S 17 and made by a person mentioned u/S 18, 19 and 20	• Confession is a statement made by an accused person which is sought to be proved against him in a criminal proceeding to establish the commission of an offence by him.
Conclusive Proof	• Admissions are not conclusive as to the matters admitted, it	• Confession if deliberately and voluntarily made may be

	may operate as an estoppel.	accepted as conclusive of the matters confessed.
Made by one or more defendants/ accused	• Admission by one of the several defendants in the suit is no evidence against other defendants.	• Confessions made by one or more accused jointly tried for the same offence can be taken into consideration against the co-accused (**Section 30**).

Statement is genes, admission is species and confession is sub species.

Sidheshwar Nath Vs Emperor
AIR 1934 All 351

Reference: Indian Evidence Act, 1872, Section 31
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Q.23) "Hearsay evidence is no evidence." Which one of the following is an exception to the above rule under the Evidence Act?

a) Sec. 32

b) Sec. 27

c) Sec. 14

d) Sec. 23

Ans: A

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 3

V. Hearsay Evidence:

Hearsay Evidence denotes that kind of evidence which does not derive its value solely from the credit given to the witness himself, but which rests also, in part, on the veracity and competence of some other person.

The evidence is hearsay as it does not come from the person who has direct knowledge of it.

Exclusion of Hearsay Evidence:

As per **Section 60**, evidence must be direct. It shows that **hearsay evidence is not admissible**.

Hence, the statement by Inayat would be admissible.

Kalyan Kumar Gogoi Vs Ashutosh Agnihotri & Anr. (2011) 2 SCC 532

Held:

Hearsay witnesses were **not admitted as truth comes in diluted** and diminished form this way and the witness in such cases will not have any responsibility on him and so on.

Exception to this rule: Cases where hearsay evidence is admissible:

- Res Gestae
- Admission & Confession
- Dying Declaration
- Evidence given in formal proceedings

Reference: Indian Evidence Act, 1872, Section 3

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Q.24) Judges power to put question or order the production of any document or thing is given in of Evidence Act

a) Sec. 165

b) Sec. 167

c) Sec. 141

d) Sec. 159

Ans: A

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part II – Section 165

Section 165: Judge's power to put questions or order production:

The judge may:

Ask any question she pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant

Order production of any document or thing

The question may be asked in order to discover or to obtain proper proof of relevant facts.

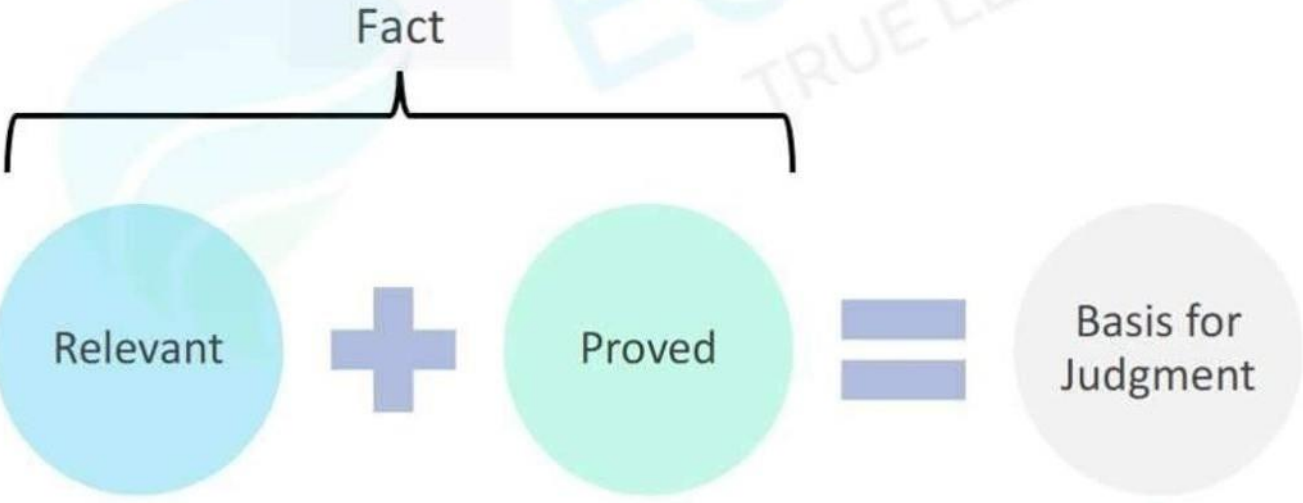
Parties right to objection or cross examination:

- **OBJECTION:** The parties or their agents shall not be entitled to make any objection to any such question or order.

- **CROSS EXAMINATION:** The parties shall not, without the leave of the Court, cross-examine any witness upon any answer given in reply to any question.

Provided that:

I. The judgment must be based upon facts declared by this Act to be relevant and duly proved.



II. This section shall not authorise any Judge:

Sec. 121-131	• To compel witness to answer any question which he would be entitled to refuse to answer u/s. 121 to 131.
Sec.148 or Sec. 149	• Ask any question which is improper as per S. 148 or 149
Dispense with primary evidence	• Allow secondary evi.

Section 165 of Indian Evidence Act and Section 162 of Code of Criminal Procedure:

Raghunandan Vs State of U. P.

1974 SCC (Crl.) 355

Held: Section 162 Cr.P.C. does not impair the special powers of the Court under **Section 165** of the Indian Evidence Act.

Reference: Indian Evidence Act, 1872, Section 165

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Q.25) Confidential communication with whom of the following is protected under Evidence Act?

a) To Magistrate

b) To Police Officer

c) To Legal Advisor

d) To Revenue Officer

Ans: C

Exp:

Source: Bare Act Revolution – Evidence Act – Section 126

SECTION 126

IEA

Professional Communication

Part 1

- Barrister, attorney, pleader or vakil shall not be permitted, unless with his client's express consent, to:
- **Disclose any communication** made to them.
- **State the contents** or condition **of any document** with which they have become acquainted.
- **Disclose any advice** given by them to client

  In the course and for the purpose of the employment as such by or on behalf of client.

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SECTION 126

IEA

Professional Communication

Part 1

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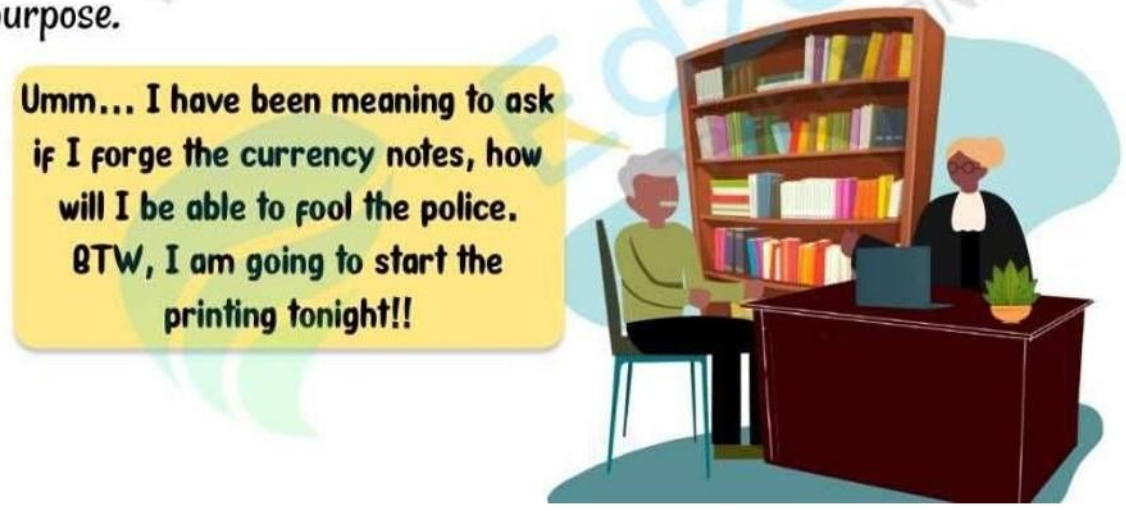
SECTION 126

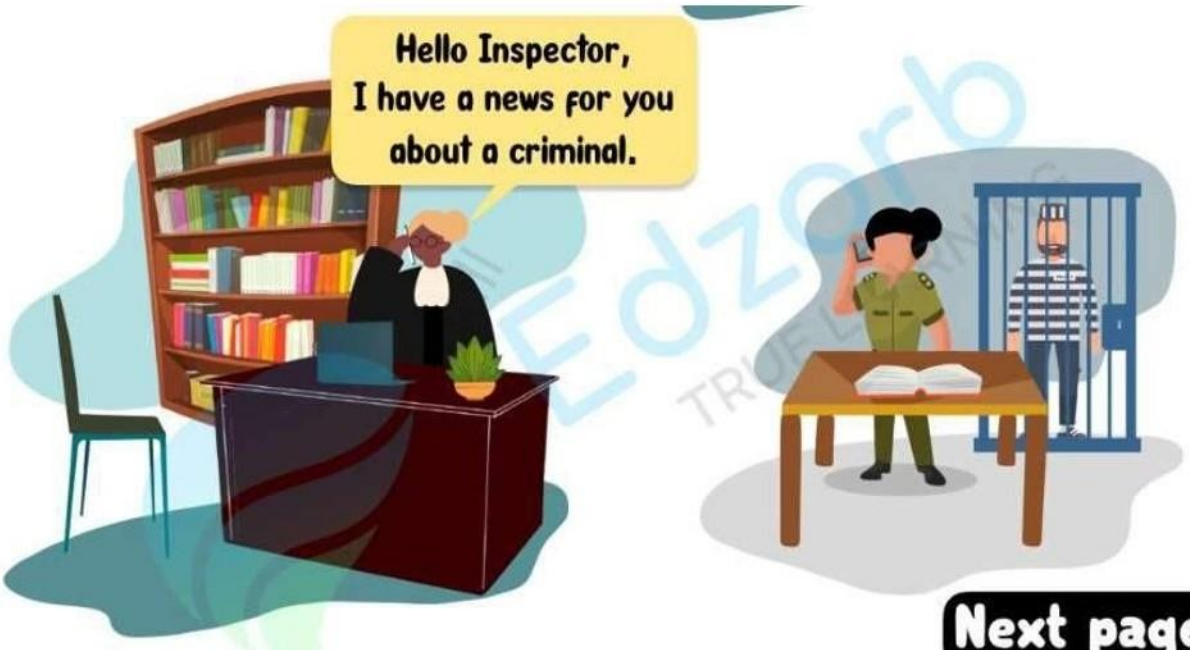
IEA

Professional Communication

Part 2

- Permitted, if :
  - Any such **communication made in furtherance of any illegal** purpose.





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SECTION 126

IEA

Professional Communication

Part 2

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SECTION 126

IEA

Professional Communication

Part 3

- Permitted, if:
- Any **fact observed in the course of the employment which shows any crime or fraud** has been committed **since** the commencement of employment.
- It is immaterial whether the attention of such barrister, pleader, attorney or vakil was or was not directed to such fact by or on behalf of his client.

Explanation—The obligation stated in this section continues after the employment has ceased

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SECTION 126

IEA

Professional Communication

Part 3

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SECTION 126

IEA

Professional Communication

Part 3

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Case Law

IEA

P.G. Anantasayanam v. Miriyala Sathiraju

1998 (2) ALT 675

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Case Law

IEA

P.G. Anantasayanam v. Miriyala Sathiraju

1998 (2) ALT 675

Hon'ble Court held that:

- The **purpose of summoning** the advocate is **not to disclose any confidential communication** made by the client to his advocate.
- The purpose is only **to prove sending of the notice** which was sent by the advocate on the information supplied by the client.
- The very **purpose of sending notice** is to communicate the contents to the other side.
- Hence, summoning of advocate **cannot be challenged** on the ground that it contravenes S.126.

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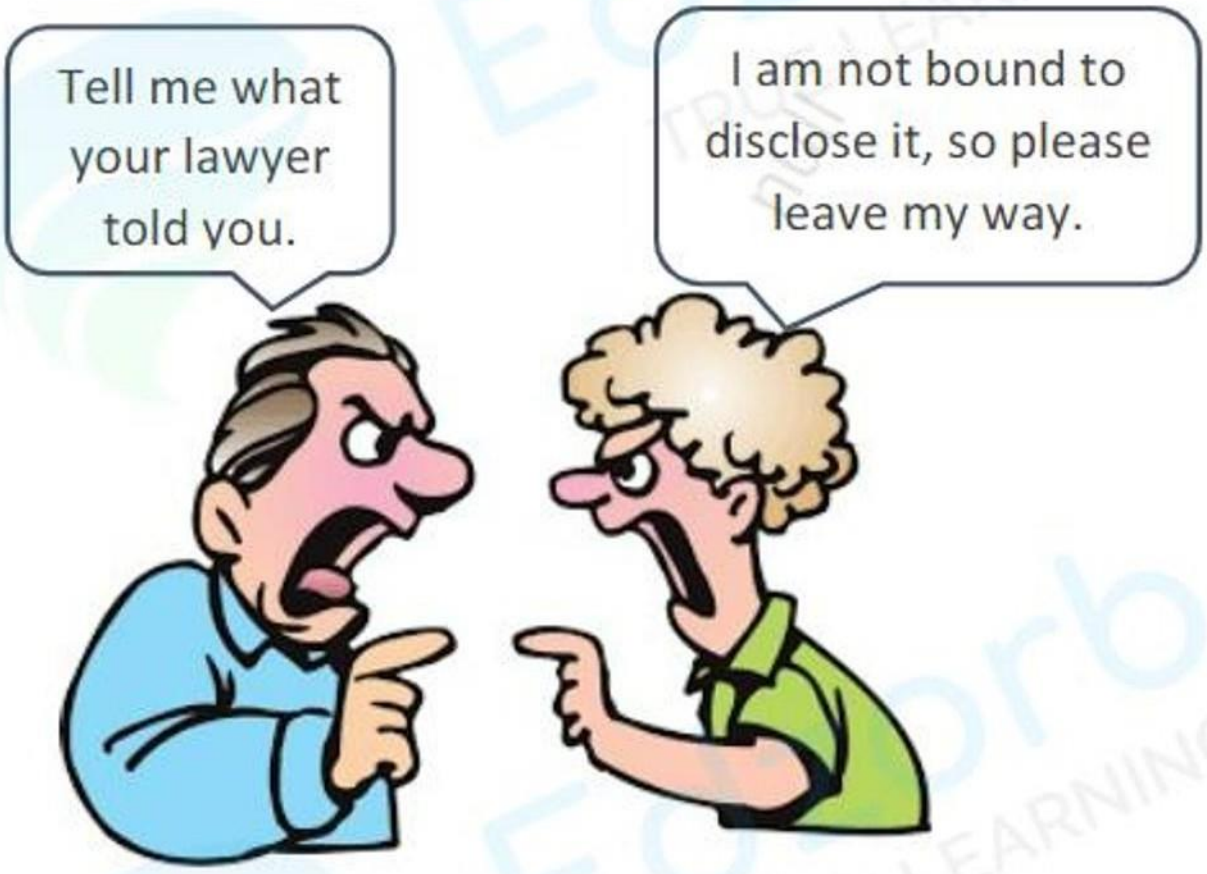
Section 129: Confidential communications with legal advisers:

No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser.



Unless I offer myself as witness, in which case I may be compelled to disclose such communication as <u>may appear to court necessary to be known in order to explain any evidence, but no others</u>.

Reference: Indian Evidence Act, 1872, Section 129

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Q.26) Section 62 of the Evidence Act deals with:

a) Primary Evidence

b) Secondary Evidence

c) Proof of documents by primary evidence

d) Cases in which secondary evidence relating to the documents may be given

Ans: A

Exp:

Source: Edzorb Law QBank – Evidence Act – Unit X – Q.16

16.

MCQ, Single Correct Question

Which of the following is primary evidence?

a. The commissioner prepared a report and signed it
b. A copy of medical certificate prepared from the original
c. A photocopy of the will
d. Enlargement of a photo from another photo

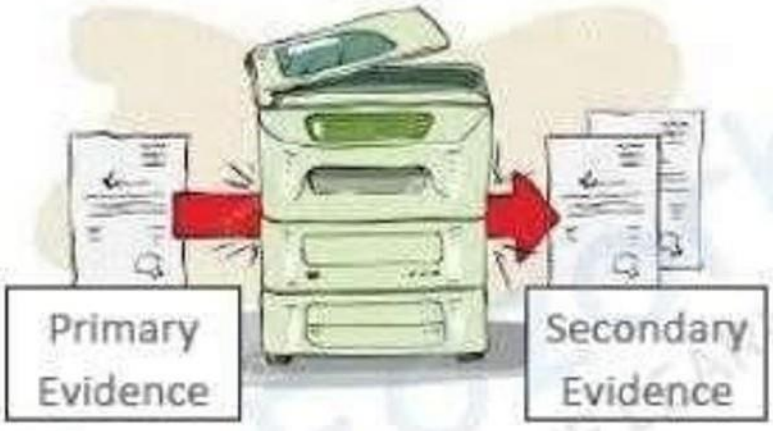
(A)

Section 62: Primary Evidence

Primary evidence means the **document itself produced** for the inspection of the Court.

Section 63: Secondary Evidence

Secondary Evidence is the document which is **not original document** but those documents can be produced before court under the law.



Hence, a report prepared and signed by the commissioner is a primary evidence.

Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 260.

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Q.27) In the absence of substantive evidence:

a) corroborative evidence can be used

b) corroborative evidence has no worth

c) corroborative evidence may be or may not be used as per the discretion of the Court

d) None of the above

Ans: B

Exp:

Q.28) Where a married woman, dying of burns was a person of unsound mind and the medical certificate vouchsafed her physical fitness for a statement and not the state of mind at the crucial moment; in which of the following cases the court said that the statement could not be relied upon?

a) Ravi Chander v. State of Punjab

b) Shripatrao v. State of Maharashtra

c) Uka Ram v. State of Rajasthan

d) Baldev Raj v. State of H.P.

Ans: C

Exp:

Source: Edzorb Law QBank – Evidence Act – Unit VI – Q.33

33.

MCQ, Single Correct Question

Which of the following cases related to medical fitness of person while giving dying declaration.

a Laxman Vs State of Maharashtra

b Uka Ram Vs State of Rajasthan

c Both a and b

d Neither a nor b

Concept of Dying Declaration: (Section 32(1))

- "**Dying Declaration**" means a statement (written or verbal) of relevant facts made by a person, who is dead.
- It is the statement of a person who had died explaining the circumstances of his death.

If a person dies, this becomes dying declaration

Reason for admissibility of Dying Declaration:

Nemo moriturns proesumitur mentiri → A man does not lie at the time of his death and he will not meet God with a lie in his mouth.

Uka Ram Vs State of Rajasthan

10 April, 2001, Supreme Court

- The sense of death leads to the same feeling which a virtuous man gets under oath.
- The admission of DD is made because the declaration has been made under extremity.

- When a person is near death and his hope is gone for this world then it is powerful consideration that he will be speaking the truth.

Absence of medical statement of fitness:

Laxman Vs State of Maharashtra

AIR 2002 SC 2973

Medical certification is not a sine qua non for accepting the Dying Declaration.

Uka Ram Vs State of Rajasthan

10th April, 2001 SC

Facts:

- Relying upon the dying declaration, trial court held appellant guilty for murder
- According to appellant, his wife was insane and getting treated for insanity.

Held:-

- Fact that deceased was mental patient, but investigating agency did not take precaution to ensure that the incident was suicidal or homicidal.
- **Dying declaration is not reliable** as the medical certificate showed that the person was not in reliable state of mind, the conviction and sentence of the appellant is not justified.

Reference: Indian Evidence Act, Section 32

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Q.29) Under section 14 of the Evidence Act, the facts showing the existence of state of mind must be:

a) Specific state of mind

b) General state of mind

c) Both (a) and (b)

d) None of the above

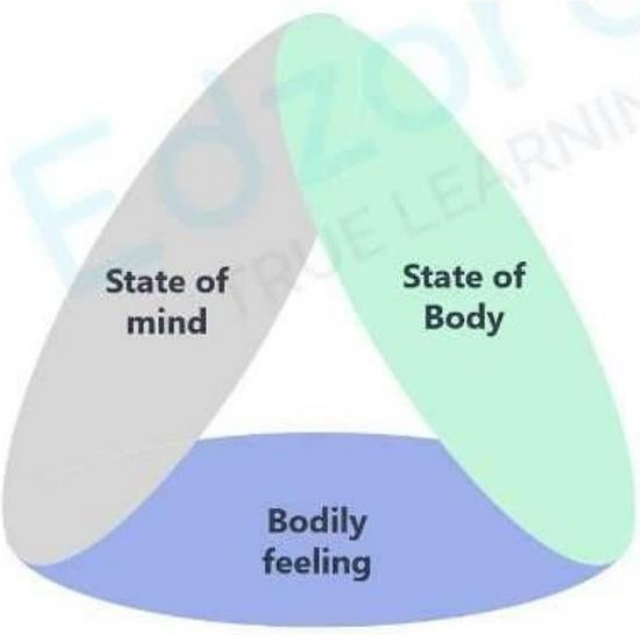
Ans: A

Exp:

Source: Edzorb Law Premium+2.0 - Simplified Notes – Evidence Act – Part I – Section 14

Section 14: Facts showing existence of state of mind, or of body or bodily feeling:

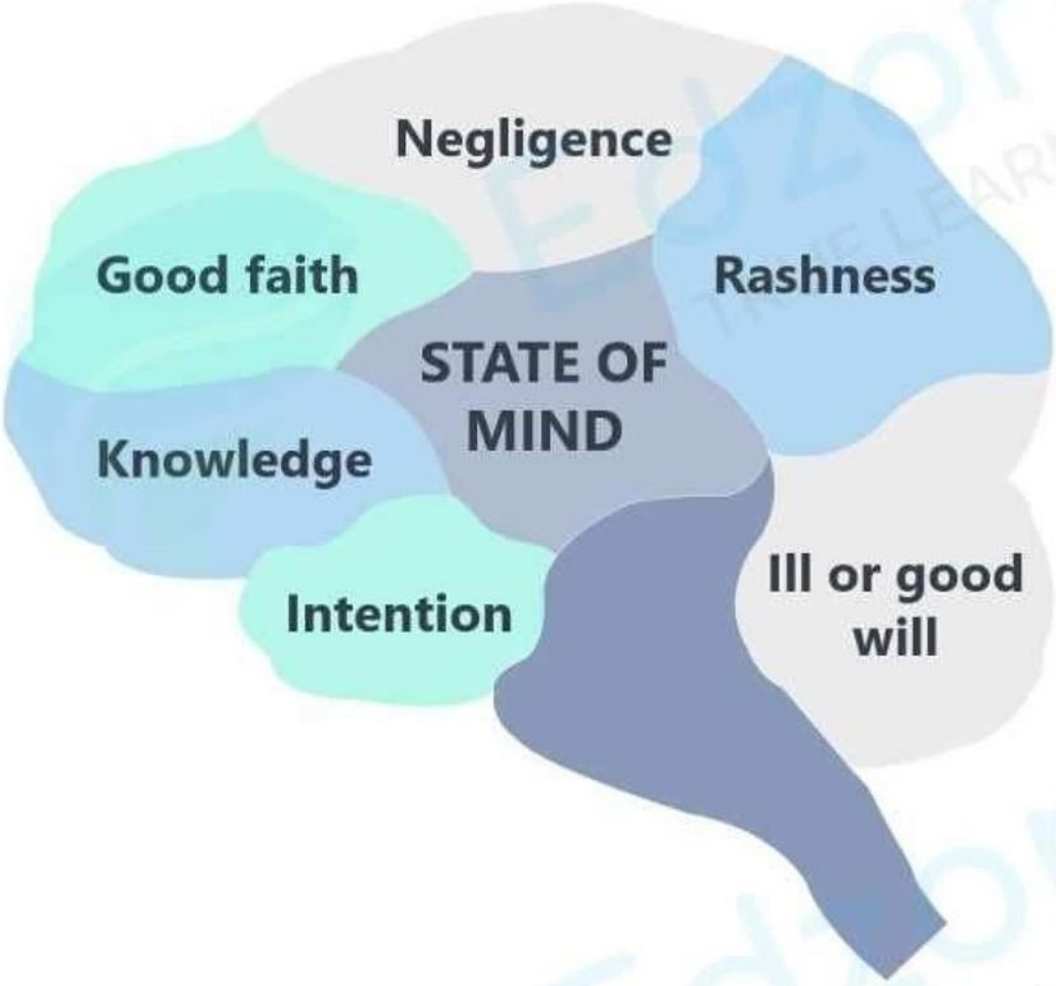
Facts showing the existence of following are relevant:



These are relevant when such state of mind, body or bodily feeling is issue or is relevant.

STATE OF MIND:

State of mind can be as follows:



In criminal law, offence consists of **actus rea and mens rea**, hence, the state of mind is always in question.

For theft, a person must prove **dishonest intention.**

Explanation 1: NOT GENERALLY BUT TO PARTICULAR MATTER:

A fact relevant as showing the existence of state of mind must show that the state of mind exists not generally, but in reference to the particular matter in question.

Question arose whether Gabbar killed Samba?

It cannot be shown that Gabbar is in habit of killing people, however, it may be shown that Gabbar had previously shot Samba.

R Vs Prabhudas

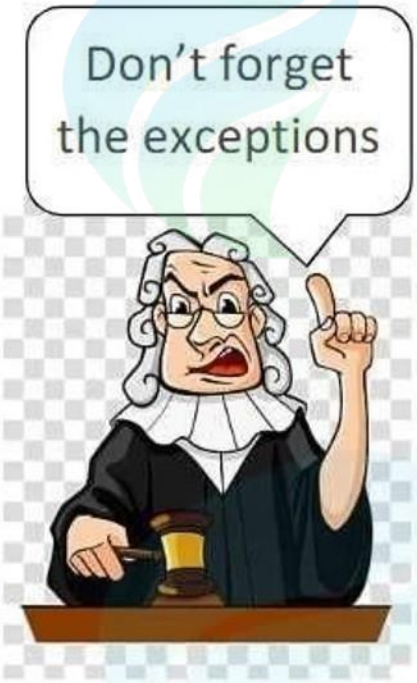
(1874) 11 Bom 90

- **Facts:** The accused was found in possession of documents apparently forged or prepared for the purpose.
- **Held:** Not relevant as it shows the tendency to commit crime and not an intention to commit particular crime.

Explanation II: PREVIOUS CONVICTION:

When the **previous commission** by the accused of an offence is relevant, the **previous conviction** of such person is also a relevant fact.

General Rule: A previous conviction is not admissible in evidence against the accused.



- Where he is liable to enhanced punishment under **S. 75** of the Indian Penal Code on account of a previous conviction, or
- Evidence of good character be given, the fact that the accused has been previously convicted of an offence is admissible evidence of bad character.

Emperor Vs Haji Sher Mohd.

1923 (25) Bom LR 214

Facts:

- The accused were charged under Sec. 400, IPC for belonging to gang of habitual dacoits.
- The prosecution sought to prove that some of the accused had been previously convicted of theft.

Held:

- The evidence was **not admissible under Sec. 14** because the offence of which the accused were being tried was particular one of belonging to a gang of dacoits and
- Simple theft or bad livelihood would not show an intention to belong to a gang of dacoits.

STATE OF BODY OR BODILY FEELING:

- Evidence can also be given of fact from which state of person's body or bodily feeling can be inferred.
- In this regard, statement of the affected person is a crucial element, as he alone knows best of his body.

Statements made by A as to the state of his health at or near the time in question are relevant facts.

Reference: Indian Evidence Act, 1872, Section 14

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Q.30) Statement recorded during investigation under Section 161 Cr.P.C. can be used during trial:

a) For corroborating the witness

b) For contradicting the witness

c) Both (a) and (b)

d) Neither (a) nor (b)

Ans: B

Exp:

Source I: Edzorb Law QBank – CrPC – Unit VII – Q.9

Source II: Edzorb Law Premium+2.0 - Simplified Notes – Criminal Procedure Code – Part III – Section 162

9.

MCQ, Single Correct Question

Statement recorded by police officer during investigation under Section 161 of the Criminal Procedure Code can be used during trial

a) for contradicting the witness

b) for corroborating the witness

c) both for (a) and (b)

d) neither for (a) nor (b)

(A)

The proviso to Section 162 (1) of CrPC:
When any **witness** is called for the **prosecution** in such inquiry or trial whose statement has been reduced into writing earlier,

- any part of his statement may be used by the accused and the prosecution to **contradict such witness** in the manner provided by Section 145 of the Indian Evidence Act, 1872 (IEA).

- Section 145 Indian Evidence Act - Cross-examination as to previous statements in writing.

Jodha Khoda Rabari Vs State of Gujarat
(1992) CrLJ 3298 (Guj)

Such a statement cannot be used to contradict any other person but limited use is to **contradict the maker of it**.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 1-6
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Section 162(1):

Use of statements in evidence:

- If the statement made by any person to a police officer in the course of an investigation under this Chapter is reduced to writing
- **It shall not be signed** by the person making it
- Such statement or a**ny record thereof shall not be used at any inquiry or trial**
    - Whether recorded in a police diary or otherwise, in respect of any offence under investigation at the time when such statement was made.

State of Rajasthan Vs Teja Ram & Ors.

AIR 1999 SC 1776

Held:

- **S. 162** CrPC does not provide that evidence of a witness given in Court **becomes inadmissible**
- If it is found that the statement recorded in the course of investigation was signed
- It **merely puts the Court on caution** and may necessitate in depth scrutiny.

When can such statements be used?

Proviso:

- **Statement**: If there is a witness whose statement has been reduced into writing as aforesaid
- **Prosecution**: When such a witness is called for the prosecution in such inquiry or trial
- **Process to use as Evidence**:
  - Any part of the statement, **if duly proved**, may be **used by the accused**
  - With the permission of the Court, by the prosecution, to contradict such witness in the manner provided by **Section 145** of the **Indian Evidence Act, 1872**

- When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

Okay I have noted this statement. Just need to prove it.

Yuss!!! Got it. Now I can prove that statement.

Section 162(2)

- This **section is not applicable** to any statement falling **under S. 32(1) or S. 27** of Indian Evidence Act, 1872

Baleshwar Rai Vs State of Bihar
(1964) 1 CriLJ 564

Held:

- An anonymous letter was written by the accused to the police officer complaining about the acts of a chowkidar who was ultimately murdered by the accused.
- The statement was held not to be hit by Section 162 and was held to be **admissible in evidence** as an admission as to the motive, under **Section 21, Evidence Act**

Reference: Code of Criminal Procedure, s.162

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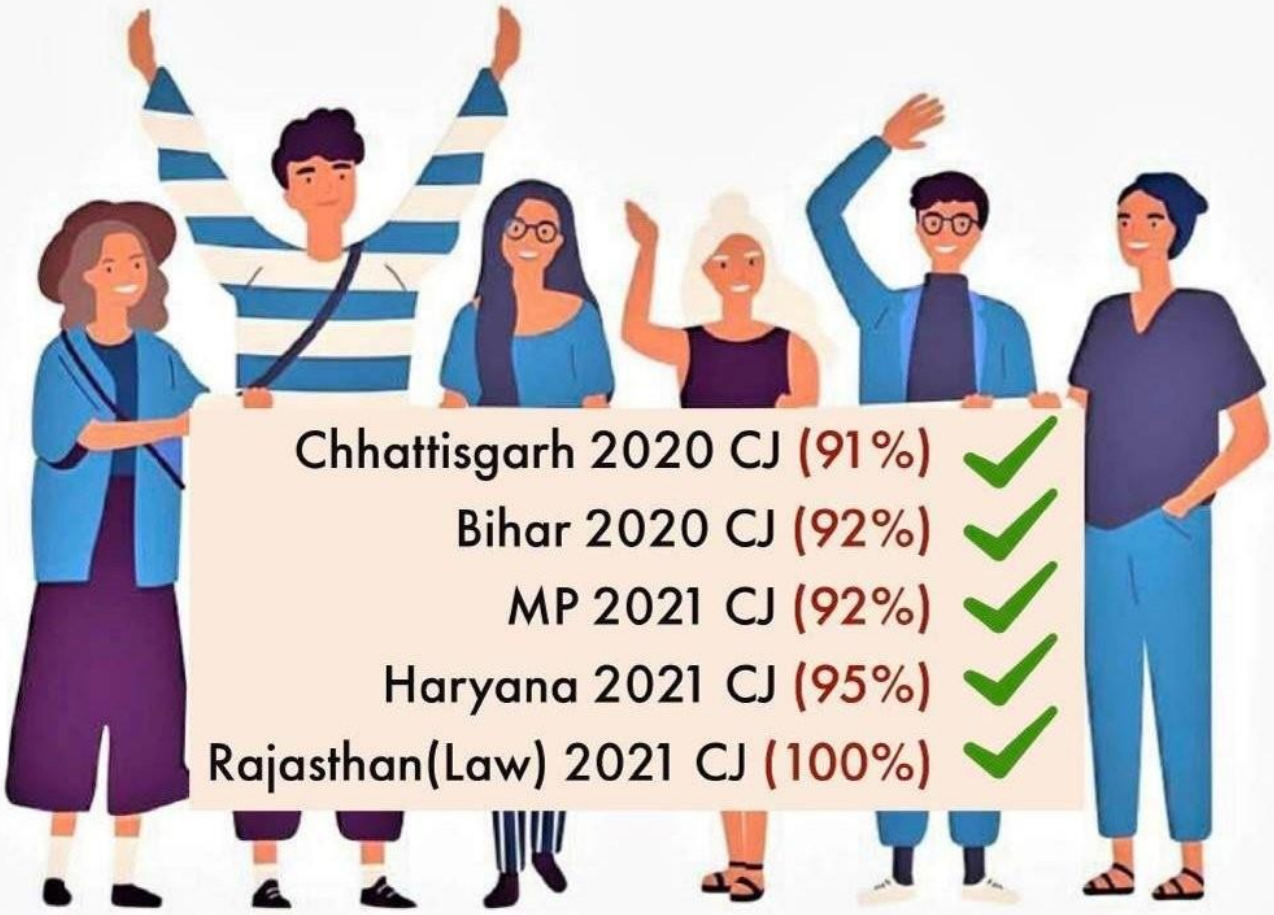

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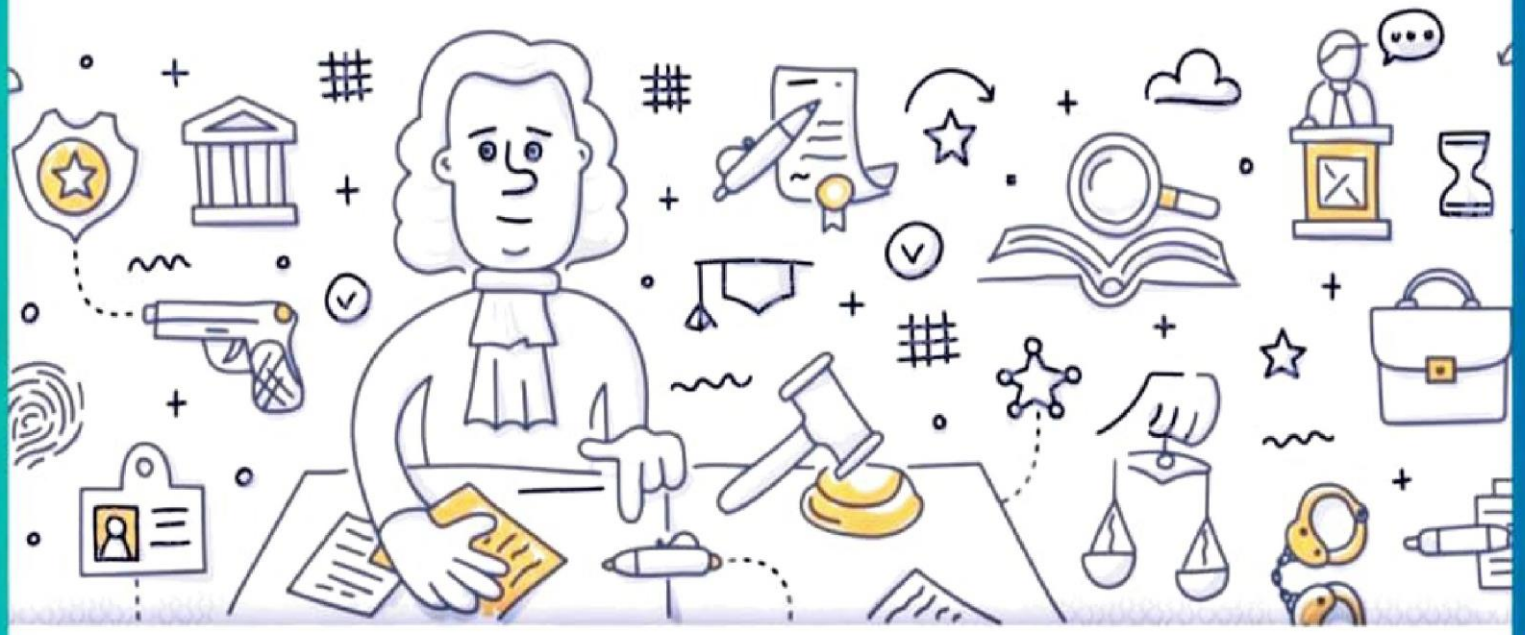

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Q.31) Where by a contract of sale, the seller purports to affect a present sale of future goods, the contract operates as:

a) Sale

b) An agreement to sell the goods

c) A sale or an agreement to sell the goods, depending upon the facts and circumstances of the case

d) None of the above

Ans: B

Exp:

Source: Edzorb Law QBank – Sale of Goods Act – Unit I – Q.27

27.

MCQ, Single Correct Question

A control of present sale of future good, under Section 6(3) of the Sale of Goods Act, 1930, operates as a

a Contract of sale

b Agreement to sell

c Either (a) or (b) depending upon the time of delivery

d None of the above

(B)

Section 6(3) of SGA states that, where by a contract of sale the seller purports to affect a present sale of future goods, the contract operates as an agreement to sell the goods.

Growmore Exports Ltd. vs Assistant Commissioner
2001 78 ITD 95 Mum

- The contract through which assessee sought to buy the units was certainly a contract to buy future goods.
- The assessee never took delivery of the units.
- There is no evidence to show that assessee in fact obtained delivery thereof.
- Thus the units contracted to be bought were future goods and were unascertained.

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 31.
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Q.32) The unpaid seller's right of lien terminates:

a) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods.

b) When the buyer or is agent lawfully obtains possession of the goods.

c) Both (a) and (b)

d) None of the above

Ans: C

Exp:

Source: Edzorb Law QBank – Sale of Goods Act – Unit V – Q.12

12.

MCQ, Single Correct Question

Termination of lien is dealt under which section of Sale of goods act ?

a Section 47

b Section 48

c Section 49

d Section 50

(C)

Section 49: Termination of Lien:

- **Delivery to the carrier**: A delivery to a common carrier for conveyance is such a delivery of actual possession to the buyer through his agent, the carrier.

  - **Condition for the same**: The seller must not retain the right of disposal. When he reserves such right the carrier becomes his agent and his right to lien is not waived off.

- **Lawful Possession by the buyer**: The possession must be lawful, not by any other means such as force or fraud etc.

- **Waiver**: If the seller himself waives his own right of lien.

Express Waiver	Implied Waiver
Where the contract of sale provides in express terms that the seller shall not be entitled to retain possession.	The lien is waived by implication such as consent for sub-sale, acceptance of NI, etc.

- **Payment for Price**: If the buyer pays or tenders the payment of whole of the price, the seller rights as unpaid seller terminates.

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 112

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Q.33) There are exceptions to the rule that a seller of goods cannot give to the buyer a better title than he himself has over them. Which among the following is a wrong exception?

a) Sale by Mercantile Agent

b) Sale by one of the joint owners

c) Sale by seller in possession after sale

d) Sale without the consent or authority of owner

Ans: D

Exp:

Source: Edzorb Law QBank – Sale of Goods Act – Unit V – Q.7

7.

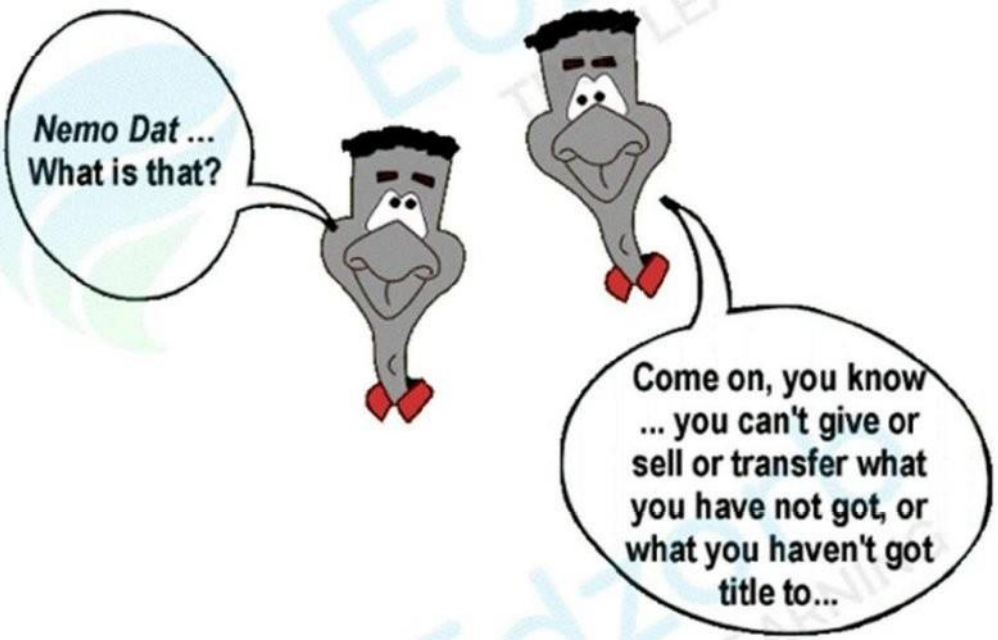
MCQ, Single Correct Question

Nemo dabet quod non habet, is enshrined in which section of Sale of Goods act?

a. Section 27
b. Section 28
c. Neither (a) nor (b)
d. Only (b) and not (a)

(A)

Nemo dat quod habet → "No one can transfer a better title than he himself possesses"



Section 27 of Sale of Goods Act contains the same principle.

Exceptions to the General Rule

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 74

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Q.34) Which provision of the Limitation Act provides that an appeal from an order can be filed in a High Court within 90 days and in another court within 30 days?

a) Article 102

b) Article 133

c) Article 116

d) Article 109

Answer: C

Exp:

Source: Edzorb Law Qbank – Limitation Act – Unit V – Q.35

35.

MCQ, Single Correct Question

Which article provides an appeal from order can be filed in High Court within 90 days:

a Article 114

b Article 115

c Article 116

d Article 117

Article 116

The period of limitation for appeal under the Code of Civil Procedure, 1908

To a High Court from any decree or order is **ninety days**

To any other Court from any decree or order is **thirty days**

Limitation commences **from the date of decree** or order

Reference: Limitation Act, 1963; FIRST SCHEDULE

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Q.35) Which of the following is not covered under Section 6 of the Limitation Act, 1963?

a) Insane

b) Insolvent

c) Idiot

d) Minor

Ans: B

Exp:

Source: Edzorb Law QBank – Limitation Act – Unit II – Q.3

3.

MCQ, Single Correct Question

Which of the following is true and correct?

a Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceases, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

b Where such person is, at the time from which the prescribed period it to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

c Both (a) and (b)

d Neither (a) nor (b)

(C)

Section 6---Legal Disability

Where a person entitled to institute a **suit** or **make an application for the execution of a decree** is

at the time from which the prescribed period is to begin, is a->

MINOR

INSANE

IDIOT

He may file such suit or make an application **within the same period** as specified in the schedule of the Limitation Act for others **when he is free of the disability**.

(2) Where such person is-

Affected by **two** such disabilities-	**OR**	Before his disability has ceased, he is affected by another disability-

He may institute the suit or make the application within the same period **after both disabilities have ceased**.

- **Section 6**, **7** and **8** of the Limitation Act deal with provisions relating to legal disability.

Morgan Vs Morgan

The court has explained the position of a minor in particular and of a disabled person in general.

Reference: Limitation Act, 1963

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Q.36) Which of the following provisions of The Limitation Act, 1963 states that in case of debt, payment will provide fresh period of limitation from the time of payment?

a) Sec.13

b) Sec.16

c) Sec.19

d) Sec.22

Ans: C

Exp:

Source: Edzorb Law QBank – Limitation Act – Unit IV – Q.17

17.

MCQ, Single Correct Question

Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorized in this behalf, a fresh period of limitation shall be computed from the time when payment was made. The statement is

a. True
b. False
c. Partly Correct
d. None of the above

(A)

Section 19: Effect of Payment on Account of Debt or of Interest on Legacy

- Where **payment on account of a debt or of interest** on a legacy is made **before the expiration** of the prescribed period by the person liable to pay the debt or legacy or by his agent,

A fresh period of limitation shall be computed from the time when payment was made.

MORE ON SECTION 19!

- A payment saves limitation under Section by a person liable to pay it.
- Section 19 of the Limitation Act does not make a distinction between a payment of interest and a payment of principal.
- A payment by cheque satisfies the requirement of Section 19 of the Limitation Act in as much as the acknowledgement of payment appears in the handwriting of or in a writing signed by the person making the payment in the form of a cheque.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 775

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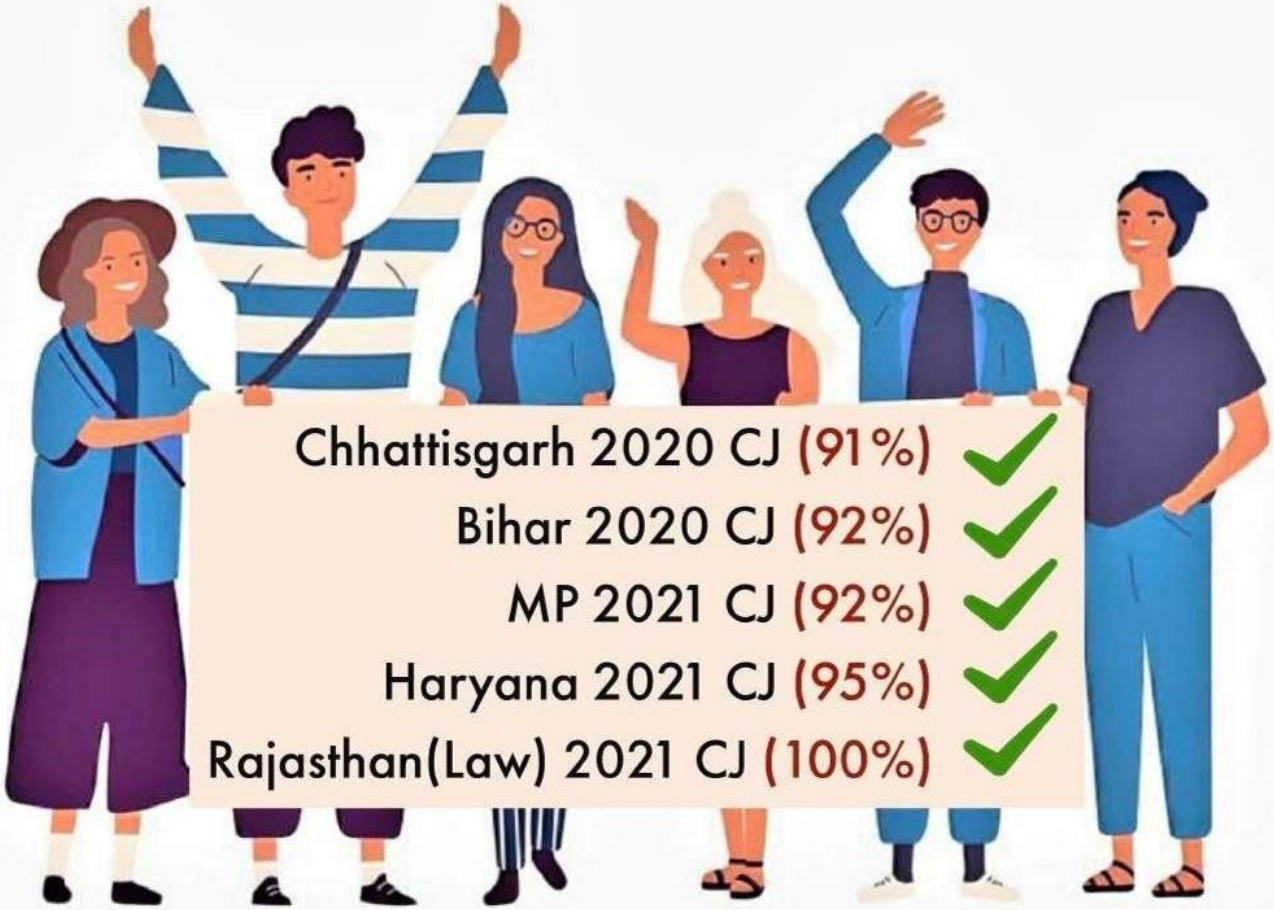

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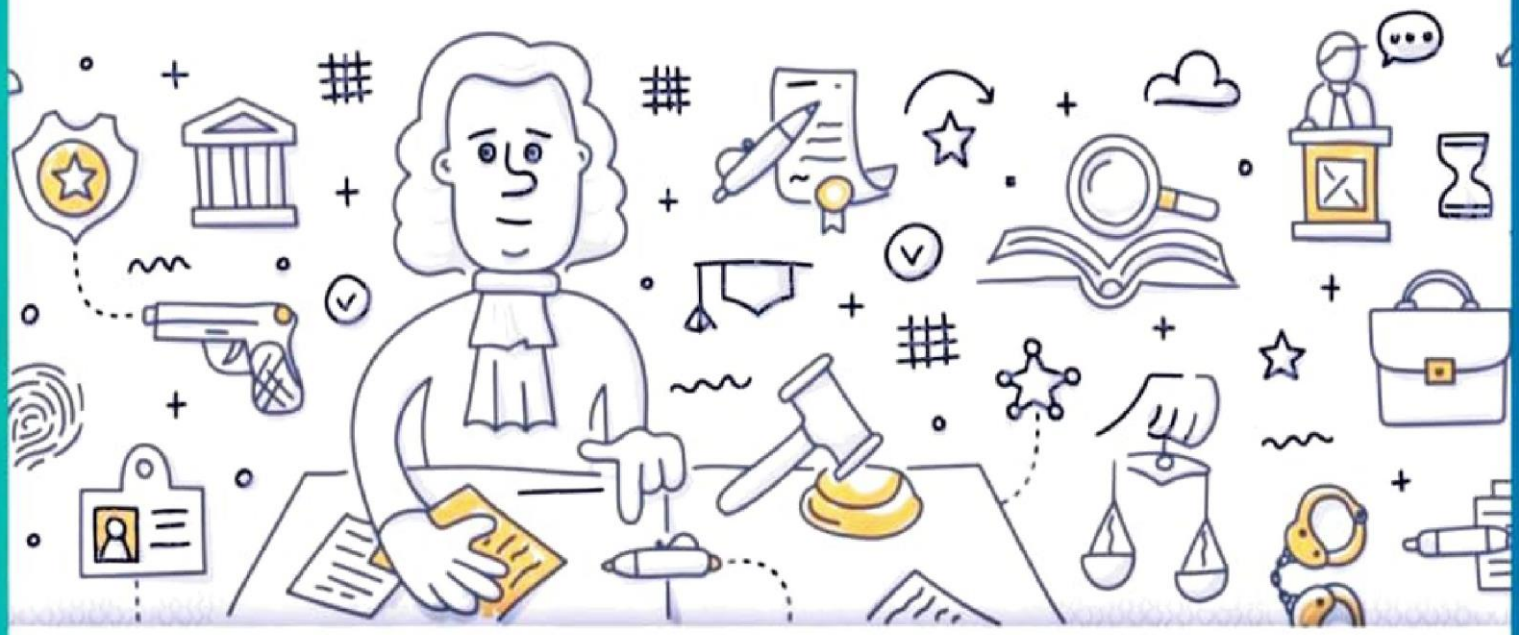

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Q.37) Section 20 of The Specific Relief Act, 1963 provides for:

a) Discretion of the court as to decreeing specific performance

b) Substituted performance of contract

c) Power of the court to engage experts

d) Expeditious disposal of suits

Ans: B

Exp:

Source: Edzorb Law QBank – Specific Relief Act – Unit VII – Q.5

5.

MCQ, Single Correct Question

Jurisdiction of the court to enforce specific performance of a contract is

a general and not exceptional

b discretionary

c exceptional

d extensive.

(A)

Before 2018 Amendment Act

Section 20(1) of SRA, 1963: **Discretion as to decreeing specific performance-**

- The **jurisdiction to decree specific performance is discretionary**, and
- the court is not bound to grant such relief merely because it is lawful to do so.

After 2018 Amendment Act

Section 20: **Substituted performance of contract**:

Where the contract has been breached by one of the parties to the contract, the other party may ask for specific performance from the third party and may recover expenses from the party, which failed to fulfil the obligations of the contract.

I have power whether to grant discretion of specific performance or not

Sorry Mr. Judge, I have amended Section 20 and taken away that discretionary power from you

Did you Know?

Once a person has obtained substituted performance, he can't claim specific performance against the party.

Mukesh Singh and Ors Vs Saurabh Chaudhary And Another

3 May, 2019, All. HC

The discretionary jurisdiction of Courts to decree specific performance was done away by newly substituted Section 20 by Act 18 of 2018.

The newly substituted Section 20 makes specific performance of contract a general rule than exception subject to certain limited grounds.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 893

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Q.38) Which of the following situations has/have been inserted by the Specific Relief (Amendment) Act, 2018 in Section 41 of The Specific Relief Act, 1963 (when an injunction cannot be granted):

a) To restrain any person from applying to any legislative body

b) When equally efficacious relief can certainly be obtained by any other usual mode of proceedings except in case of breach of trust

c) If it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project

d) All the above

Ans: C

Exp:

Source: Edzorb Law QBank – Specific Relief Act – Unit III – Q.31

31.

MCQ, Single Correct Question

Which of the following sections of the Specific Relief Act deals with cases where an injunction may be refused?

a Section 40

b Section 41

c Section 42

d Section 43

(B)

Section 41 of SRA, 1963: Injunction when refused-

An injunction cannot be granted—

- To restrain from prosecuting pending judicial proceeding, unless to prevent multiplicity of proceedings,
- To restrain from instituting any proceeding in court not sub-ordinate,
- To restrain from applying to legislative body,
- to restrain from instituting proceeding in criminal matter,
- To prevent breach of contract whose performance not specifically enforced;
- To prevent, an act not reasonably clear to be nuisance on ground of nuisance,
- to prevent a continuing breach,
- Equally effective relief can certainly be obtained by other mode of proceeding except in case of breach of trust,
- Conduct of plaintiff or his agent is to disentitle him to be assistance of court,

Did you Know?

After 2018 amendment act, injunction can't be granted if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project.

Reference: Equity, Trust and Specific Relief Act, By Aqil Ahmed, 15th Edn. (2017), Page No. 148

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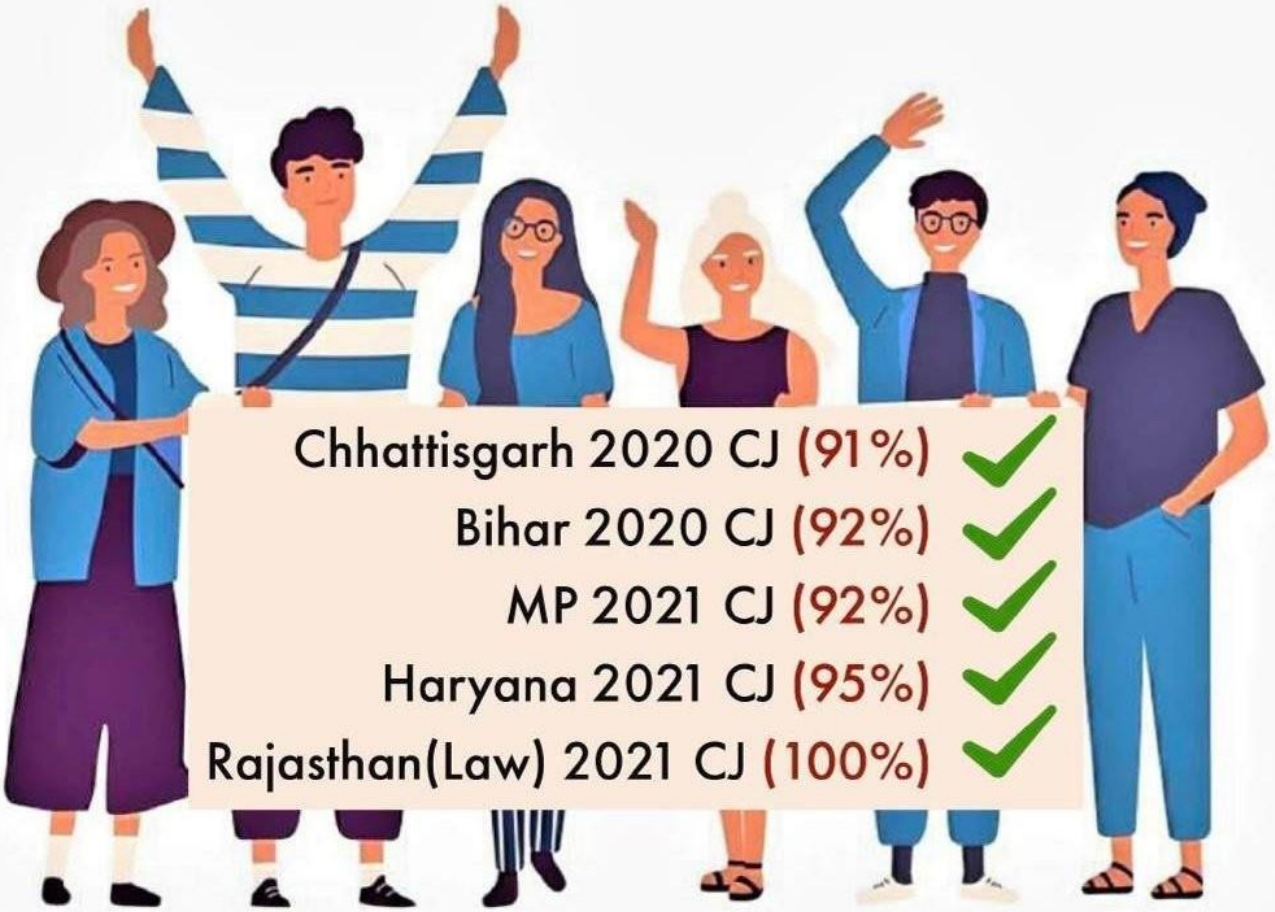

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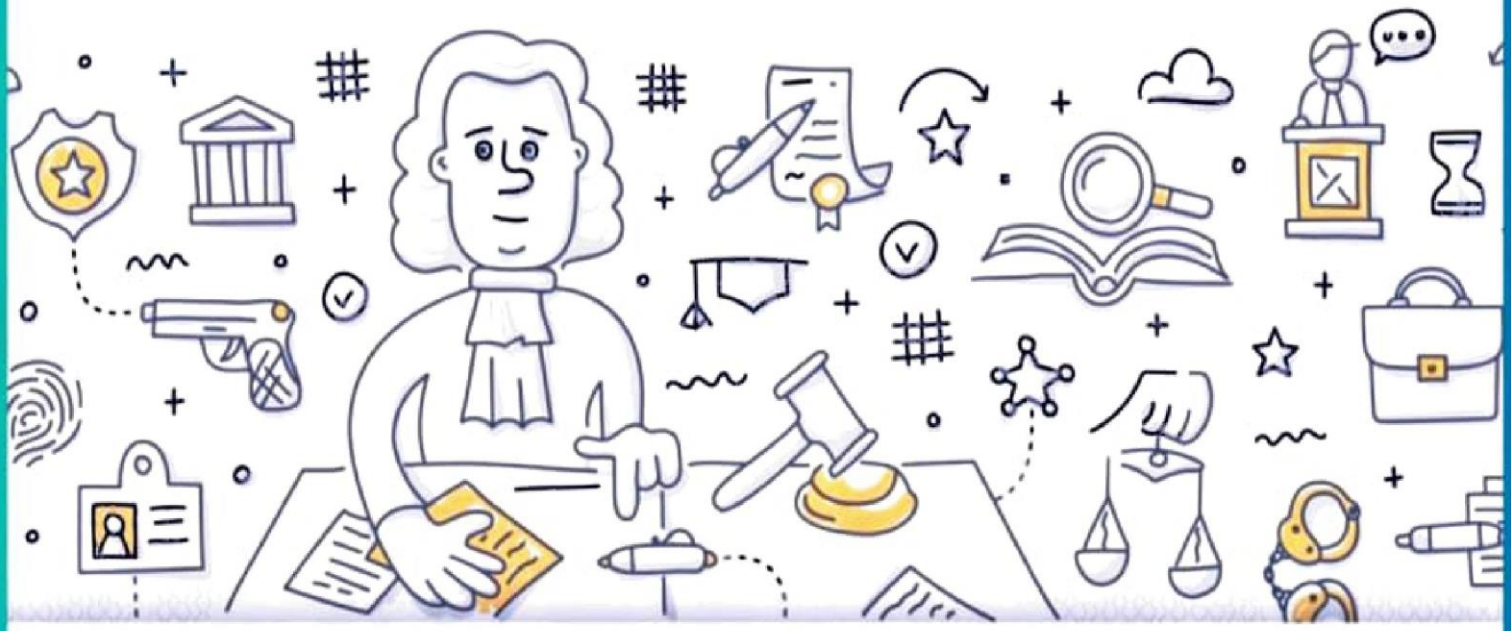

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Q.39) Which of the following provisions of the Code of Civil Procedure relates to the application of the doctrine of res-judicata in a representative suit?

a) Sec. 11, Explanation II

b) Sec. 11, Explanation IV

c) Sec. 11, Explanation VI

d) Sec. 11, Explanation VIII

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part I – Section 11

Section 11: Res Judicata

- **No Court shall try any suit or issue**
- In which the matter **directly and substantially** in issue has been directly and substantially in issue **in a former suit** between the **same parties**, or between parties
- Under whom they or any of them claim, litigating under the same title, in a **Court competent to try** such subsequent suit or

- The suit in which such issue has been subsequently raised, and has been **heard and finally decided** by such Court.

- Ancient reference of Res Judicata came from '**Brihaspati Samriti**" known as "**Prangnayaya**" which means **Previous Judgment.**

Conditions for Application of Sec.11

- Litigating parties are same
- Subject matter directly and substantially in issue are same
- Matter finall decided between parties
- Decided by court of competent jurisdiction
- Litigated under same title in former suit

The principle of Res judicata is based on three Maxims

It is in the interest of state that there should be an end to litigation. (**Interest reipublicae ut sit finis litium**)

No man should be vexed twice over for the same cause. (**Nemo Debet bis vexari pro una et eadem causa**)

A judicial decision must be accepted as correct. (**Res judicata pro veritate accipitur**)

SC Employee Welfare Association Vs UOI
AIR 1990 SC 334

- The principle of Res Judicata is not a technical rule,
- It is a **rule of public policy.** The doctrine is a universal doctrine laying down the finality of litigation between parties.
- It cannot be set at naught on the grounds that such a decision is **violative of Art.14 of the constitution**.

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.40) In which of the following proceedings Order II Rule 2 of the Code of Civil Procedure is applicable?

I. Appeals

II. Execution Proceedings

III. Petition under Article 226 of the Constitution of India

a) Only II

b) II and II

c) I llland II

d) None of the above.

Ans: D

Exp:

Source: Edzorb Law QBank – CPC – Unit VII – Q.13

13.

MCQ, Single Correct Question

Order II Rule 2 applies to:

a Suits

b Appeal

c Execution Proceedings

d All of

Order II Rule 2:

- **Suit to include whole claim:**
  - Every suit shall **include the whole of claim** which the plaintiff is entitled make in respect of cause of action,
    - **Exception:** Plaintiff may **relinquish any portion** of his claim in order to bring the suit within the jurisdiction of any court.

Once he relinquishes claim, he cannot file suit against for 2002 again.

- **Relinquishment of part of claim:**
  - Where a plaintiff **omits to sue** in respect of, or **intentionally** relinquishes, any portion of his claim,
  - He shall not afterwards sue in respect of the portion so omitted or relinquished.

- **Omission to sue for one of several reliefs:**
  - A person entitled to more than one relief in respect of the **same cause of action** may sue for all or any of such reliefs;
  - But if **he omits, he shall not afterwards** sue for any relief so omitted.
    - **Exception:** With the leave of the Court to sue for all such reliefs.

Mohd. Khalid Khan Vs Mhubub Ali Mian

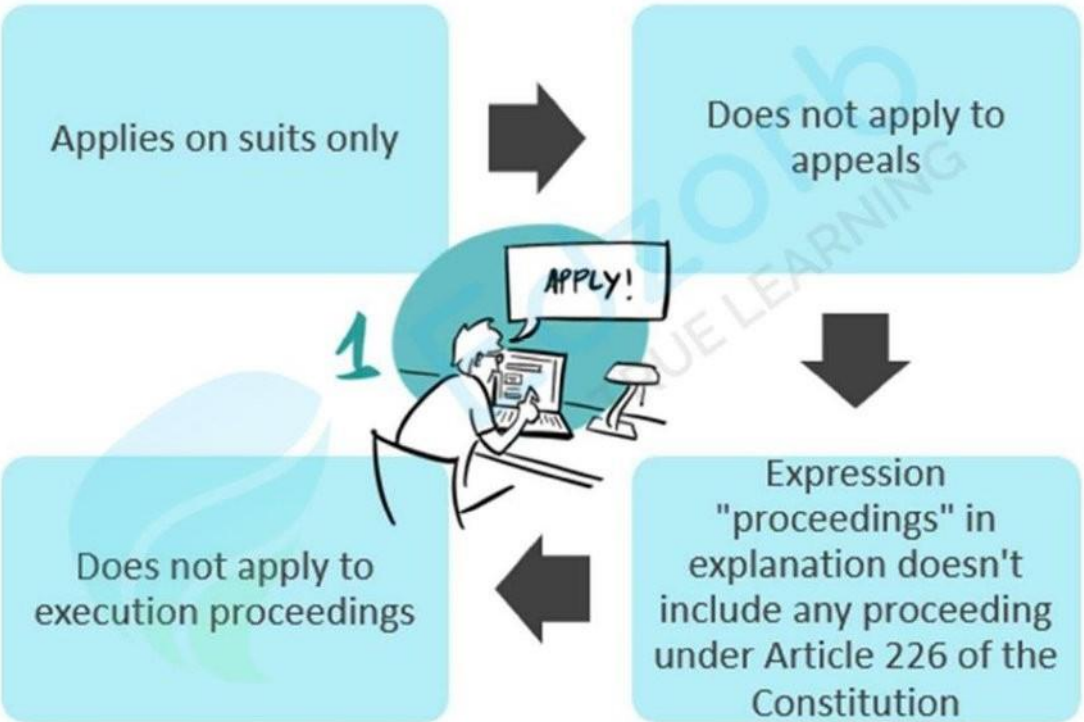
AIR 1949 PC 78

Held:

The ***correct test*** in cases falling under Order II Rule 2, is:

- Whether the claims in the new suit is in fact founded upon a cause of action distinct from that which was the foundation of the former suit.
- If the evidence to support the two claims is different, then the cause of action is also different.
- The cause of action has no relation whatever to the defence that may be set up by the defendant nor does it depend on the character of the relief prayed for by t–he plaintiff. It refers to the media upon which the plaintiff asks the court to arrive at a conclusion in his favour.

If the above test is answered in affirmative, the bar of Order II Rule 2 will not apply.



Reference: Code of Civil Procedure, Order II Rule 2

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Q.41) Which of the following provision of the Code of Civil Procedure prohibits further appeal against the decision of a single judge in second appeal?

a) Section 100

b) Section 100-A

c) Section 101

d) Section 102

Ans: B

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part II – Section 100-A

Section100A: ***No further appeal in certain cases.***

- Notwithstanding anything contained in **any Letters Patent for any High Court** or
- In any instrument having the force of law or in any other law for the time being in force,

- Where any appeal from an original or appellate decree or appellate decree or order is heard and **decided by a single Judge of a High Court,**

from original decree

- **No further appeal shall lie** from the judgment and decree of such single Judge.

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.42) An order allowing or disallowing an application for amendment is:

a) Appealable

b) Adecree

c) Anappealable order

d) None of the above

Ans: D

Exp:

Source: Edzorb Law QBank – CPC – Unit VI – Q.16

16.

MCQ, Single Correct Question

When leave to amendment can be refused

a Application not made in good faith

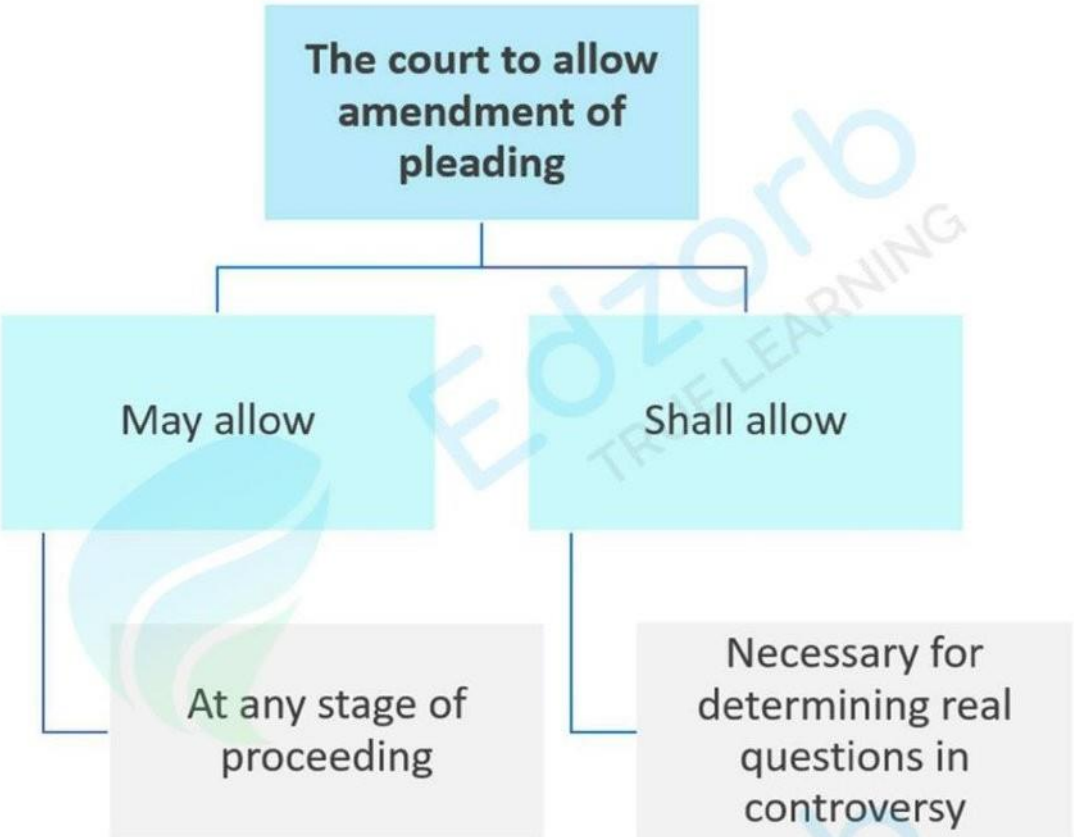
b The application introduces totally different case

c Does not determine real question in controversy

d All of the above

Order VI Rule 17:

Amendment of Pleadings:



Provided that:

Application **shall not be allowed** after the trial has commenced:

- **Exception:** Amendment can be allowed if spite of **due diligence**, the party could not have raised the matter before the commencement of trial.

Doctrine of Relation Back in case of amendment:

Sampath Kumar Vs Ayyakannu

CA No. 5839/2002

Held:

- Generally, amendments relate back to date of suit.
- However, in some special cases court may direct that amendments will not relate to date of suit.

Leave to amend when refused:

Ganga Bai Vs Vijay Kumar

1974 AIR 1126

Held:

- The power to allow an amendment is undoubtedly wide and **may at any stage be appropriately exercised in the interest of justice**, the law of limitation notwithstanding.
- But the exercise of such **far-reaching discretionary powers** is governed by judicial considerations & wider the discretion, greater ought to be care & circumspection on the part of the court.

Application not made in good faith

Amendment is not necessary for determining real question in controversy

Introduces totally different, new or inconsistent case

Where the effect is to take away from other side a legal right accrued in his favour

Remedies if application for amendment is allowed or disallowed:

Bhaskar Nair Vs Chandramathiyamma

2006 (1) KLT 533

Issue:

- Whether an order allowing or disallowing amendment, **not appealable or revisable**, is amenable to correction u/Art.226 or 227?

Held:

- The writ petition can be allowed. However, the order is not revisable.
- The other remedy to prefer appeal against decree, not order.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 326

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Q.43) Among the following properties which shall not be liable for attachment under the Code of Civil Procedure:

a) Government securities

b) Bank notes

c) A mere right to sue for damages

d) All the above

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part II – Section 60

Section 60: Property liable to attachment and sale in execution of decree

- In an execution or otherwise, the **attachment** may be **ordered,** that while such order is made,
- What property **(of judgment-debtor) is per se liable** and what **property is exempted from such attachment**.

- The provision primarily provides for such properties that **may be attached and sold in execution, for example-**

- **Lands, houses or other buildings,**

- **Goods, money, bank notes, cheques, bills of exchange,** hundis, promissory notes.

BILL OF EXCHANGE

STAMP

Mumbai, India
January 15, 2019

₹ 1,50,000

Three months after date, pay Mr. P or his order, a sum of rupees one lakh fifty thousand, value received.

To,
Mrs. Q
Pune, India

ACCEPTED
Sd/-
Mrs. Q
January 18, 2019

Sd/-
Mr. P
Mumbai, India

PROMISSORY NOTE

Amount: ₹ 1,50,000
Place: Mumbai, India

Date: January 15, 2019

I Mrs. Q, make commitment to pay Mr. P, the sum of ₹ 1,50,000. Repayment is to be made in the form of 50 equal payments at 10% interest, or ₹ 3300 payable on 1st of each month, beginning February 1, 2019 until the total debt is paid.

IN WITNESS WHEREOF, I set my hand under seal this 15th of January, 2019 and I acknowledge receipt of a completed copy of this instrument.

Sd/-
Mrs. Q
Pune, India

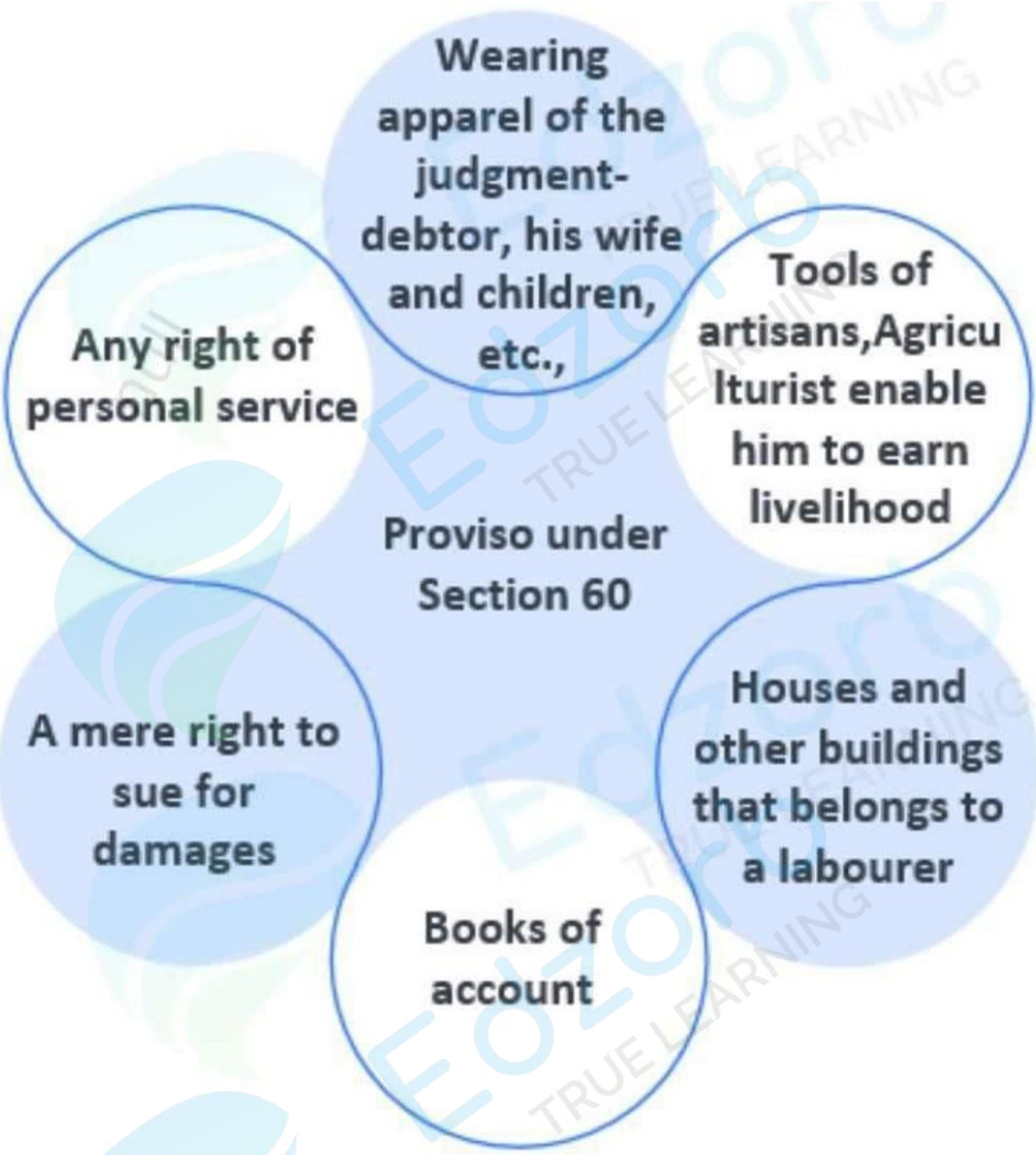
Sd/-
Notary Public

- **Government securities, bonds** or other securities for money, debts.

- **Shares in a corporation and all other saleable movable or immovable property**, belonging to the judgment-debtor.

Proviso....

The **list of certain prohibitions** i.e., all those things that must not be attached by the Court **in execution of the decree**


Wearing apparel of the judgment-debtor, his wife and children, etc.,
Tools of artisans,Agriculturist enable him to earn livelihood
Any right of personal service
Proviso under Section 60
Houses and other buildings that belongs to a labourer
A mere right to sue for damages
Books of account

Stipends and gratuities allowed to pensioners of the Government

The wages of labourers and domestic servants

Salary to the extent of the first one thousand rupees and two-thirds of the remainder in execution of any decree other than a decree for maintenance

Proviso....

- If the **portion of salary** that can be attached, has been **attached for a period of 24 months** (continuously or intermittently)
- Then such portion **must not be attached for the next 12 months.**

One-third of the salary in execution of any decree for maintenance

The pay of allowance as per Air force Act, Army Act, Navy Act

All compulsory deposits derived from any fund to which the Provident Funds Act applies

All moneys payable under a policy of insurance on the life of the judgment-debtor

The interest of a lessee of a residential building

- Any allowance forming part of the emoluments of any servant of the Government may, by notification in the Official Gazette, declare to be exempt from attachment

An expectancy of succession by survivorship or other merely contingent or possible right or interest

- A right to future maintenance

Any allowance declared by 'any Indian law to be exempt from liability to attachment or sale in execution of a decree

Explanation I.—The moneys payable in relation to the matters mentioned in clauses (g), (h) , (i), (ia), (j), (l) and (o) are **exempt from attachment or sale,**

- Whether before or after they are actually payable, and, in the **case of salary, the attachable portion** thereof is liable to attachment.

Explanation II. —In clauses (i) and (ia), **"salary"** means the **total monthly emoluments,**

- **Excluding any allowance** declared **exempt from attachment** under the provisions of clause (l), derived by a person from his employment whether **on duty or on leave.**

Explanation III. —In clause (I) "**Appropriate Government**" means—

- As respects any '"person in the service of the **Central Government, or any servant of "a Railway Administration** or of a **cantonment authority** or of the **port authority of a major port**, the Central Government;

- As respects any other **servant of the Government or a servant of any other local authority**, the State Government.

Explanation IV. — For the purposes of this proviso, "**wages**" includes bonus, and "**labourer**" includes a **skilled, unskilled or semi-skilled labourer.**

Explanation V.— For the purposes of this proviso, the expression "**agriculturist**" means a person who **cultivates land personally** and who **depends for his livelihood** mainly on the **income from agricultural land**, whether as owner, tenant, partner or agricultural labourer.

Explanation VI. — For the purposes of Explanation V, an **agriculturist shall be deemed to cultivate land personally**, if he cultivates land—

(a) by his own labour, or

(b) by the labour of any member of his family, or

(c) by servants or labourers on wages payable in cash or in kind (not being as a share of the produce), or both.

- An agreement by which a person agrees to waive the benefit of exemption under this section **shall be void.**

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.44) A plaint was rejected under Order VII Rule 11 Code of Civil Procedure, for non-payment of court fee. Remedy available to the aggrieved party is:

a) To file an appeal

b) To file a revision

c) To file a restoration petition in the same court

d) All the above

Ans: A

Exp:

Source I: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Order XLIII

1/3

O. XLIII - APPEALS FROM ORDERS

R.1 An appeal u/s 104 shall lie from these orders

- Order u/O.9R.9 of rejection of an application to set aside a dismissal of suit
- Order u/O.9 R.13 for rejecting an application to set aside an ex parte decree
- An order u/O.11 R.21
- Order u/O.21 R.34 on an objection to draft a doc./an endorsement
- Order under O.21 R.72/R. 92 to set aside or refusing to set aside a sale
- Order rejecting an application u/O.21 R. 106(1)
- Order u/O.22 R.10 giving/refusing to give leave
- Order u/O.22 R.9 refusing to set aside abatement /dismisssal of suit
- Return of plaint u/O.7 R.10
  - EXCEPT, where procedure u/R.10A has been followed

PROVISO Order on the original application i.e. u/O.21 R. 105(1) is appealable

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2/3

O. XLIII - APPEALS FROM ORDERS

R.1 An appeal u/s 104 shall lie from these orders

- Order u/O.47 R.4 granting an application for review
- Order u/O.41 R.23 or 23A remanding a case, where an appeal would lie from decree of an Appellate Court
- Order u/O.33 R.5 or R.7 rejecting an application to sue as an indigent
- Order of refusal u/O.41 R.19 to admit or u/O.41 R.21 to re hear, an appeal
- Order u/O.25 R.2 in a case open to appeal for an order to set aside dismissal of suit
- Order u/O.40 R.1 or 4
- Order in interpleader suit u/O.35 R. 3,4 or 6
- Order u/O.39 R.1, 2, 2A, 4 or 10
- Order u/O.38 R.2,3 or 6

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3/3

O. XLIII - APPEALS FROM ORDERS

R.1A Where any order is made against a party

Thereupon any judgment is pronounced against such party & decree is drawn up

Such party shall contend in appeal that such order shall not have been made

Appeals from Orders

R.2 O.XLI shall apply, as far as may be

In an appeal against a decree, passed after

recording compromise

Refusing to record compromise

Shall be open to Appellant to contest the decree on compromise should/should not have been recorded

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Q.45) A decree is preliminary

a) When it deals with some preliminary issue

b) When it is used in the preliminary stages of the suit

c) When further proceedings have to be taken before the suit to be completely disposed of

d) None of the above

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part I – Section 2

Section 2(2)

- Decree means
- Formal expression of an adjudication
- As regard the court expressing,

- **Which Conclusively determines** the rights of the parties
- With regard to **all or any of the matters** in **controversy** in the suit,

- May be either **Preliminary or Final.**

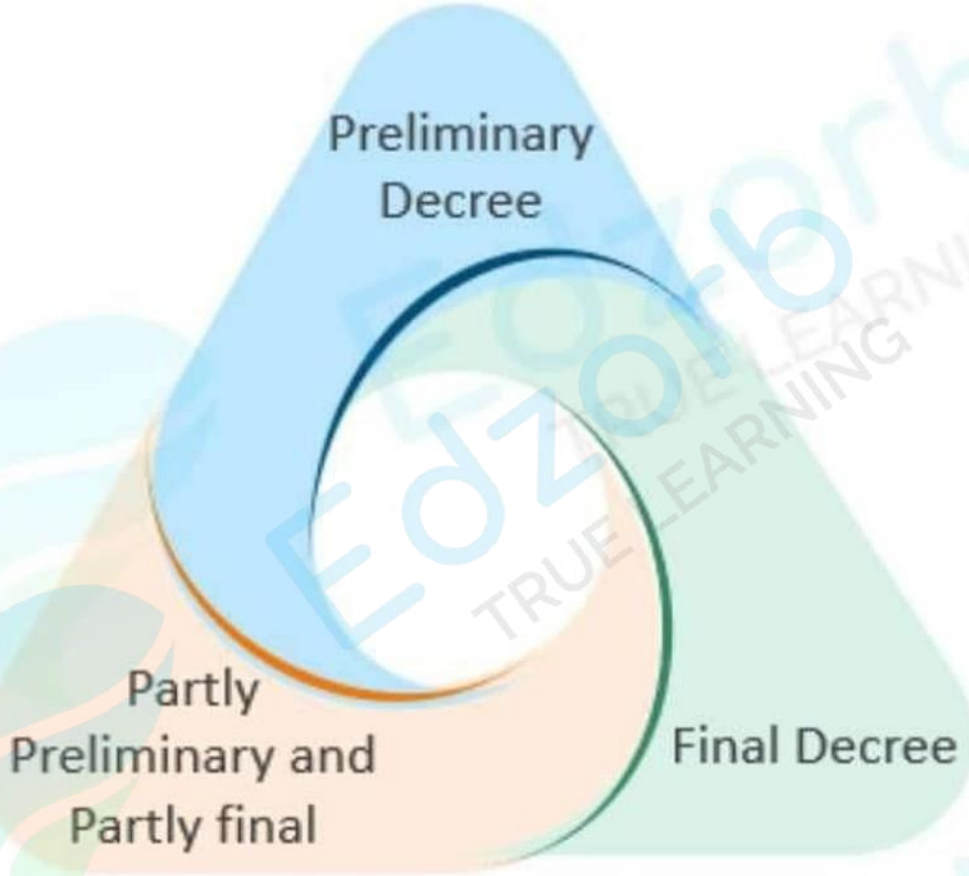
Or

- It **shall include**
  - The rejection of plaint under **O.VII R.11** and
  - The determination of any question regarding **order of restitution** under **Section 144**
  - They are also called as **Deemed Decree.**

- But it **shall not include** –

1. Any adjudication from which an appeal lies as an appeal from an order

2. Any order of dismissal for default



01 An Adjudication decides the right of parties with matter in dispute

02 Completely disposes of the suit and finally settles all question in dispute

03 Court decrees possession of property (Final) and directs an enquiry inot mesne profit (Preliminary)

Hansraj Vs Dehradun-Mussoorie Electric Tramways Co. Ltd. AIR 1933 PC 63

It defined the following term as:

- The word suit means a **civil proceeding** instituted by the presentation of a plaint.
- The word right of the parties in controversy implies adjudication to determine the right of the parties all or any matter in dispute.
- **Conclusive determination** means determination which must be final and conclusive which the court has passed it.

Phoolchand v. Gopal Lai AIR 1967 SC 1470

- There is nothing in the Code which prohibits the passing of more than one preliminary decree if circumstances justify the same and where it is necessary to do so.
- The observations in the given case are **attached to partition suits only**

Shankar Vs Chandrakant
AIR 1995 SC 1211

- A preliminary decree is one which **declares the rights and liabilities** of the parties leaving the actual result to be worked out in further proceedings.
- As a Result of the further inquiries, conducted pursuant to the preliminary decree,
- The rights of the parties are fully determined and a decree is passed in accordance with such determination which is final.
- Both the decrees are in the **same** suit.

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.46) Second appeal shall not lie from any decree, as provided under Section 102 of the Code of Civil Procedure when the subject matter of the original suit is for recovery of money not exceeding

a) Rs 10,000 /-

b) Rs 25,000 /-

c) Rs. 20,000 /-

d) Rs. 15,000 /-

Ans: B

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part II – Section 102

Section 102: ***No second appeal in certain cases***

- No second appeal shall lie from any decree,

- When the subject matter of the **original suit is for recovery of money** not exceeding **twenty-five thousand rupees.**

- When the subject matter of the **original suit is for recovery of money** not exceeding **twenty-five thousand rupees.**

Civil Procedure Code (Amendment) Act, 2002

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.47) Which of the following statement is correct?

a) No decree is to be reversed or modified for error or irregularity not affecting merits or jurisdiction

b) An appeal shall lie from a decree passed by the court with the consent of parties

c) An appeal may lie from an original decree passed exparte

d) Both (a) and (c)

Ans: D

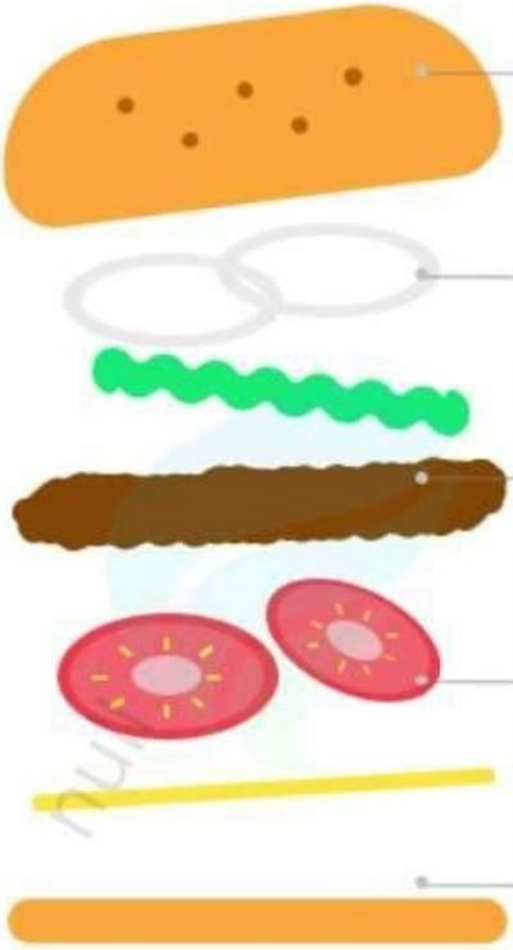
Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – CPC – Part II – Section 96, 99

Section 96: ***Appeal from original decree***

- The term 'Appeal' has not been defined in the code.
- But it can be defined as, "the **judicial examination of the decision** by a higher court of the decision **of an inferior court**".

- **Sec. 96** is also **called First Appeal**. First Appeal is admitted as a **matter of right and not as a matter of discretion.**
- It is admitted **both on Question of Fact and Question of Law**
- In the Code of Civil Procedure, provision has been made for the **following kinds of appeal**



Sections 96-99, Order XLI	First appeal or appeals from original decrees
Sections 100-103, Order XLII	Second appeal or appeals from Appellate decrees
Sections 104-106, Order XLIII	Appeals from orders
Sections 109-112, Order XLV	Appeals to the Supreme Court:
Order XLIV	Appeals by Indigent person

Deep Chand vs. Land Acquisition Officer
AIR 1994 SC 1901

- Right of appeal is **not a natural or inherent right**, it is merely a substantive right.
- It is well settled that an appeal is **a creature of statute** and there is no right of appeal until and unless it is given clearly and in express terms by a statute.

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Section 99: ***No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.***

- **No decree** shall be **reversed or substantially varied**, nor shall any case be **remanded,**

- In appeal on account of any misjoinder or non-joinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit,

- **Not affecting the merits** of the case or the jurisdiction of the Court:

Provided...

- **Nothing** in this section shall **apply to non-joinder** of a necessary party

Reference: The Code of Civil Procedure, 1908, 2019 Edition

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Q.48) If a cloud is cast upon the title or legal character of the plaintiff, he is entitled to seek the aid of the court to dispel it by way of

a) Injunction

b) Order

c) Declaratory Decree

d) Specific Performance

Ans: C

Exp:

Source: Edzorb law QBank – Specific Relief Act – Unit VI – Q.

1.

MCQ, Single Correct Question

Legal character or right under section 34 must be

a Specific

b Abstract

c Contingent

d Any of the above.

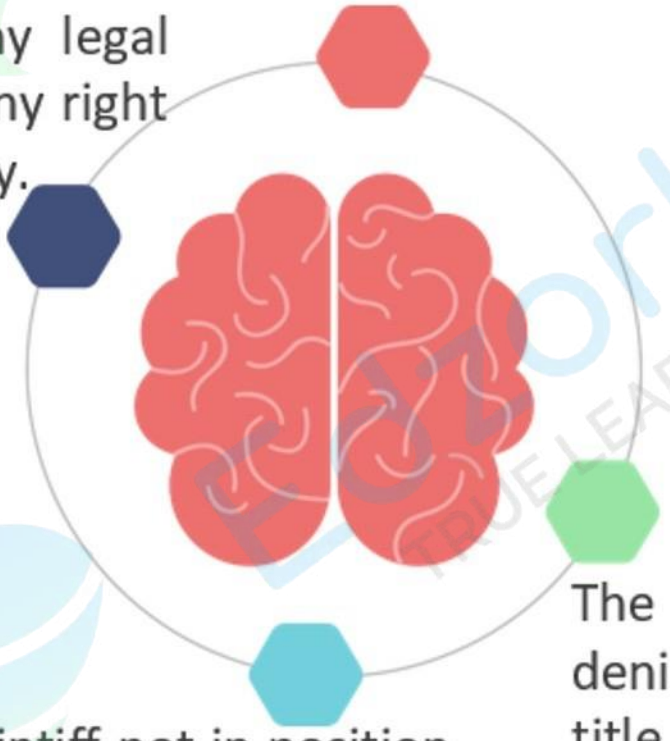
Section 34: A suit against any person denying or interested to deny the plaintiff's title to the legal character or right to any property.

State of M.P. Vs Khan Bahadur Dhiwan Diwala & Co. AIR 1971 M.P. 65

- The Hon'ble court observed that in order to obtain the relief of declaration the plaintiff must establish that:

Suit filed for declaration of legal character or any right.

Plaintiff at time of suit entitled to any legal character or any right to any property.



The defendant has denied character or title of the plaintiff.

Plaintiff not in position to claim a further relief than a bare declaration of his title.

Legal Character and Person entitled to a right of any property:

Legal Character:

A person's legal status or legal character is **constituted by law attached to the individual or personal capacity**. The legal chara cter means a position recognized by the law.

A marital status of the person

Person entitled to a Right to any Property: It means that the **plaintiff must have the right at the time of the suit**, he cannot file declaration suit merely on the basis of hope

Right to Property and Right in Property

- The Bombay High Court has made a distinction in 'Right to Property' and 'Right in Property' and held that to claim and go for a declaration the Plaintiff need not show the right in Property.
- The Plaintiff only has to show that he has Right to Property from which he has been denied.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 936

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Q.49) The Order of injunction may be discharged, or varied, or set aside by the Court at the instance of

a) Plaintiff

b) Defendant

c) Both (a) and (b)

d) State Government

Ans: C

Exp:

Source: Edzorb Law QBank – CPC – Unit 26 – Q.18

18.

MCQ, Single Correct Question

Mark the correct statement in relation to 0. 39, R.4:

a An order for an injunction may be discharged, but cannot be set aside.

b An order for an injunction may be discharged, or varied, or set aside by the court.

c An order for an injunction may be discharged, but cannot be varied.

d An order for an injunction can only be set aside,

(B)

Order XXXIX Rule 4: Order for injunction may be discharged, varied or set aside:

Any order for an injunction may be **discharged, or varied, or set aside by the Court**, on application made thereto by any party dissatisfied with such order.

Zila Parishad, Badaun &Ors. Vs Brahma Rishi Sharma

AIR 1970 All 376

The full bench of apex court held that against an ex parte order granting temporary injunction the aggrieved party has two options;

- Either to approach the same court i.e. (**Order 39 Rule 4**), who had passed ex parte order for any relief or
- To file an appeal under **Order 43 Rule 1** of the Code.

Good read: https://www.mondaq.com/india/trials-appeals-compensation/912618/dilemma-between-filing-an-appeal-vs-order-39-rule-4-application-in-injunctions-granted-under-order-39.

Did you Know?

Order of injunction may be set aside or varied at the instance of any party i.e., plaintiff or defendant.

Reference: Civil Procedure Code, Order 39

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Q.50) "Section 10 of Code of Civil Procedure, bars not only the trial of subsequent suit, but also the institution of subsequent suit". This statement is:

a) Partly true

b) Untrue

c) True

d) None of the above

Ans: B

Exp:

Source: Edzorb Law QBank – CPC – Unit I – Q.42

42.

MCQ, Single Correct Question

The rule res sub judice as provided in Section 10 of Civil Procedure Code:

a stays the trial of the subsequent suit

b stays the trial of the previous suit

c prevents simultaneous hearing of previous and subsequent suits under all the circumstances

d stays the institution of the subsequent suit

Section 10: Res Sub Judice: Court should not proceed with the trial of any suit between the **same parties** in which the **matter in issue is directly and substantially in issue** in a **previously instituted suit.**

Indian Bank Vs Maharashtra St. Coop. Marketing Fed. Ltd.
AIR 1998 SC 1952

Doctrine of Res Sub-judice has two objectives -

- Prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties relating to same matter;
- Avoid the conflicting decisions of two competent courts over the same matter

Rule of res sub judice bars a trial but, not prevent the institution of a subsequent suit.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 62
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Q.51) Decree means

a) Extract of the judgment

b) Reasons for which the suit is decreed or dismissed

c) Formal expression of the court of an adjudication determining the rights of parties

d) Bill of costs

Answer: C

Exp:

Source: Edzorb Law QBank – CPC - Unit I – Q.7

7.

MCQ, Single Correct Question

Consider the following statement(s):
A 'decree' means and includes-
i) formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit
ii) any adjudication from which an appeal lies as an appeal from an order
iii) any order of dismissal of suit for default
iv) rejection of plaint
Which of the statements given above are correct?

a (i) and (ii)

b (ii) and (iii)

c (i) and (iv)

d All these

Section 2(2) of the CPC defines a Decree

Essential Ingredients of Decree

- **Formal Expression** of Adjudication.
- **Conclusively determining rights** of parties with respect to all or any of the matters in controversy.
- Decree can be either **preliminary or final.**

Deep Chand Vs Land Acquisition Officer
1994 1901

- Order passed by a person who is not a Court, is not a Decree
- Rejection of plaint under **Order VII Rule 11** of CPC is a decree.

Decree does include

- Rejection of a plaint is decree.
- Determination of any question on application for restitution under **Section 144 (e)**.

Decree does not include

- Any adjudication from which an appeal lies as an appeal from an order.
- Any order of dismissal for default.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 15

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Q.52) On the ground of jurisdiction under Section 13 of Code of Civil Procedure, can be challenged

a) only a judgment in personam

b) only a judgment in rem

c) Both (a) and (b)

d) neither of the above

Ans: C

Exp:

Source: Edzorb Law QBank – CPC – Unit III – Q.18

18.

MCQ, Single Correct Question

A foreign judgment is conclusive as to any matter thereby directly adjudicated upon between the same parties

a) where it has been pronounced by an eminent judge

b) where it has been given on the merits of the case

c) where it is written in English

d) where it has been approved by the United Nations Organisation

A foreign judgment is not conclusive as to any matter directly adjudicated upon, if one of the conditions specified in clauses (a) to (f) of Section 13 of the CPC is satisfied, it will then be open to a collateral attack.

Navin Khilnani vs Mashreq Bank Psc. 146 (2008) DLT 134

The **real test for deciding whether the judgment has been given on merits** or not is to see whether:

- it was merely, formally passed as a matter of course, or
- by way of penalty for any conduct of the defendant, or
- is based upon a consideration of the truth or falsity of the plaintiff's claim.

Did you Know?

Under **Section 13**, any judgment can be challenged, whether it is **judgment in personem or in rem**.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 62

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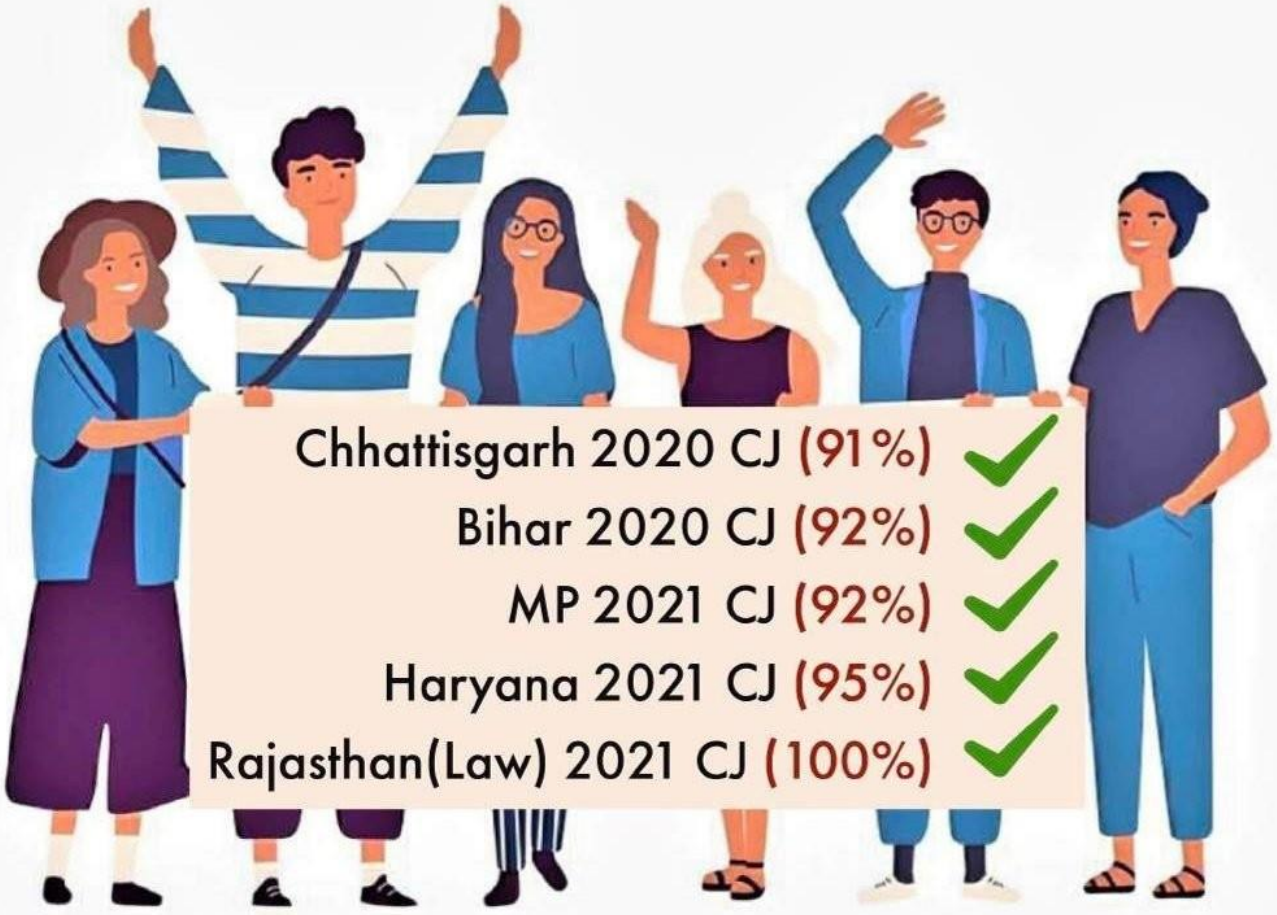

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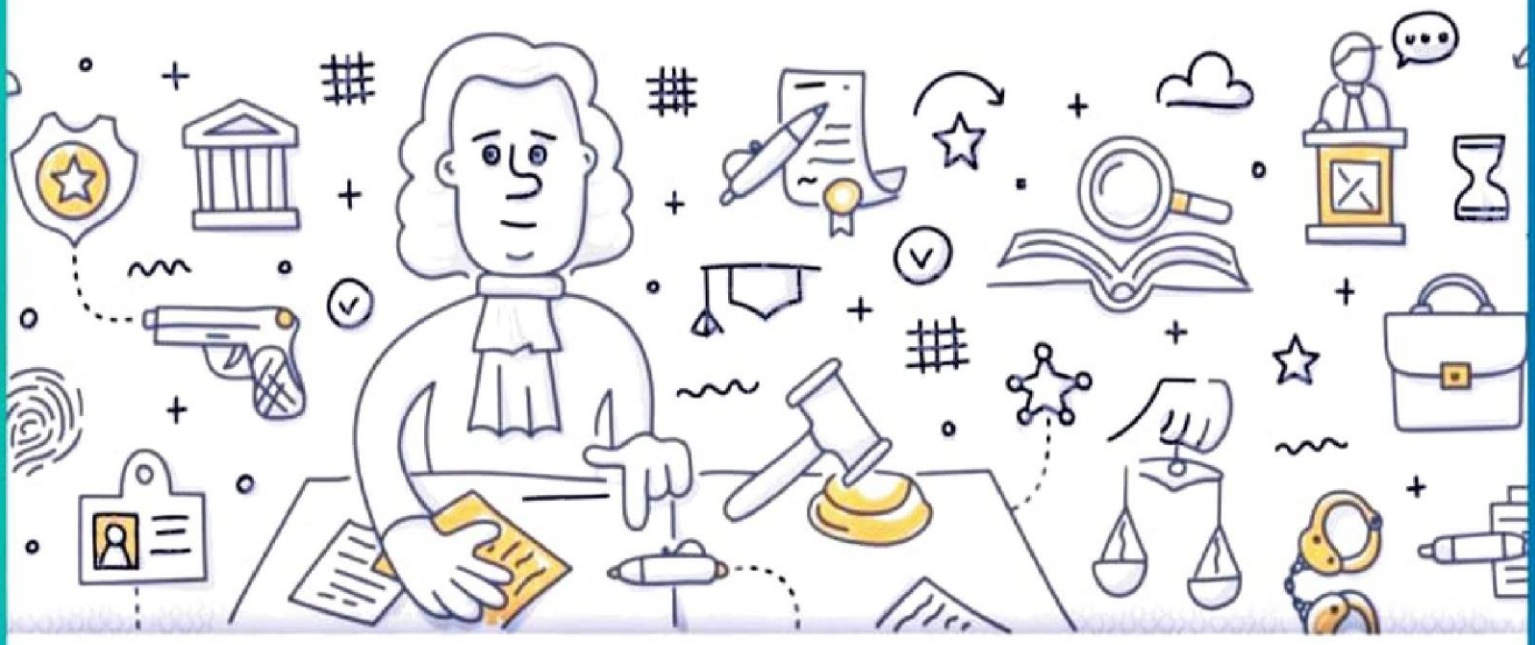
Section - 7
Contract



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Q.53) Which of the following prepositions is incorrect:

a) A void contract is void ab initio

b) A void agreement is void ab initio

c) Avoidable contract is a contract until rescinded

d) Anillegal agreement is void ab initio

Ans: A

Exp:

Source: Edzorb Law QBank – Contract Act – Unit XV – Q.14

14.

MCQ, Single Correct Question

A void contract is one which is

a enforceable at the option of one party

b enforceable at the option of both the parties

c enforceable at the direction of Court

d not enforceable in the Court of law

(D)

Section 2(j) of ICA, 1872: **Void contracts** are those which ceases to be enforceable, hence becomes void.

Mohiri Bibee Vs Dharmodas Ghoshe
7 CWN 441

Agreement with minors are void therefore it cannot be enforced.

Did you Know?

Void agreements are not enforceable by law, they are void-ab-initio.

Reference: Contract- I, By Dr. RK.Bangia, 6th Edn. (2009), Page No. 225

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Q.54) Where the acceptance to an offer is sent by the offeree by an email:

a) The postal rule will be applied for the purpose of determining the communication of acceptance, as also the place and time of contract

b) The receipt (recipient) rule will be applied for the purpose of determining the communication of acceptance as also the place and time of contract

c) The law in India is unclear on this subject

d) Neither of the above

Ans: B

Exp:

Source: Edzorb Law QBank – Contract Act – Unit VIII – Q.8

8.

MCQ, Single Correct Question

Where acceptance is by instantaneous communication, it is complete when _____

a it comes to knowledge of the proposer

b when it is communicated by acceptor

c Depends

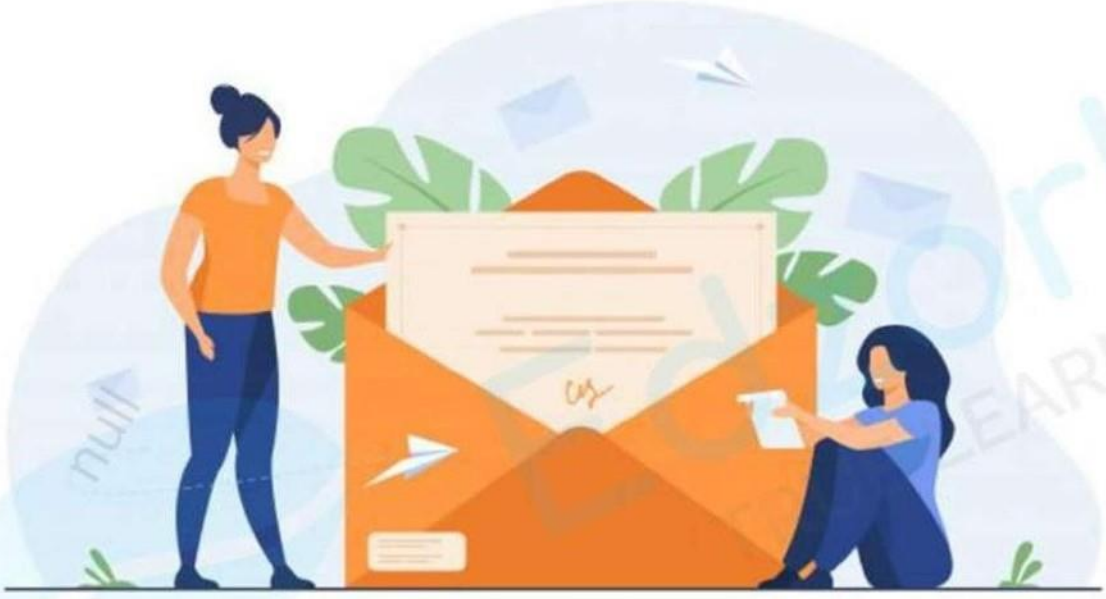
d None of the above

Section 4:

Communication when complete:

1. **The communication of a proposal is complete,**
   - When it **comes to the knowledge** of the person to whom it is made.
2. **Communication of an acceptance is complete, -**
   - As against the proposer and acceptor **-**

Against Shreya, (Proposer) when the letter is **Put in course of transmission and out of the power of acceptor**

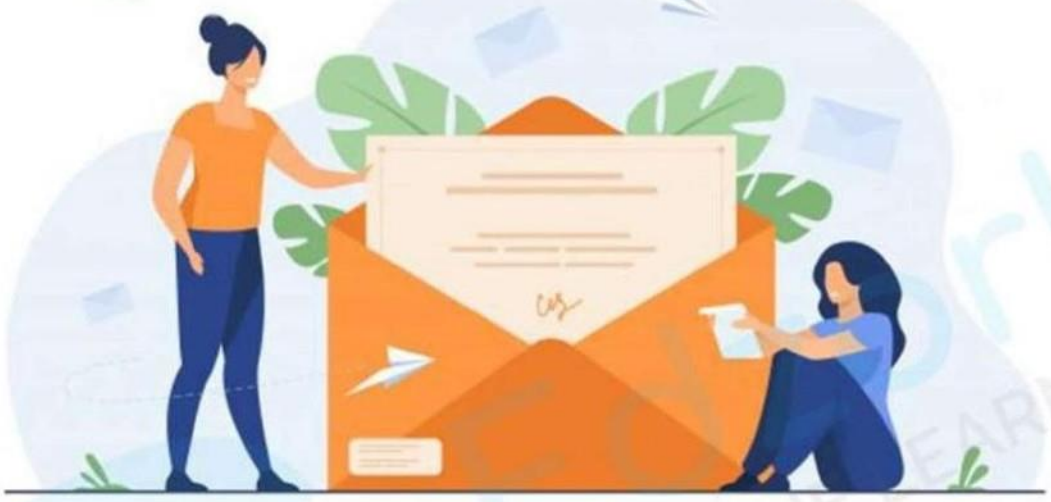


- Riya accepts the offer of Shreya via a letter.
- She posts the letter on 10th July and the letter reaches Shreya on 14th
- For **Shreya (the proposer)** the communication of the **acceptance is completed on 10th July itself.**

Against Riya, (Acceptor) when she **receives** the letter or comes to her knowledge. (i.e., 14th July)

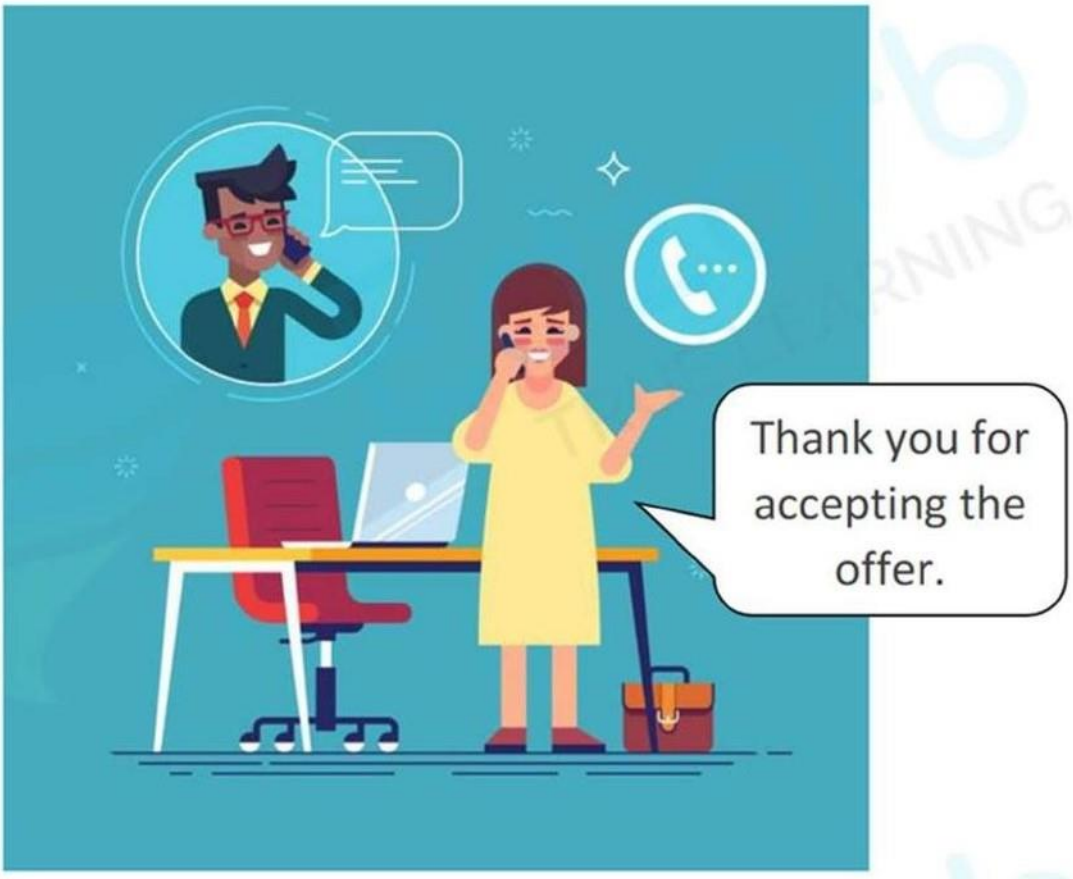
- **Communication of revocation is complete when**

Against Shreya, (Proposer) before she **posts** the letter in course of transmission and out of her power. (i.e., 10th July)



- Against Riya, (Acceptor) when the communication of the acceptance is complete (i.e., 14th July).
- Technically between 10th and 14th July, Riya can decide to revoke the acceptance.

- **Communication of Acceptance by Telephone or Telex**



- Contract by **Telephone or Telex is to be completed,**
- When communication of **acceptance comes to the knowledge of proposer** or receives the communication of acceptance.

Different rules:

Postal Rule

When acceptance to a proposal is dispatched via post or telegram, the acceptance is complete when **it is dispatched by the acceptor**

Receipt Rule

The communication of an acceptance is complete **when the fact of acceptance comes to the knowledge of the proposer.**

Bhagwandas Goverdhandas Kedia Vs Girdharilal Parshottamdas

1966 AIR 543

Held:

- Where the acceptance on telephone is not heard on account of mechanical defects there may be difficulty in determining whether at all a contract result. But where the speech is fully heard and understood there is It binding Contract.

- Where a contract is completely by instantaneous communication, it is complete when acceptance is received by offeror.

- In the case acceptance was clearly heard. Acceptance was spoken at Khamaon the moment the acceptor spoke his acceptance he put it in course of transmission lo the proposer beyond his recall. Hence, contract is made at Khamaon.

Did you know?

In this case, the majority opinion has constricted the application of the **'Postal Rule'** to acceptances communicated via, **post or telegraph**, alone; and has validated the application of the **'Receipt Rule'** to acceptances communicated via **instantaneous modes of communication**.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 724

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Q.55) Which of the following propositions is incorrect about the doctrine of frustration of contact:

a) The event which causes frustration must have occurred without the fault of either party

b) Frustration puts an end to a contract independently of the volition of the parties at the time of the frustrating event (automatic discharge).

c) A contract is not frustrated by an event arising from an act or election of the promisor

d) The doctrine of frustration is applicable when the rights and obligations of the parties arise under a transfer of property under a lease

Ans: D

Exp:

Source: Edzorb Law QBank – Contract Act – Unit VI – Q.8

8.

MCQ, Single Correct Question

Doctrine of Frustration is discussed under

a Section 63

b Section 57

c Section 56

d Section 58

C

Section 56

Doctrine of Frustration

- An agreement to do an act impossible in itself is void.

Indian law	English Law
If the language of the contract makes for a Condition which renders the contract frustrated, this will be covered under Section 32.	The doctrine of frustration depends also on the language of the contract aka on doctrine of construction.

Satyabrata Ghose Vs Mugneeram Bangur
1954 AIR 44

- *Act must result in an impossibility of performance.*
- Or that act becomes impracticable and useless from the point of view of the object and purpose

Extra Notes!!!!

- Event causing frustration must not have occurred without the fault of the either party.
- Frustration puts contract to an end immediately.

Did you Know?

Frustration of Contract During COVID Pandemic:

Ministry of Finance has recently issued a clarification that **coronavirus will be considered as a case of natural calamity and as such covered under the force majeure** clause available to be invoked wherever necessary and applicable.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 390

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Q.56) X owes Rs. 10,000 -/ to Y under a contract. It is agreed between X, Y & Z that Y shall henceforth accept Z as his debtor instead of X for the same amount. Old debt of X is discharged and a new debt from Z to Y is contracted. This is:

a) Alteration of contract.

b) Rescission of contract

c) Novation of contract

d) Change in contact

Ans: C

Exp:

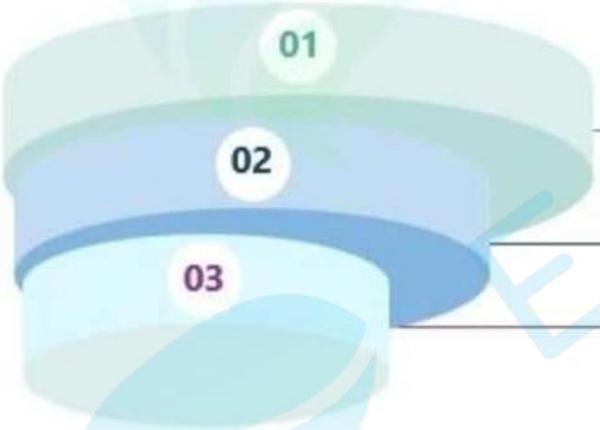
Source: Edzorb Law Premium+ 2.0 – Simplified Notes – Indian Contract Act – Part I – Section 62

Section 62:

Effect of novation, recission and alteration of contract:

- The parties to a contract agree to **substitute a new contract for it, or,**
- To **rescind or alter** it,
- Then the **original contract need not be performed**.

Novation, Recission and Alteration



- Parties agree to substitute a new contract
- Recind or alter it
- Original contract need not be performed

Two kinds of Novation

By change in the terms of the contract- Parties are free to alter the contract as liability to original agreement is extinguished

By change in the parties to the contract- Sec.32(2) of Partnership Act where a partner retires , his liability for past act still continues, he may be discharge by novation.

- The old debt of Shreya to Riya is at an end, and a new debt from Sneha to Riya has been contracted.

Salima Jabeen Vs National Insurance Co. Ltd.
AIR 1999 J&K. 110

- **Fact-** The appellant entered into a contract of insurance of her property against fire, with the respondent company.
- Her property was set on fire by the militants causing substantial damage to the property.
- The appellant accepted the compensation on the basis of report by surveyors.
- **Held-** By accepting and agreeing not to make any further claims,
- The appellant has released the insurance company from contractual obligation
- She is not entitled to claim any further compensation.

Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition,
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Q.57) Which of the following statements is correct?

a) An agreement enforceable by law is a contract

b) Every promise and every set of promises, forming the consideration for each other, is an agreement.

c) All agreements enforceable by law are contracts and valid. But all agreements are not enforceable by law.

d) All the above

Ans: D

Exp:

Source I: Edzorb Law Qbank – Contract Act – Unit II – Q.4

Source II: Bare Act Revolution – Contract Act – Section 2(e)

4.

MCQ, Single Correct Question

Which of the following Sections of the Indian Contract Act, 1872 defines 'Contract'?

a) Section 2(h)

b) Section 2(f)

c) Section 2(d)

d) Section 2(e)

(A)

Section 2(h) of the Indian Contract Act states that an agreement enforceable by law is a **contract.**

Mohta Alloy & Steel Works Vs Mohta Finance & Leasing Co Ltd, (1987) AIHC 1327 Del

A lease agreement between two bodies corporate, signed by one person, who was the Director, representing both the legal entities, was held to be **valid**.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 3.

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Section 2(e)

Contract Act

Agreement

- Every **promise** and every set of **promises**, forming the consideration for each other, is an **agreement**.

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Q.58) Section 27 of the Indian Contract Act declares an agreement in restraint of trade

a) Voidable

b) Unenforceable

c) Void

d) Valid

Ans: C

Exp:

Source: Edzorb Law Qbank – Contract Act – Unit VI – Q.4

4.

MCQ, Single Correct Question

An agreement in restraint of trade is

a valid

b void

c void to the extent of such restraint

d voidable

(3)

Section 27 of the ICA states that, every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void;

Freedom of Trade and commerce is a **Fundamental right** protected by the **Constitution of India** under **Article 19(1)(g)**

Exceptions to this Rule

- Statutory Exceptions like in, Sale of goodwill
- Judicial Interpretation like in, Exclusive Dealing Agreements

Municipal Committee Vs Kaluram Hiralal
AIR 1944 Nag 73

Regulations as to the opening and closing of business in the market, licensing of traders, supervision and control of dealers and the mode of dealing are not illegal.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 291

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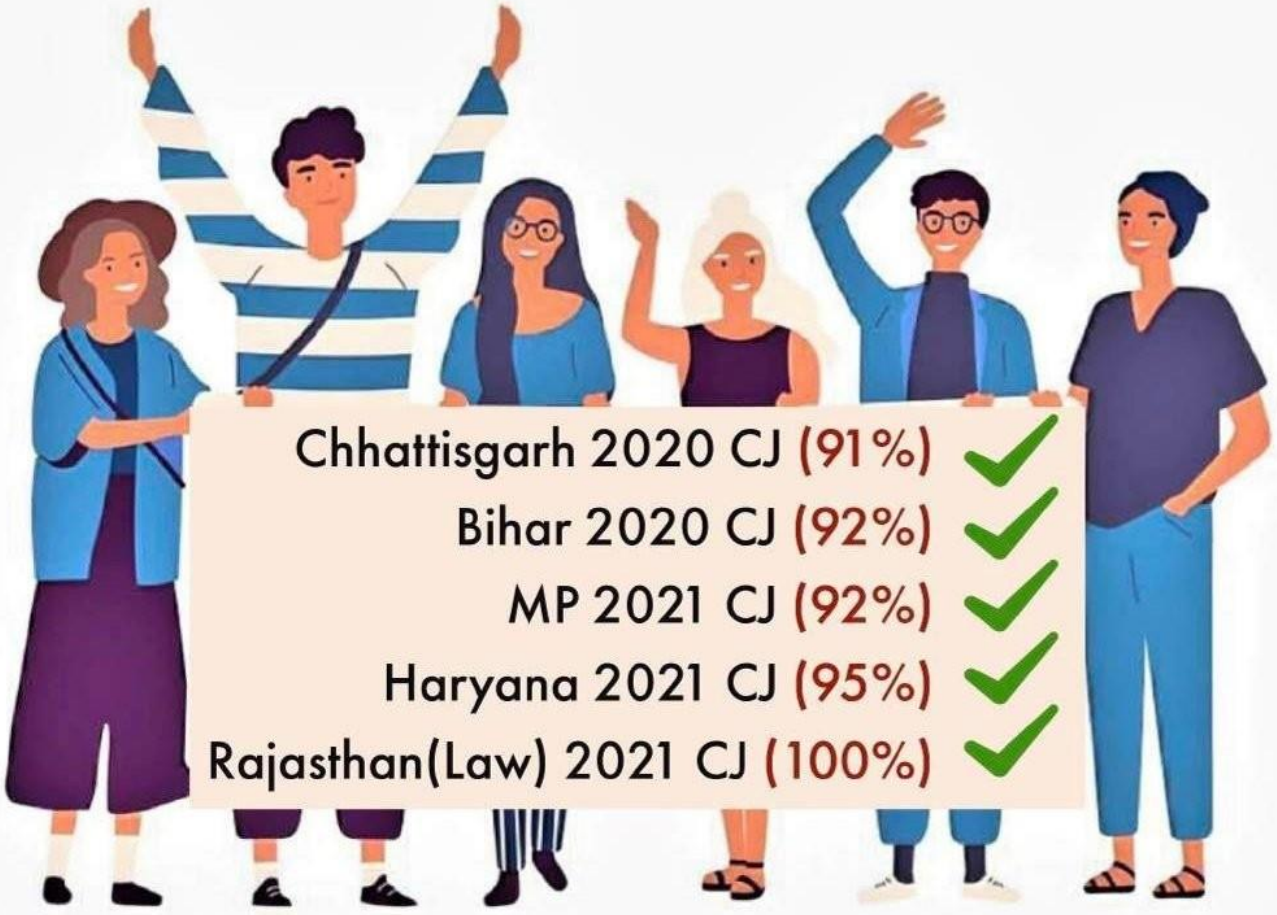

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Section - 8
Punjab Courts Act

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Q.59) As per the Punjab Courts Act, 1918, the provision for second appeal is mentioned in

a) Sec. 40

b) Sec. 41

c) Sec. 39

d) Sec.43

Ans: B

Exp:

Source: Edzorb Law Premium+ 2.0 – Local Laws – Punjab Courts Act – Section 41

Section 41: Second appeals:

(1) An **appeal shall lie to the High Court** from every decree passed in appeal by any Court subordinate to the High Court on any of the following grounds, namely:

Decision being contrary to law or custom or usage having force of law

Decision having failed to determine some material issue of law or custom or usage

Substantial defect in procedure due to which decision on merits has been defected

Explanation: A question relating to the existence or validity of a custom or usage shall be deemed to be a question of law within the meaning of his section.

(2) An appeal may lie under this section from **an appellate decree passed ex parte.**

Kulwant Kaur Vs Gurdial Singh Mann

AIR 2001 SC 1273

Held:

- **Sec.41** is extremely in conflict with the amended provision of **Sec. 100** of CPC.
- Requirement of framing substantial question of law as per **Section 100** of CPC (as amended in 1976) cannot be excluded by **Section 41**.
- ***Hence, Sec. 41 is deemed to be repealed.***

Reference: Punjab Courts Act, 1918

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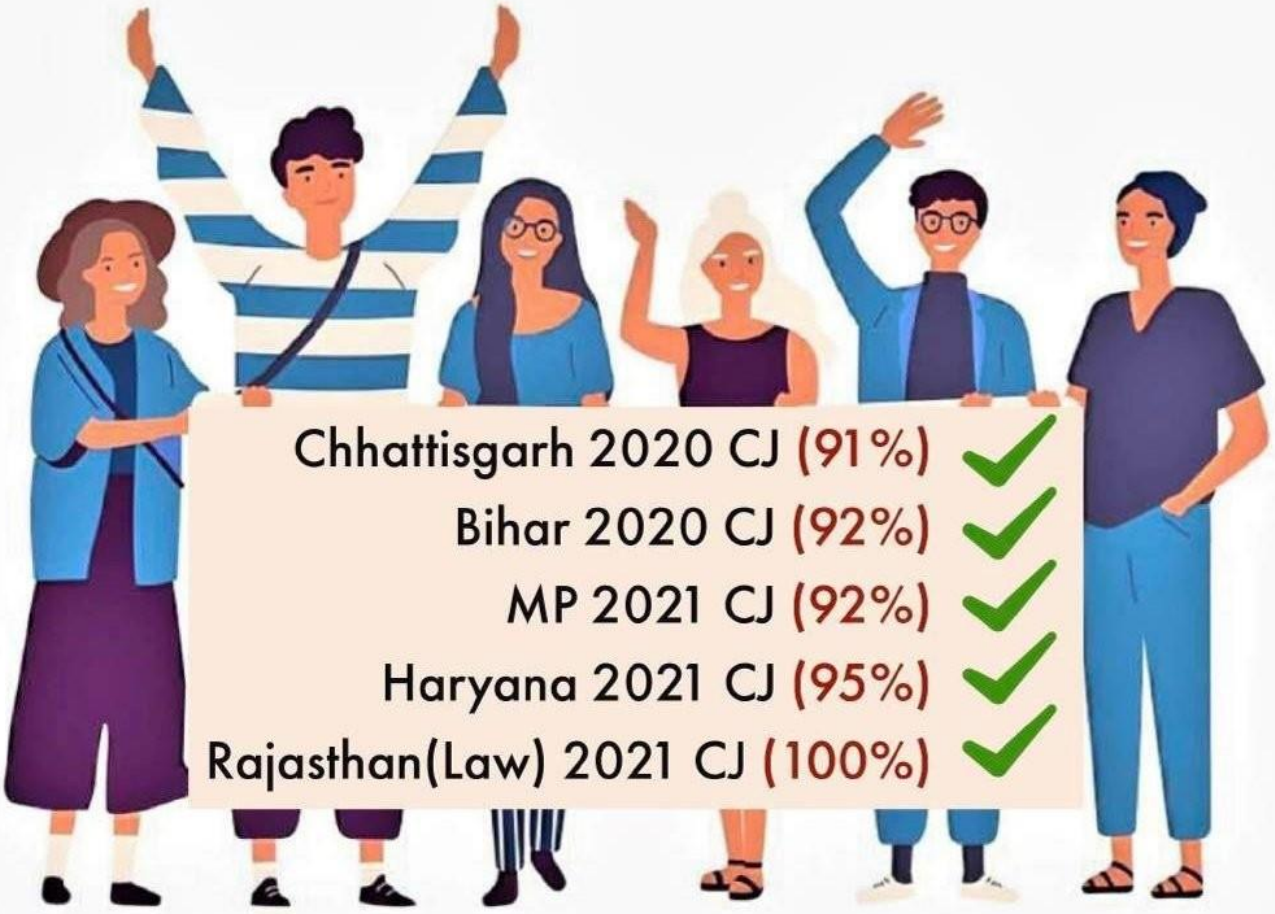

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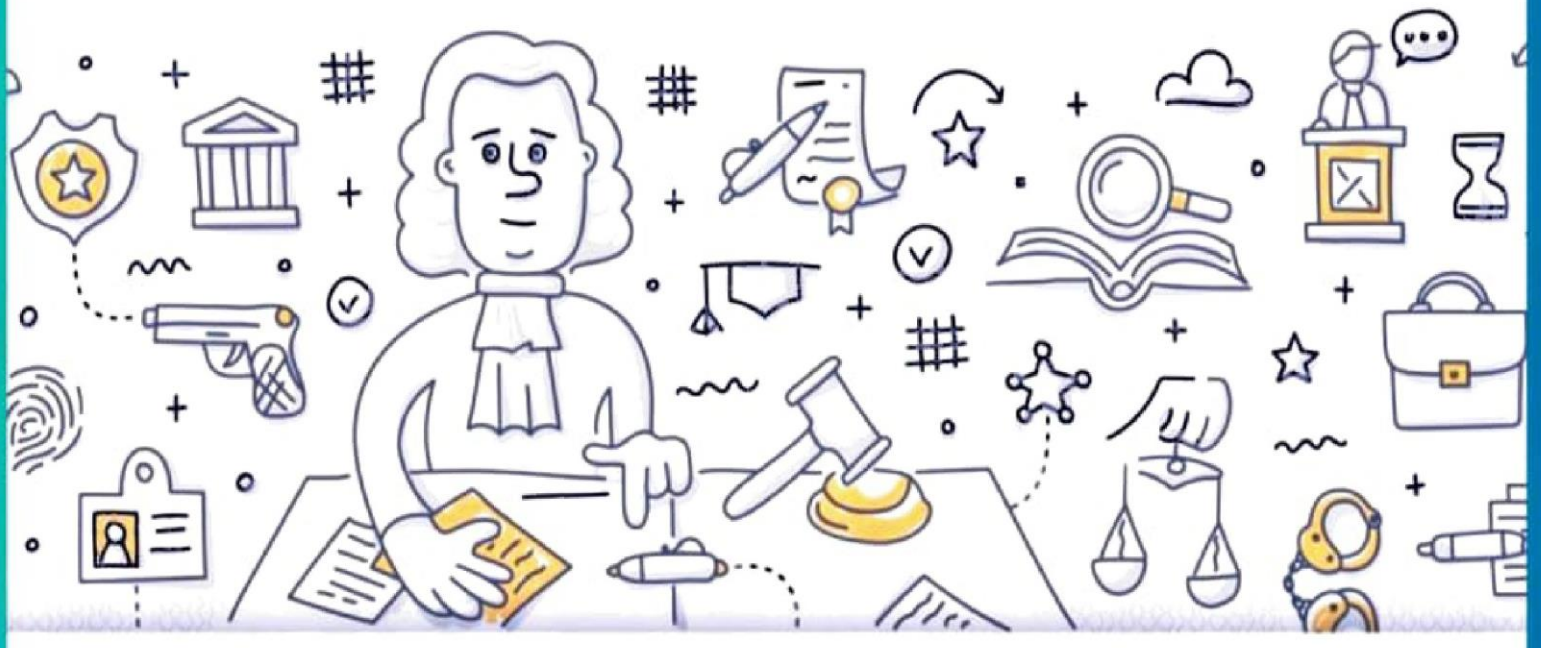
GK



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Q.60) Which country has become the first country to adopt bitcoin as legal tender?

a) Ecuador

b) Costa Rica

c) El Salvador

d) Cuba

Ans: C

Exp:

Q.61) What is the amount of ex-gratia compensation recommended by the central government to be paid to the family members of persons who succumbed to Covid-19?

a) Rs. 50,000-/

b) Rs. 1,50,000 -/

c) Rs.1,00,000 -/

d) Rs.2,00,000 -/

Ans: A

Source: Edzorb Law QBank – GK & Current Affairs – Unit XVIII – Q.29

29.

MCQ, Single Correct Question

Ex-gratia compensation recommended by the central government to be paid to the family members of persons who succumbed to Covid-19

a 20K

b 30K

c 40K

d 50K

"Ex gratia" means "by favor" or "by virtue of grace" in Latin

Ex gratia is a voluntary payment that is not a part of an organization's legal liability

The ex-gratia given to the kin of Covid-19 victims including those involved in relief operations

All states and UTs to disburse the amount from State Disaster Response Fund

Union government approved ₹50,000 as compensation

Q.62) Which among the following cases deal with the "Pegasus" surveillance scandal?

a) Prashant Bhushan v. Union of India

b) Sadre Alam v. Union of India

c) CPIL v. Union of India

d) Manohar Lal Sharma v. Union of India

Ans: D

Exp:

Q.63) In which among the following cases the Supreme Court refused to vacate its order allowing women candidates to appear for the National Defence Academy examination this year?

a) Dr. Apurva Satish Gupta v. Union of India

b) Kush Kalra v. Union of India

c) R Rajeshwaran v. Union of India

d) K Jayakumar v. Union of India

Ans: B

Exp:

Source: Edzorb Law QBank – Constitution of India – Unit XI – Q.36

36.

MCQ, Single Correct Question

Judgment of Kush Kalra relates to

a Equality in job opportunity

b right to privacy

c right of minorities

d right to live

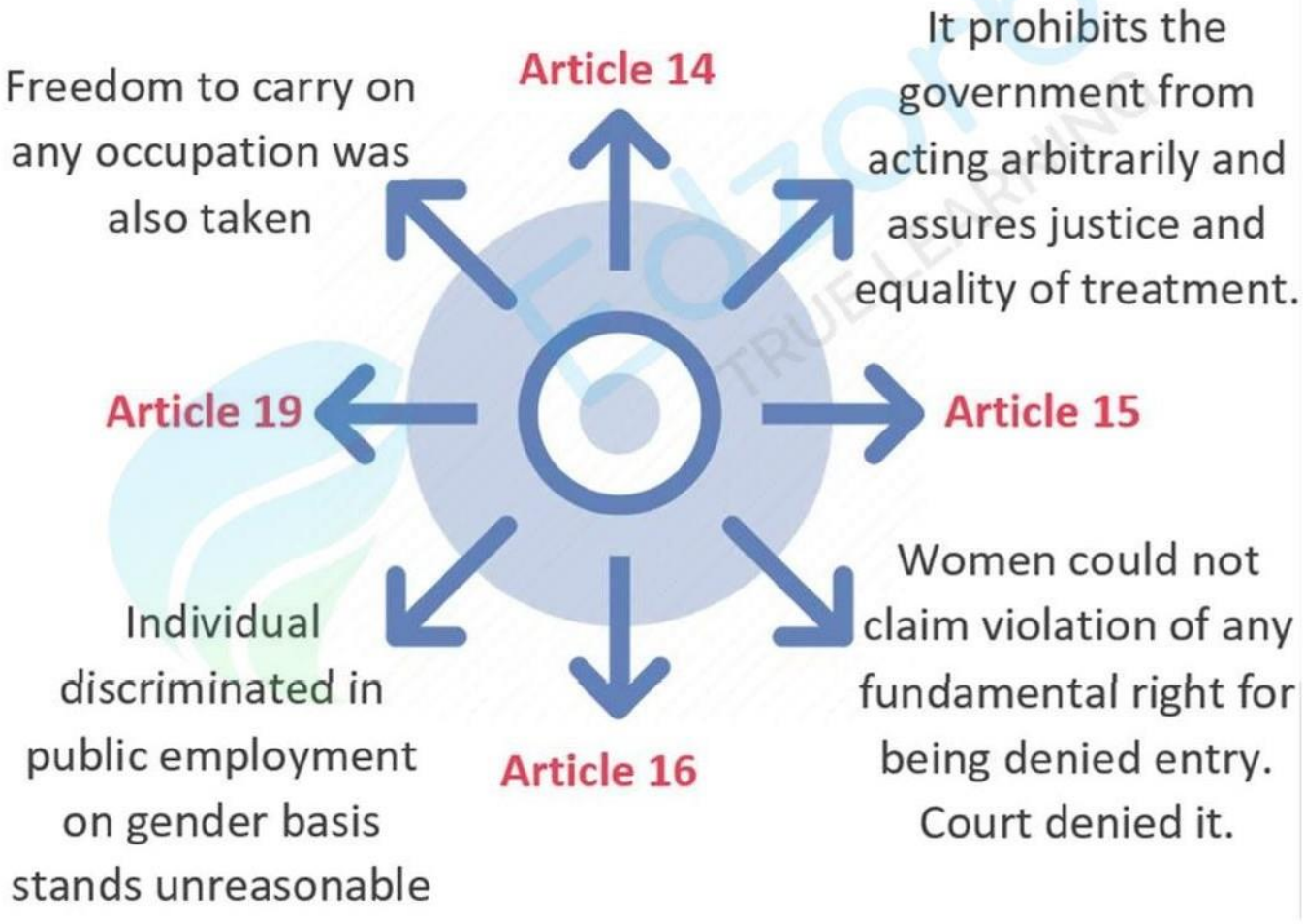
Kush Kalra Vs Union of India

05.09.2021, SC

Held:

- Grant an interim order **allowing women candidates** to participate in NDA exam subject to subsequent instructions from court.
- The court **instructed UPSC** to publish the appropriate corrigendum and publicize it widely so that the objectve of the decision is converted into benefit at ground level.

Decision based on following articles:



Reference: The Constitutional Law of India.

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Q.64) Who among the following is the Chairman of the Bar Council of India?

a) Manan Kumar Mishra

b) Apurba Kumar Sharma

c) Prashant Kumar Singh

d) Ashok Kumar Deb

Ans: A

Exp:

Q.65) Exposure to sunlight helps a person improve his health because

a) the infrared light kills bacteria in the body

b) resistance power increases

c) the pigment cells in the skin get stimulated and produce tan

d) the ultraviolet rays convert 7-dehydrocholesterol in the skin into vitamin D

Ans: D

Exp:

Source: Edzorb Law QBank – GK & Current Affairs – Unit III – Q.51

51.

MCQ, Single Correct Question

Benefits of exposure to sunlight:

a Production of Vitamin D

b Supporting bone health

c Lowering BP

d All of the above

Benefits of sunlight exposure:

Sunlight and Serotonin:

- Exposure to sunlight is thought to increase the brain's release of a hormone called serotonin.
- Serotonin is associated with boosting mood and helping a person feel calm and focused.

Sunlight and Melatonin:

- At night, darker lighting triggers the brain to make another hormone called melatonin.
- This hormone is responsible for helping you sleep.

Sunlight and Vitamin D:

- Vitamin D is the sunshine vitamin.
- 7-dehydrocholesterol in the skin absorbs UV B radiation and is converted to previtamin D3 which in turn isomerizes into vitamin D3.

The health benefits of sunlight include generating the production of **vitamin D, supporting bone health, lowering blood pressure, preventing disease, and promoting good mental health**.

Q.66) Ecology deals with

a) Birds

b) Cell formation

c) Relation between the organisms and their environment

d) Tissues

Ans: C

Exp:

Source: Edzorb Law QBank – GK & Current Affairs – Unit VI – Q.51

51.

MCQ, Single Correct Question

Which of the following subject that deals with organisms and environment

a Biology

b Ecology

c Chemistry

d none of the above

Ecology is the study of:

- Relationships **between living organisms, including humans, and their physical environment**
- Life processes, antifragility, interactions, and adaptations
- Movement of materials and energy through living communities

- Cooperation, competition and predation within and between species.
- Patterns of biodiversity and its effect on ecosystem processes

Q.67) How many medals were won by India in the Tokyo Olympics 2020?

a) 5

b) 6

c) 7

d) 8

Ans: C

Exp:

Source: Edzorb Law QBank – GK & Current Affairs – Unit X – Q.48

48.

MCQ, Single Correct Question

How many medals won by India in Olympics

a 28

b 35

c 42

d 41

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Sport	Gold	Silver	Bronze	Total
Field hockey	8	1	2	11
Shooting	1	2	1	4
Athletics	0	2	0	2
Wrestling	0	1	4	5
Badminton	0	1	1	2
Boxing	0	0	2	2
Tennis	0	0	1	1
Weightlifting	0	0	1	1

9
7
12
Total 28

List of Gold medalists

NAME/TEAM	GAMES	SPORT
National team	1928 Amsterdam	Field hockey
National team	1932 Los Angeles	Field hockey
National team	1936 Berlin	Field hockey
National team	1948 London	Field hockey
National team	1952 Helsinki	Field hockey
National team	1956 Melbourne	Field hockey
National team	1964 Tokyo	Field hockey
National team	1980 Moscow	Field hockey
Abhinav Bindra	2008 Beijing	Shooting

List of Silver medalists

NAME/TEAM	GAMES	SPORT
Norman Pritchard	1900 Paris	Athletics
Norman Pritchard	1900 Paris	Athletics
National team	1960 Rome	Field hockey
Rajyavardhan Singh Rathore	2004 Athens	Shooting
Vijay Kumar	2012 London	Shooting
Sushil Kumar	2012 London	Wrestling
P. V. Sindhu	2016 Rio de Janeiro	Badminton

List of Bronze medalists

NAME/TEAM	GAMES	SPORT
Khashaba D. Jadhav	1952 Helsinki	Wrestling
National team	1968 Mexico	Field hockey
National team	1972 Munich	Field hockey
Leander Paes	1996 Atlanta	Tennis
Karnam Malleswari	2000 Sydney	Weightlifting
Vijender Singh	2008 Beijing	Boxing
Sushil Kumar	2008 Beijing	Wrestling
Saina Nehwal	2012 London	Badminton
Mary Kom	2012 London	Boxing
Gagan Narang	2012 London	Shooting
Yogeshwar Dutt	2012 London	Wrestling
Sakshi Malik	2016 Rio de Janeiro	Wrestling

Did you know?

India won **7 medals** in Tokyo Olympics 2020. Now, total medals are **28 + 7= 35**

Q.68) 'A dissent in a court of last resort is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed." This statement made by Chief Justices Charles Evans Hughes and subsequently cited in a famous Indian dissent by

a) Justice M.C. Chagla

b) Justice Sir Saiyid Fazl Ali

c) Justice A.N. Ray

d) Justice H.R. Khanna

Ans: D

Exp:

Q.69) Which is the first country to make broadband a legal right for every citizen?

a) England

b) Finland

c) Denmark

d) China

Ans: B

Exp:

Source: Edzorb Law Qbank – GK & Current Affairs – Unit XII – Q.51

51.

MCQ, Single Correct Question

First country to make broadband legal right

a Switzerland

b India

c USA

d Finland

Finland the first country in world to make broadband a legal right for all its citizens

Entitling them with 100-Mbit/s connection to become a right by end of 2015

Q.70) To inculcate reading habit among students, which mission has been initiated by the state Government of Haryana?

a) Read More Lead More — Haryana

b) Reading to leading - Haryana

c) Reading Mission — Haryana

d) Read to learn — Haryana

Ans: C

Exp:

Q.71) Justice N.V. Ramana is serving as the Chief Justice of India

a) 49th CJI

b) 48th CJI

c) 47th CJI

d) 46th CJI

Ans: B

Exp:

Source: Edzorb Law Qbank – Consitution of India – Unit V – Q.24

24.

MCQ, Single Correct Question

Who is the 48th Chief Justice of India

a NV Ramana

b SA Bodbe

c Dipak Mishra

d None of the above

Current Chief Justice of India

Nuthalapati Venkata Ramana

Born 27 August 1957

Serving as the 48th Chief Justice of India

First Chief Justice of Supreme Court: Sir Elijah Impey (13 June 1732 – 1 October 1809)

MP for New Romney

Chief Justice of the Sadr Diwani Adalat

First Chief Justice of Supreme Court of Judicature at Fort William in Bengal

Q.72) The boundary line between India and China is

a) Redline

b) Durand Line

c) McMahon Line

d) Radcliffe Line

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Concept Treasures – Geography – Mountains – India-International Borders

India-International Borders

India-Afghanistan
106 km
Border Security Force
BSF
Pakistan occupied Kashmir
Aksai Chin
Line of Actual Control
ITBP
Indo-Tibetan Border Police &
Special Frontier Force
India-China
3488 km
McMohan Line
Line of Control
Durand Line
India-Pakistan
3323 km
Radcliffe Line
Border Security Force
Sashastra Seema Bal
Nepal-India
1751 km
Bhutan-India
699 km
India-Myanmar
1643 km
Assam Rifles &
Indian Army
Radcliffe Line
India-Bangladesh
4096.7 km
Border Security Force
BSF
Coast line
Coast line
7516.6 km
Palk Strait

Q.73) Who is the Union Minister of Law and Justice, Government of India?

a) Pashupati Kumar

b) Kiren Rijiju

c) Ashwani Vaishnav

d) Ravishankar Prasad

Ans: B

Exp:

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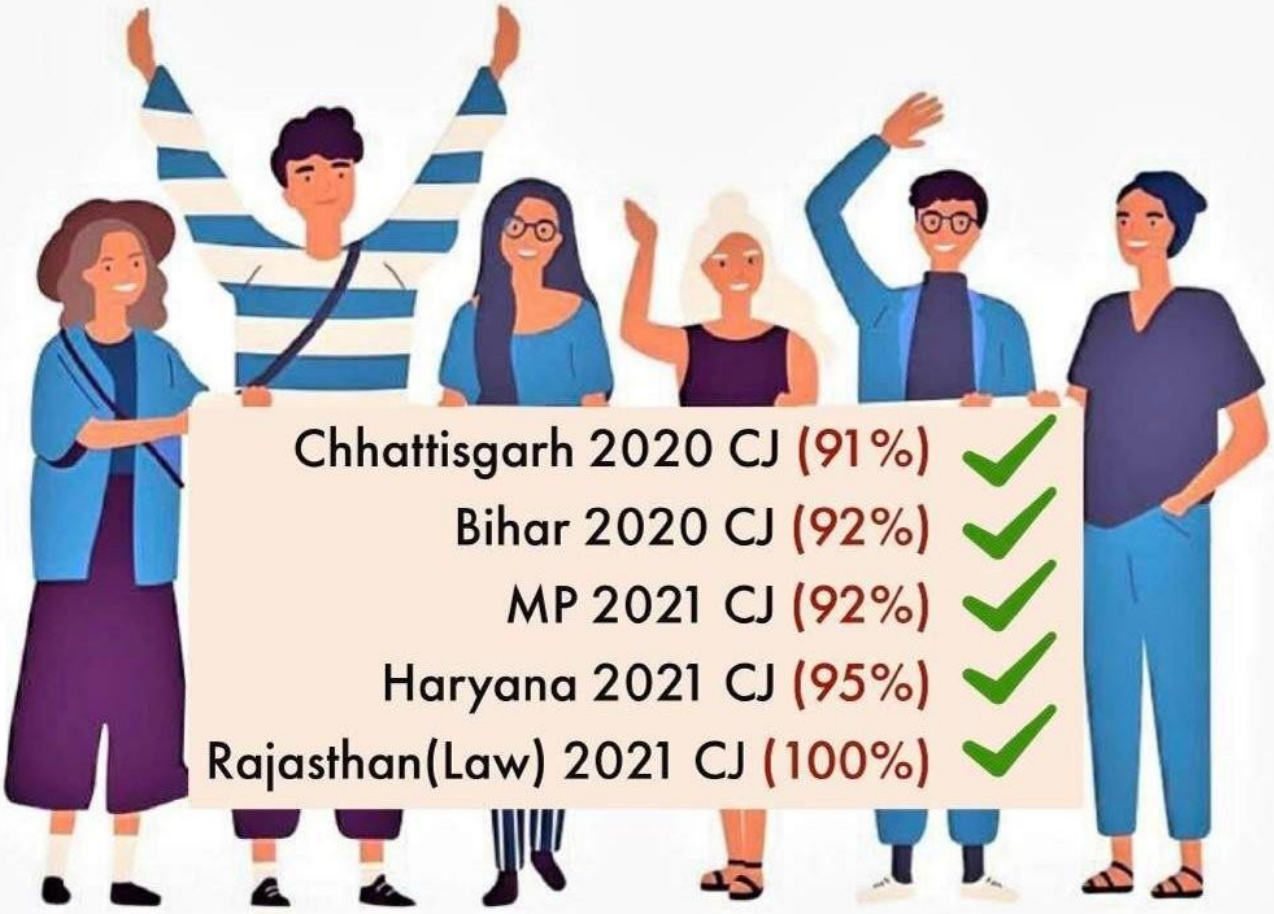

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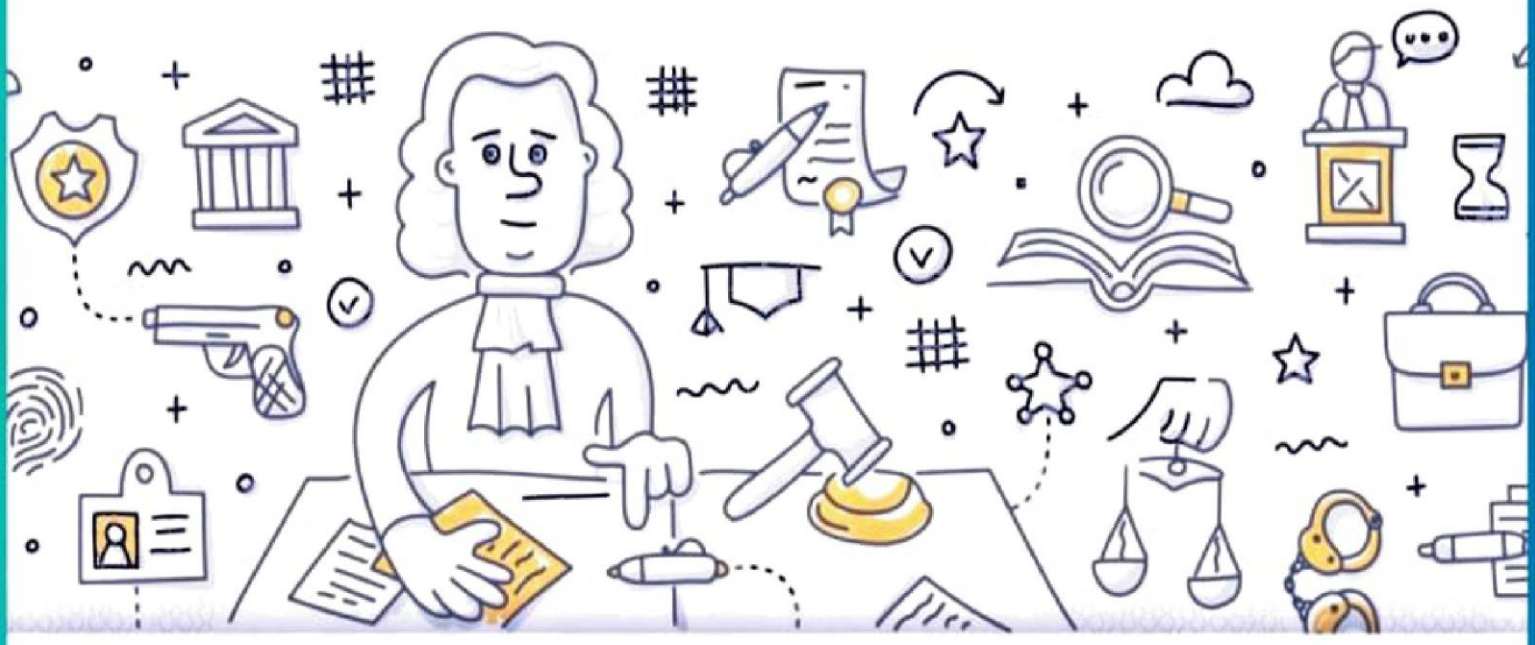
Section - 10
Personal Laws



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Q.74) Under Section 7 of the Hindu Marriage Act, 1955 a marriage must be solemnised in accordance with the customary rites and ceremonies of

a) the bride

b) the bridegroom

c) both bride and bridegroom

d) either bride or bridegroom

Ans: D

Exp:

Source I: Edzorb Law Qbank – Personal Law – Hindu Law – Unit I – Q.19

Source II: Edzorb Law Premium+ 2.0 – Simplified Notes – Personal Laws – Hindu Marriage Act – Section 7

19.

MCQ, Single Correct Question

A marriage under the Hindu Marriage Act, 1955 must be solemnised in accordance with the Customary rites and ceremonies of

a the bride

b the bridegroom

c both bride and bridegroom

d either bride or bridegroom.

(D)

Section 7 of the HMA: The ceremonies and customs of marriage. The marriage may be solemnized in accordance with the customary rites and **ceremonies** of either party.

- Samar who is a Buddhist married a Brahmin girl Reena. With Hindu ceremonies.
- This is a valid marriage.

Reference: Modern Hindu Law by Dr. Paras Diwan, 22nd Edn., 2013, Page No. 87.

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Section 7

Ceremonies for a Hindu marriage

- A Hindu marriage may be solemnized in accordance with the **customary rites and ceremonies** of either party thereto.
- Where such rites and ceremonies **include** the
  - **Saptapadi** (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire
  - The **marriage becomes complete** and binding when the **seventh step is taken**.

Deivani Vs Chindavdram

1954 65

- The Madras High Court examined the religious texts
- That there are **two essential ceremonies:**
  - One – a **secular ceremony** viz., the gift of the girl or **Kanyadanam**
  - Other – **religious ceremony**, viz., **Panigrahana** and **Saptpadi**.

A few Community	And their Ceremony...
Santhals	Smearing of vermilion by bridegroom on the forehead of the bride.
Nayahans	Tying of a Vadu Veeta thali around the neck of the bride

Chadarandazi marriage	No ceremony is necessary
Buddhists	No ceremony is necessary – mutual consent is enough.

Reference: Hindu Marriage Act, 1955 s 7

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Q.75) The consequence of non-registration of a marriage under Section 8 of the Hindu Marriage Act is

a) Marriage becomes voidable at the option of either party thereto

b) Marriage is valid but calls for imposition of penalty

c) Marriage is void and calls for imposition of penalty

d) None of the above

Ans: B

Exp:

Source I: Edzorb Law Qbank – Personal Law – Hindu Law – Unit II – Q.5

Source II: Edzorb Law Premium+ 2.0 – Simplified Notes – Personal Law – Hindu Marriage Act – Section 8

5.

MCQ, Single Correct Question

Non-registration of marriage under Section 8 of the Hindu Marriage Act, 1955

a) invalidates the marriage and calls for imposition of penalty

b) does not invalidate the marriage but calls for imposition of penalty

c) neither invalidates the marriage nor calls for imposition of penalty

d) makes the marriage voidable.

(B)

Section 8: **Registration** of Hindu marriages.

- State Government may make rules to any such particulars relating to their marriage.
- Entered in such manner and subject to such conditions as may be prescribed in a Hindu Marriage Register kept for the purpose.
- Any person **contravening** any rule made in this behalf shall be **punishable** with **fine** which may extend to **twenty-five rupees**.
- The Hindu Marriage Register shall at all reasonable times be open for inspection,
- On application, be given by the Registrar on payment to him of the prescribed fee.

Did you Know?

The purpose of registration is facilitating the proof of Hindu marriages. It shall be admissible as evidence. The validity of any Hindu marriage shall in no way be affected by the omission to make the entry.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 288.

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Section 8:

Registration of Hindu marriages

- **Rules by State Government** to facilitate the proof of Hindu marriages
- The rules can provide that the parties to any such marriage **may have the particulars relating to their marriage entered** in such manner and subject to such conditions as may be prescribed in a **Hindu Marriage Register** kept for the purpose.

Section 8(2)

Compulsory Registration of marriage – State government

- Notwithstanding anything contained in Section 8(1)
- State Government may **provide that the** entering of the particulars referred to in Section 8(1) shall be compulsory in the State or in any part thereof.
- **If the State is of** opinion that it is necessary or expedient to do so.
- Whether in all cases or in such cases as may be specified.

Did you Know?

- **Himachal Pradesh – First** state to introduce compulsory registration of marriage in **2004**.
- Bihar – 2006.
- Kerala – 2008.

- Where any such direction has been issued,
  - **Any person contravening any rule made** in this behalf
  - Shall be **punishable** with fine up **to Rs.25/-**

Section 8(3)

- All rules made under this section shall be laid before the **State Legislature**, as soon as may be, after they are made.

Section 8(4)

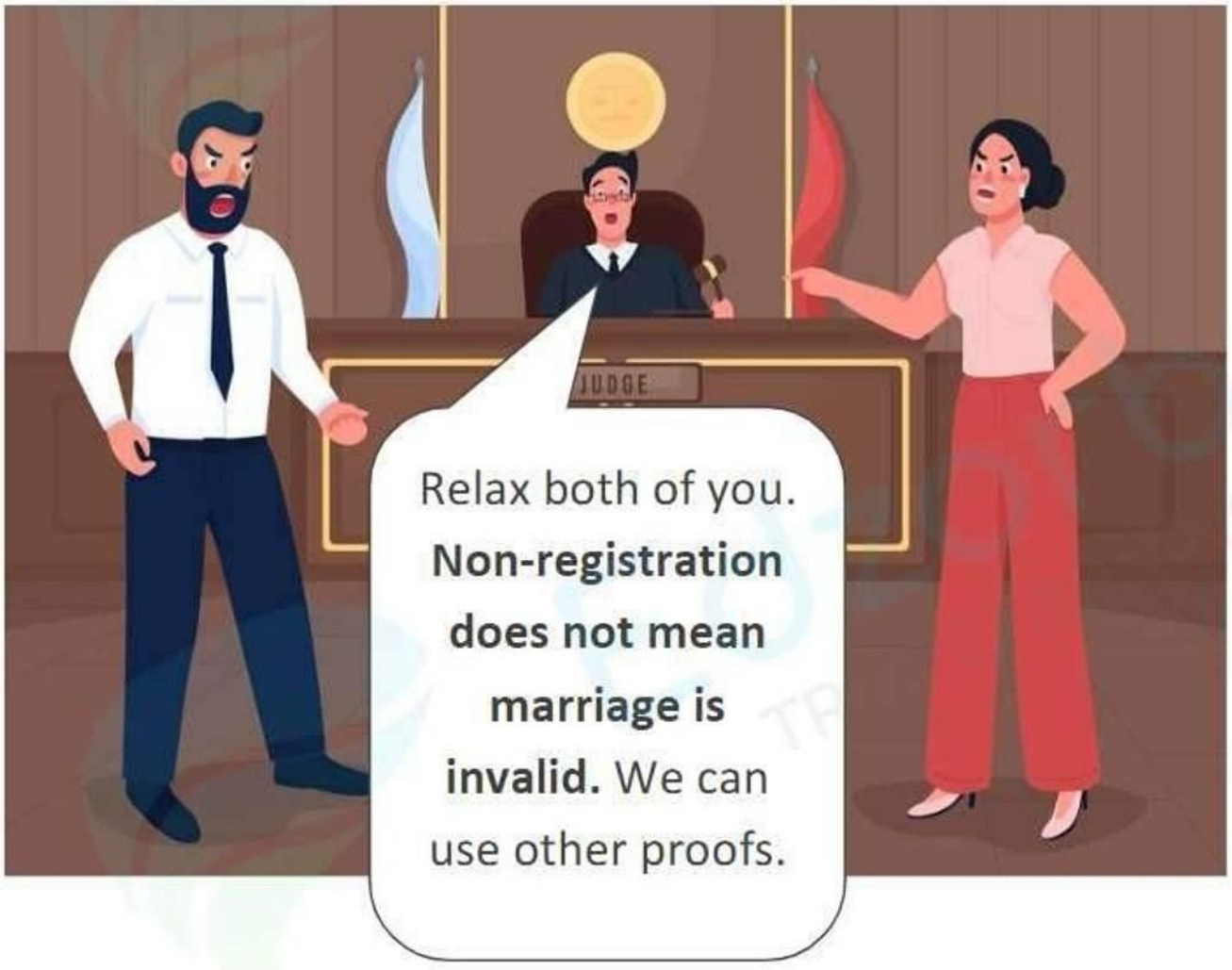
- **The Hindu Marriage Register** shall at all reasonable times be **open for inspection**
- It **shall be admissible as evidence** of the statements contained in the register.

- **Application can be made to Registrar** along with prescribed fee.

- The **certified extracts** from the Register **shall be given** by the Registrar.

Section 8(5)

- Notwithstanding anything contained in this section, the **validity of any Hindu marriage shall in no way be affected by the omission to make the entry.**



Seema Vs Ashwani Kumar

AIR 2006 SC 1158

- Unscrupulous people in large number of marriages have denied the existence of marriage
- By **taking the advantage of unavailability** of any official record of solemnization of marriage which leads to abeyance of proceedings.
- The registration of marriages would be a step in right direction.
- Consequently issued a directive to the state governments and union territories to take measures in the **direction of compulsory registration** of marriages within a span of three months.
- That **marriages of all persons who are citizens of India** belonging to various religions **should be registered compulsorily** in their respective states, where the marriage is solemnised

Reference: Hindu Marriage Act, 1955 s 8

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Q.76) Restitution of conjugal rights can be claimed

a) when there is a withdrawal from the society by one spouse from the other spouse with or without any excuse

b) only when the withdrawal from society is with a valid excuse

c) only when the withdrawal from society is without a valid excuse

d) only when the withdrawal from society is with a wrong motive

Ans: C

Exp:

Source I: Edzorb Law Qbank – Personal Law – Hindu Law – Unit II – Q.14

Source II: Edzorb Law Premium+ 2.0 – Simplified Notes – Personal Law – Hindu Marriage Act – Section 9

14.

MCQ, Single Correct Question

Withdrawal from the society of other within the meaning of Section 9 of the Hindu Marriage Act, 1955 means

a mere refusal to have sexual intercourse

b total repudiation of cohabitation

c both (a) and (b)

d either (a) or (b).

(B)

Withdrawal from the society of the other means total repudiation of cohabitation.

Here the society means marital cohabitation which means both husband and wife should support each other in their respective duties.

Thus, the withdrawal from the society means withdrawing the mental cohabitation apart from physical separation.

Jagdish Mangtani Vs Geeta Jagdish Mangtani
(2003) 1 GLR 309

Withdrawal from society is a **total repudiation** of the obligations of marriage. There can be no general principle applicable to all cases.

Know more about the case: https://indiankanoon.org/doc/1283489/

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 294.
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Section 9

Restitution of conjugal right

Withdrawing from the society of the other

By **either** the husband or the wife.

Without reasonable excuse.

The **aggrieved party** may **file petition**

- Petition can be made to the district court **for restitution of conjugal rights**.

- The **court**, on **being satisfied** of:
  - The truth of the statements made in such petition
  - That there is **no legal ground** why the application should not be granted
- Court **may pass decree** restitution of conjugal rights accordingly.

Shanti Vs Rowesh
(1971) ALJ 67

- **Does** the wife's refusal to give up her job at the instance of the Husband amount to withdrawal from the society of the husband?
- NO, It is **not a sufficient ground for granting a decree of restitution** in favour of the husband
- In fact, wife's taking up of a job even contrary to the wishes of the husband **would not amount to withdrawing from the society.**

Sareetha Vs T. Venkatasubbaiah

AIR 1983 AP 356

- In this case Sareetha claimed that Section 9 of the Act is **liable to be struck down as violative of the fundamental rights** in part III of the Constitution of India, specifically Article 14 and 21
- Justice Choudhary held Section 9 is a savage and barbarous remedy, **violating the right to privacy** and human dignity guaranteed by Article 21 of the Constitution.
- It **denies the women her free choice** whether, when and how her body is to become the vehicle for the procreation of another human being.
- The woman loses her control over her most intimate decisions.
- Clearly therefore, the **right to privacy** guaranteed by Article 21 is **flagrantly violated** by a decree of restitution of conjugal right.
- As a result the Section 9 of Hindu Marriage act 1955 **was unconstitutional**.

Harvinder Kaur Vs Harmander Singh

AIR 1984 Del 66

- **Avadh Behari J.** upheld the validity of Section 9

Advantages of restitution of conjugal rights decree:

- A restitution decree acts as an **index of connubial felicity.**
- It is a sort of **litmus** paper.
- If the decree is disobeyed it is an indicia that the parties have reached a stage of no return.
- In such case, the parties get a ground for divorce after a lapse of one year.
- It is a foothold and handhold for S. 13(1-A).

Marriage = consortium
Husband and wife are entitled to each other's company and comfort.

Cause of action =
One party **withdraws from the society** of the other.

Society =
Cohabitation.

Cohabitation =
Fulfilling their matrimonial duties.

Withdrawing =
Total repudiation of cohabitation

Explanation:

- Where a **question arises** whether there has been **reasonable excuse for withdrawal** from the society
- The **burden of proving** reasonable excuse shall be on the **person who has withdrawn from the society.**

Reference: Hindu Marriage Act, 1955 s 9

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Q.77) On the ground of inability to produce a progeny a marriage can be

a) void

b) voidable

c) both (a) and (b)

d) none of the above

Ans: D

Exp:

Source I: Edzorb Law Qbank – Personal Law – Hindu Law – Unit III – Q.20

Source II: Edzorb Law Premium+ 2.0 – Simplified Notes – Personal Law – Hindu Marriage Act – Section 11 & 12

20.

MCQ, Single Correct Question

On the grounds of barrenness or sterility, marriage can be

a void

b voidable

c both (a) and (b)

d neither (a) nor (b).

(D)

On the **ground** of **barrenness** and **sterility** Hindu marriage can **neither** be **void** nor **voidable**.

Section 12(1) of HMA, 1955: Any marriage solemnised, shall be voidable and may be annulled on the ground that:

- The marriage has **not** been **consummated**
- **Owing** to the **impotence** of the **respondent**

Food for Thought!

Companionship is the basic ingredient of a marriage. Hence, a marriage cannot be terminated simply on the grounds of infertility.

Umamaheswari Vs K. Babu

Impotency is the lack of ability to perform full and complete sexual intercourse. On the other hand, sterility is the incapacity to produce a child. The word **'Sterility'** cannot be equated with the word **'Impotency**.' Both the expressions are not interchangeable.

Read more on: https://indiankanoon.org/doc/1108998/

India's Hidden Infertility Struggles

- The **World Population Prospects: The 2017 Revision** report estimates that the fertility rate of Indians (measured as the number of children born to a woman), has plummeted by more than 50 percent, from 4.97 during the 1975-80 period to 2.3 for the current period of 2015-20.
- By 2025-30, the report projects, the rate will nosedive further to 2.1, touching 1.86 from 2045-50 and 1.78 from 2095-2100.

Read more at:
https://thediplomat.com/2018/05/indias-hidden-infertility-struggles/#:~:text=According%20to%20the%20Indian%20Society,suffer%20from%20infertility%20in%20India.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 305.

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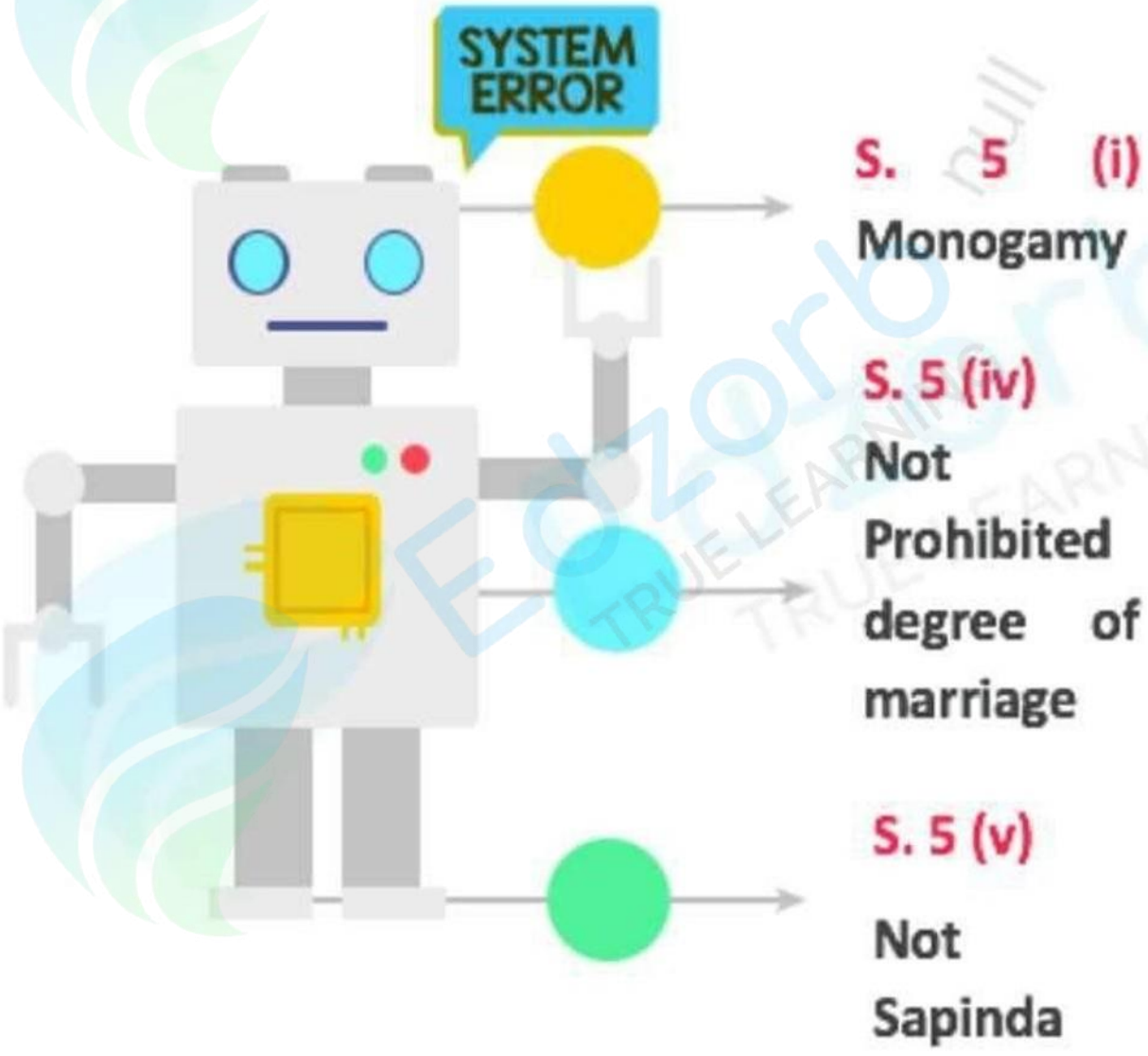
Section 11

Void marriage

- Any marriage solemnised **after the commencement of this Act shall be null and void** if contravened following conditions:
  - S. 5 (i)
  - S. 5 (iv)
  - S. 5 (v)



- On a **petition presented** by either party thereto against the other party **may be declared** void by a decree of nullity.

Petition to declare marriage

NULL & VOID

Reference: Hindu Marriage Act, 1955 s 11

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Section 12(1)

Voidable marriages

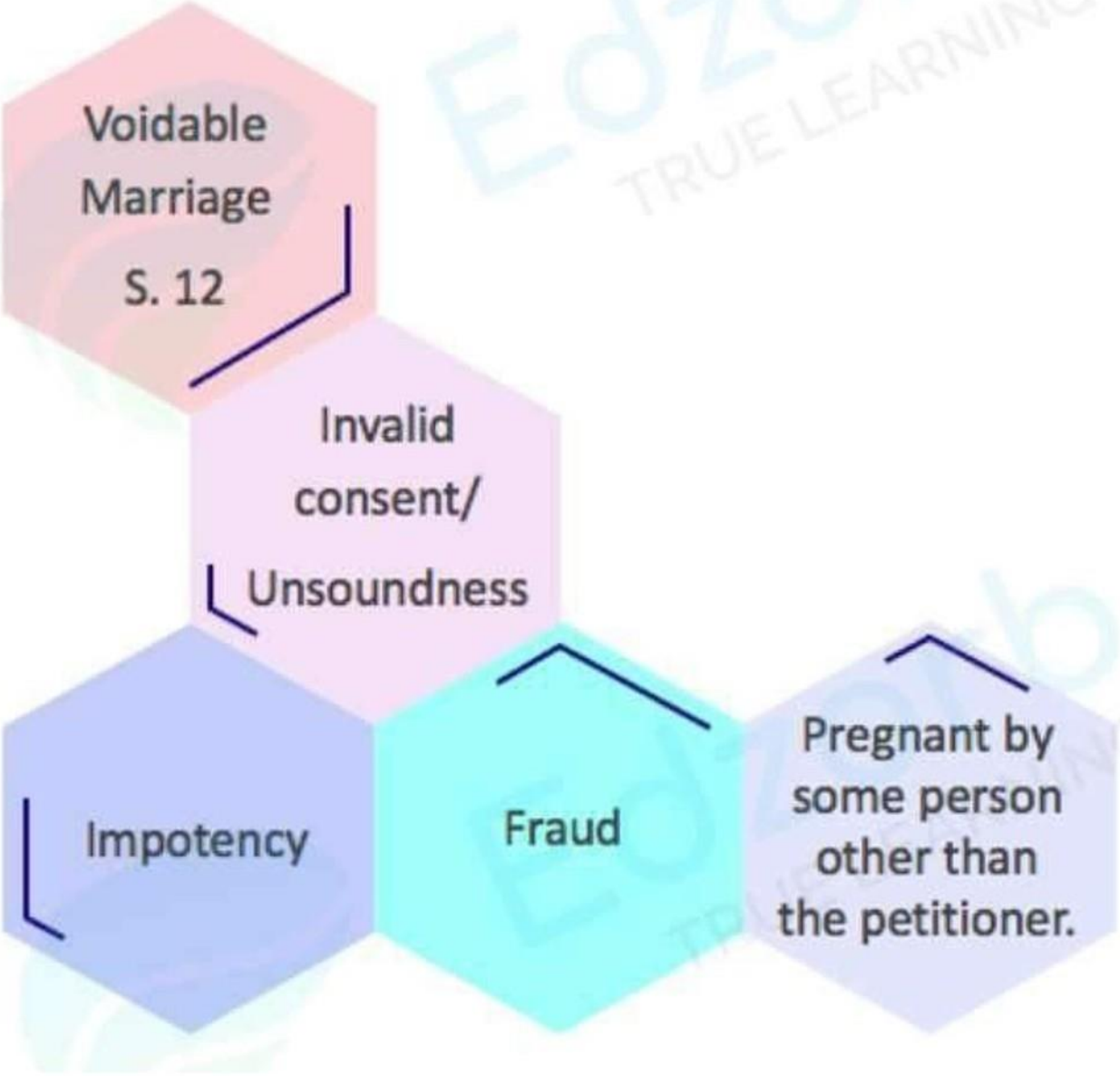
Section 12
Voidable marriage

Marriage may be annulled by a decree of nullity.

- Any marriage solemnised, whether before or after the commencement of this Act, **shall be voidable and may be annulled by a decree of nullity** on any of the following grounds, namely:
- **Impotency**: That the marriage has **not been consummated** owing to the impotence of the respondent
- **Invalid consent/Unsoundness:** That the marriage is in contravention **Section 5(ii)**
  - Incapacity of consent due to unsoundness of mind
  - Unfit for marriage or procreation.

- **Consent obtained by Fraud**:
  - That the **consent of the petitioner**, or where the **consent of the guardian** in marriage of the petitioner was required under **Section 5** as it stood immediately before the commencement of the **Child Marriage Restraint (Amendment) Act, 1978,** the consent of such guardian was **obtained by force or by fraud.**
  - And the fraud was with respect to
    - The **nature of the ceremony** or
    - **Material fact** or circumstances **concerning the respondent.**

- That the respondent was at the time of the marriage **pregnant by some person other** than the petitioner.

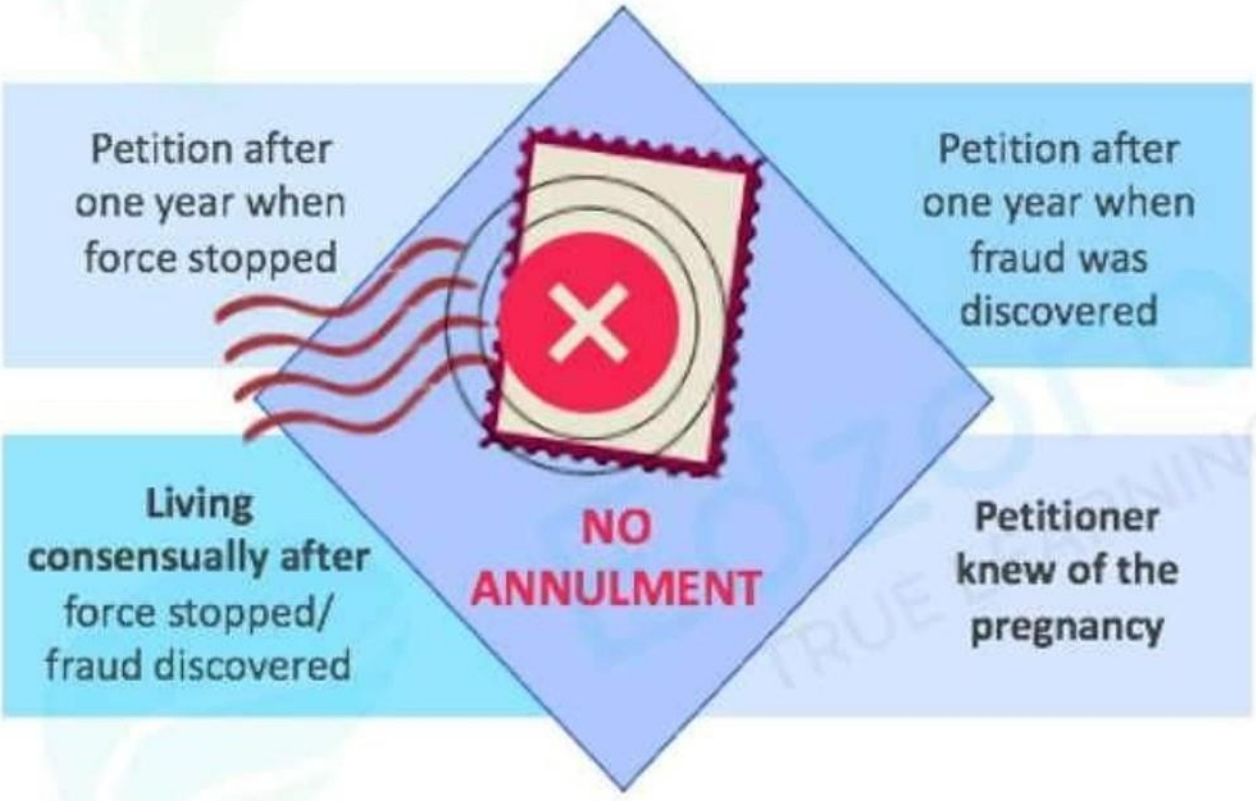


Section 12(2)

- Notwithstanding anything contained in **Section 12(1)**
- **No petition for annulling** a marriage on the ground specified in **Section 12(1) (c)** shall be entertained **if:**
  - Petition is presented **more than one year after**
    - **The force had ceased to operate** or
    - The fraud had been discovered; or
  - After the **force has ceased** to operate or, as the case may be, the fraud had been discovered, the petitioner has, **with his or her full consent, lived with the other party** to the marriage as husband or wife after that.
  - On the ground specified **Section 1(d)** **no petition shall be entertained unless** the court is satisfied:
    - That the **petitioner was ignorant** of the alleged facts at the time of the marriage.
    - That **proceedings have been instituted** in the case of a marriage solemnised before the commencement of this Act **within one year of such commencement** and in the case of

marriages solemnised after such commencement within one year from the date of the marriage.

- **That no marital intercourse with the consent of the petitioner has taken** place **since the discovery** by the petitioner of the existence **of the said ground.**



Reference: Hindu Marriage Act, 1955 s 12(2)

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Q.78) If two persons are related to each other by blood or adoption not wholly through males, they are called

a) blood relations

b) agnates

c) cognates

d) cousins

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Laws – Hindu Law – Unit IV – Q.17

17.

MCQ, Single Correct Question

The person who is related to another through uterine blood but not wholly through males will be called ___ under The Hindu Succession Act, 1956.

a) Cognate

b) Agnate

c) Nambudri

d) None of the above

Section 3(1) of The Hindu Succession Act, 1956, provides the **definition for agnate and cognate**;

AGNATE	COGNATE
• **Section 3(1)(a)** - one person is said to be an "agnate" of another if the two are related by blood or adoption wholly through males	• **Section 3(1)(c)** - one person is said to be a cognate of another if the two are related by blood or adoption but not wholly through males.
• A person related *wholly through males* either by blood or by adoption, it may be a male or a female.	• A person related *not wholly through males*.
• Ex: a person is an agnate of his father's brother's son.	• Ex: Ram's father's sister's son would be a cognate of Ram.

Reference: Hindu Law by B.M. Gandhi & Sumeet Malik; 4th Ed., 2016, Page No. 422

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Q.79) Under the Hindu Adoption and Maintenance Act, 1956, a Hindu male can adopt a child without the consent of his wife provided,

a) the wife is not interested in the adoption

b) the wife is living in a foreign country

c) he has more than one wife

d) the wife has ceased to be a Hindu

Ans: D

Exp:

Source: Edzorb Law Qbank – Personal Laws – Hindu Law – Unit IV – Q.20

20.

MCQ, Single Correct Question

Which section deals with Capacity of male Hindu to adopt:

a Section 6

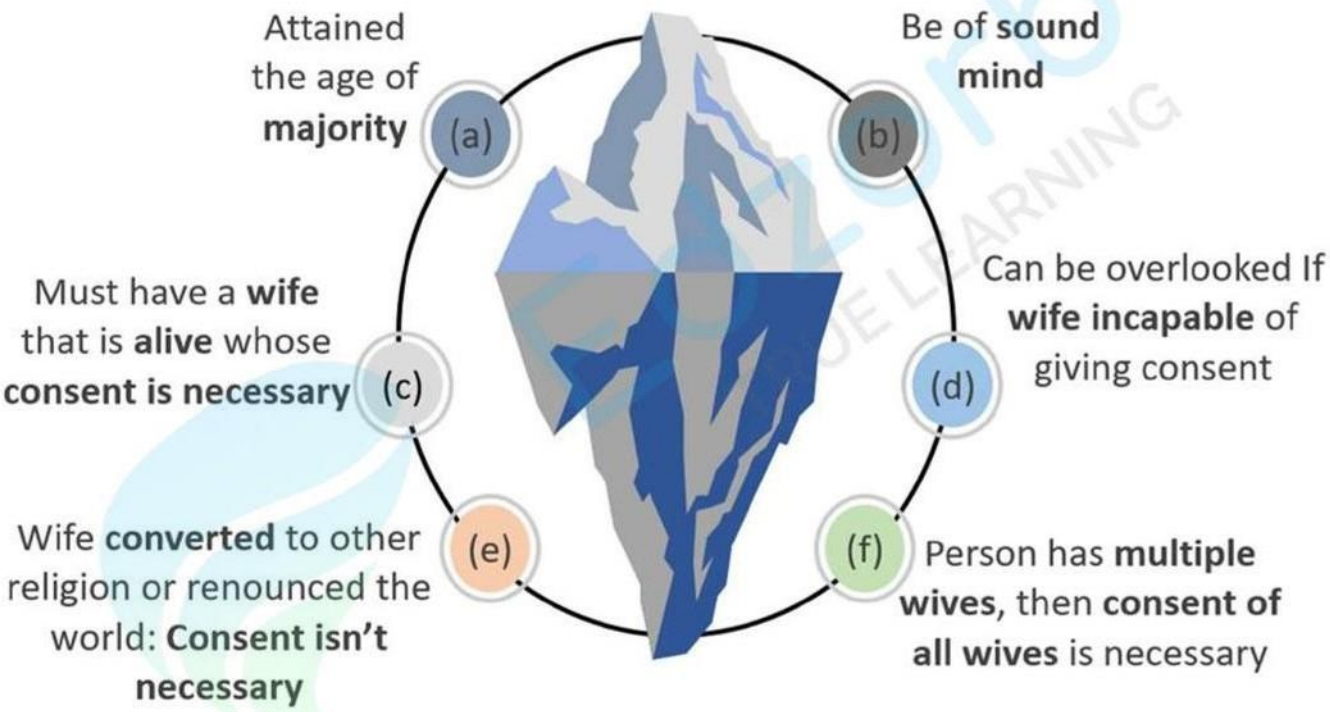
b Section 7

c Section 8

d Section 9

Section 7

Male Hindu willing to adopt must fulfil following conditions



Bholoorram (Bhola) And Ors. vs Ramlal and Ors.

1 February, 1989

Facts:

- Had two wives and the validity of adoption was in question
- As he had not taken the consent of one of his wives before adopting

Held:

As long as wives are alive, consent of each wife is necessary for a valid adoption.

Reference: Hindu Adoption and Maintenance Act, Section 7

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Q.80) Choose the wrong statement

a) A Hindu who has a Hindu son cannot adopt a son

b) A Hindu who has a Hindu grandson cannot adopt a son

c) A Hindu who has a Hindu great grandson cannot adopt a son

d) A Hindu who has a Hindu daughter cannot adopt a son

Ans: D

Exp:

Source: Edzorb Law Qbank – Personal Laws – Hindu Law – Unit IV – Q.21

21.

MCQ, Single Correct Question

Which of the following provides for other valid conditions for adoption

a Section 9

b Section 10

c Section 11

d Section 12

Adoption of a son

Section 11(i)

Hindu male or female desires to adopt a son then at the time of adoption must not have:

A living son → Grandson → Or even a great-grandson

Adoption of a daughter

Section 11(ii)

To adopt a daughter must not have at the time of the adoption

A living daughter

Or a grand daughter from their son

Irrelevant whether the daughter or granddaughter or son, grandson or great grandson is legitimate, illegitimate, or adoptive.

- While adopting opposite gender, age gap of 21 years is a must;
- two persons cannot adopt same child;
- giving and taking in adoption must be established.

Reference: Hindu Adoption and Maintenance Act, Section 11

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Q.81) Alienation by the Karta without legal necessity or the benefit of estate is

a) valid

b) voidable at the instance of the coparcener

c) voidable at the instance of alienee

d) void ab initio

Ans: B

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit XII – Q.31

31.

MCQ, Single Correct Question

Cases in which Karta can alienate the property:

a Apatkale

b Kutumbarthe

c Dharamarthe

d All of the above

RIGHTS & POWERS OF KARTA AND COPARCENERS:

These are my powers & I shall use them judiciously for my family's welfare.

Power to:
Contract debts;
income & expenditure;
acknowledge debts;
compromise;

Power to:
give valid discharge;
refer disputes to arbitration;

Karta

Power to:
alienate joint family property for legal necessity/benefit of the state; start new business

Power to:
represent the joint family in suits & proceedings;
enter into contract.

Hunooman Prasad Panday Vs Mussammat Babooee (1854-1857) 6 Moore's Ind. App. 393 (PC)

Powers of Karta:

- Family Affairs Management power to look into the family matters and the property that belongs to the family.
- Power of eviction in case of partition.
- Power to Represent as sole representative of the family structure when it concerns any legal or even social matters – Singriah Vs Ramanuja, AIR 1959 Mys 239 (DB)
- Power over income- controlling his income and expenditure.
- Power of alienation- Neither the Karta or any other coparcener has the right to alienate the joint family property except in some situations as under:
    - Apatkale
    - Kutumbarthe (Estate's benefit)
    - Dharmamarthe (Obligations of religious nature)
    - Necessity in legal terms
    - Estate's benefit

Apatkale

It refers to a situation where the family as a whole or one of its members faces an emergency, or with respect to its property.

Kutumbarthe

Kutumbarthe means "benefit of Kutumb," kutumb meaning the family members.

Dharmarthe

The term Dharmarthe means "for pious purposes" which is for the performance of religious and charitable purposes

Raj Kumar Raghubanchmani Prasad Vs Ambica Prasad Singh

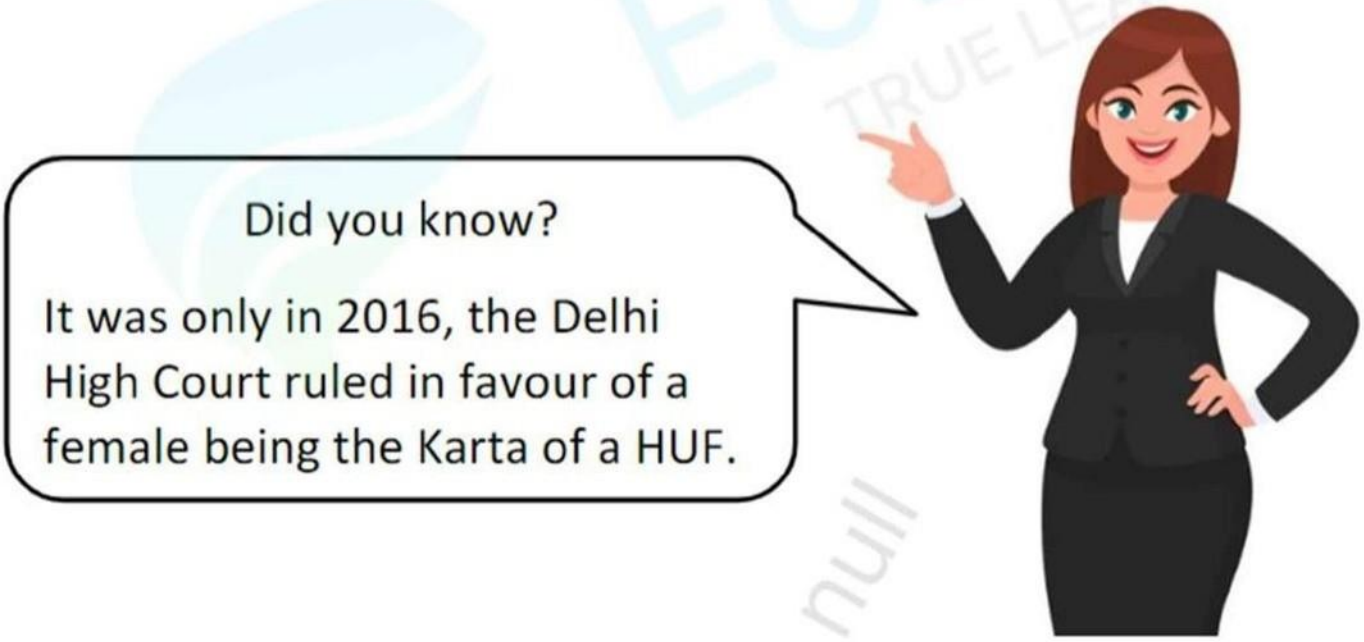
18 December, 1970

Facts:

Alienation by Manager of the joint Hindu family

Held:

In any event an alienation by the Manager of the joint Hindu family even without legal necessity is **voidable at the instance of coparceners and not void**.



Reference: Family law II Dr. Poonam Pradhan Saxena – Family Law Lectures 3rd Edition

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Q.82) Proceedings to be in camera and may not be printed or published, is provided in Section _ of the Hindu Marriage Act, 1955

a) Section 24

b) Section 22

c) Section 21

d) Section 23

Ans: B

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit IV – Q.1

1.

MCQ, Single Correct Question

Section 22 of the Hindu Marriage Act, 1955 lays down that every proceeding under the Hindu Marriage Act shall be conducted in

a open court

b camera

c family court

d both (b) an (c).

(B)

Section 22 of HMA, 1955: Every proceeding under this Act shall be -

- Conducted **in camera** and
- **Not lawful** to **print** or **publish** any matter
- **Except** a judgment of the High Court or of the Supreme Court with the previous permission of the Court.

Did you know?

In-camera proceeding is used to **protect** the **privacy** of the parties. These proceedings are **carried out** in **private**, in the **absence** of the **public** and the **press**.

Read More:
https://www.newindianexpress.com/nation/2017/jul/19/right-to-privacy-cases-that-helped-shape-how-its-understood-by-the-law-1630937.html

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 370.

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Q.83) Which section of the Hindu Marriage Act 1955 deals with Custody of children?

a) Section 27

b) Section 24

c) Section 26

d) Section 29

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – Personal Law – Hindu Marriage Act – Section 26

Section 26:

Custody of children:

Food for Thought!

Section 13 in The Hindu Minority and Guardianship Act, 1956 says that **'Welfare of the minor shall be the paramount consideration'.**

- **Interim Orders:**
  - In any proceeding under this Act, the court may, from time to time, pass such interim orders and make such provisions in the decree.

- **For custody etc of Minor:**
  - As it may deem **just and proper** with respect to the **custody, maintenance and education** of **minor children,** consistently with their wishes, wherever possible.

- **Permanent Order**
  - **After the decree**
  - **The court may also upon application** by petition for the purpose, **make from time to time,**
  - **All such orders and provisions** with respect to the custody, maintenance and education of such children
    - As might have been made by such decree or interim orders **in case the proceeding for obtaining such decree were still pending.**

- **Revoke, suspend or Vary**:
  - The court may **also from time to time** revoke, suspend or vary any such orders and provisions previously made.

Proviso:

- **60 DAYS:** The application with respect to the maintenance and education of the **minor children**, pending the proceeding for obtaining such decree, shall, as far as possible, be disposed **of within sixty days from** the date of service of notice on the respondent.

Consistent with wishes of MINOR

Chethana Ramatheertha Vs Kumar V. Jahgirdar

(2003) DMC 288

- The consideration can only be the welfare of the child.
- Court must bear in mind:
  - The ability of the parents to provide necessary facilities & environmental.
  - Companionship.
  - Love and affection
- **Important question for custody is:**
  - Company of which of the two parents is better suited for the integrated development of the personality of the child.

Thrity Hoshie Dolikuka Vs Hoshiam Dolikuka

1982 AIR 1276

- Court has the power to ascertain **the wishes of the minor of it considers necessary.**
- But in this situation the girl had undergone depression after being interviewed many times.
- So, child's interest and welfare will be best served by removing her from the influence of home life
- By directing that she should continue to remain in the boarding school, which is admittedly a good institution.

Q.84) Desertion is

a) total repudiation of obligation of marriage

b) partial repudiation of the obligation of marriage

c) both (a) and (b)

d) none of the above

Ans:

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit III – Q.7

7.

MCQ, Single Correct Question

'Desertion' within the purview of Hindu Marriage Act is a

a total repudiation of obligation of marriage

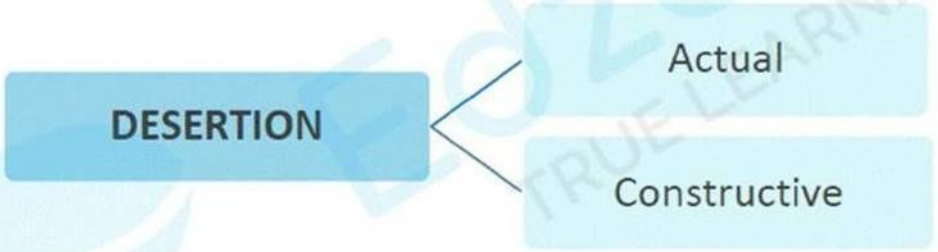
b partial repudiation of the obligation of marriage

c suspension of obligation of marriage

d either (a) or (b) or (c).

(A)

Section 13 (1) (ib): Desertion is the second fault ground for divorce. It **means** total repudiation of marital obligations.



Nature of **Desertion** is an inchoate offence:

- as it continues from the day it commences to the day
- it is terminated by the conduct of the deserting spouse or
- by the presentation of the petition.
- It becomes a complete fault based matrimonial offence only when the deserted spouse files for divorce.

Desertion must be **proven by a preponderance of the evidence**. There are **two main elements to prove** to establish abandonment/**desertion grounds** for **divorce**:

- The actual breaking off of the matrimonial cohabitation (abandoning the usual marital duties, not just sexual intercourse must be established),
- The intent to desert the marriage.

Reference: Modern Hindu Law by Dr. Paras Diwan, 22nd Edn., 2013, Page No. 142.
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Q.85) Presumption that the younger survived the elder under Section 21 of the Hindu Succession Act is a

a) Presumption of fact

b) Presumption of fact and law

c) Rebuttable presumption of law

d) Irrebuttable presumption of law

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit VI – Q.13

13.

MCQ, Single Correct Question

Presumption that the younger survived that elder under Section 21 of the Hindu Succession Act, 1956 is a

a presumption of fact

b mixed presumption of fact and law

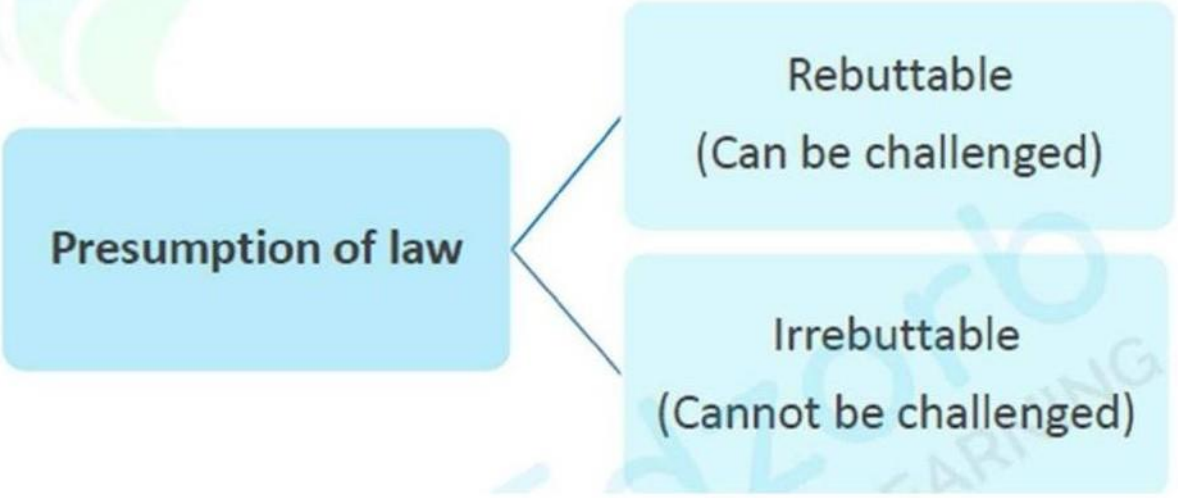
c rebuttable presumption of law

d irrebuttable presumption of law.

(C)

Section 21 in HSA, 1956: Presumption in cases of simultaneous deaths –

- Where two persons have died in circumstances rendering it uncertain whether either of them, and
- If so which, survived the other then, for all purposes affecting succession to property,
- It shall be presumed, until the contrary is proved, that the younger survived the elder.



Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 442

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Q.86) Section 14 of the Hindu Succession Act applies to

a) Movable property

b) Immovable property

c) Both movable and immovable property

d) None of the above

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit VII – Q.19

19.

MCQ, Single Correct Question

Which of the following is/are included in the 'property' mentioned in section 14 of the Hindu Succession Act, 1956?

a Movable property only

b Immovable property only

c Both (a) and (b)

d None of the above

C

Section 14

Property acquired by female include both movable and immovable properties:

The primary purpose of the **conversion of a limited estate into an absolute.**

Reference: Modern Hindu Law by Paras Diwan

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Q.87) A Hindu die leaving behind father and son's daughter's son, they are

a) ClassI heirs

b) Class II heirs

c) Preferential heirs

d) None of the above

Ans: B

Exp:

Source: Edzorb Law QBank – Personal Law – Hindu Law – Unit VII – Q.2

2.

MCQ, Single Correct Question

How many entries are there under Class-II heirs, specified in the Schedule of the Hindu Succession Act?

a 5

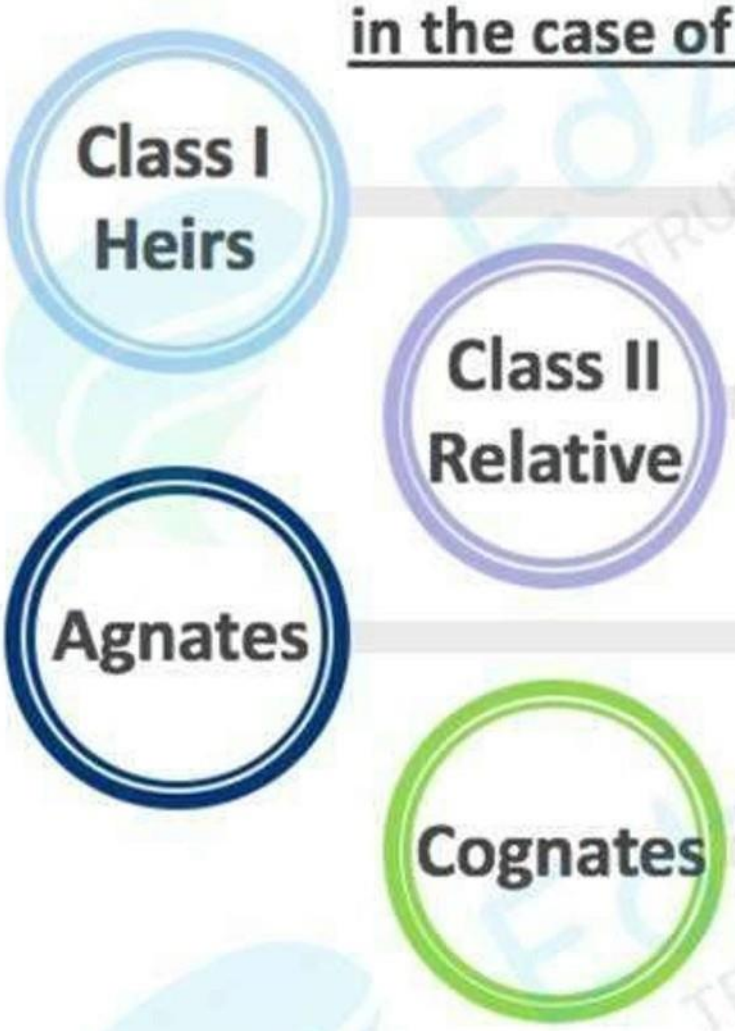
b 6

c 8

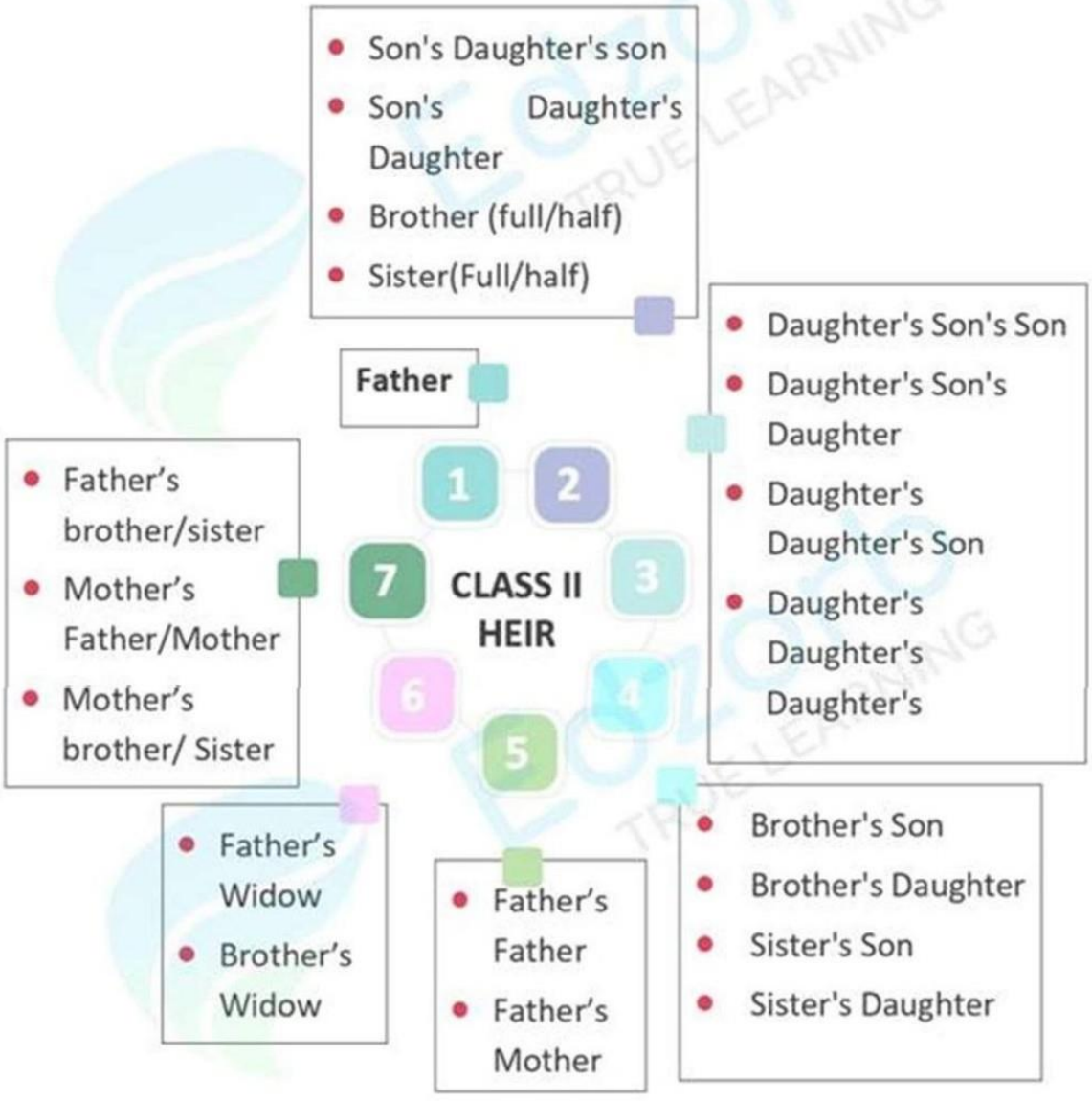
d 9

Section 8

General rules of **succession in the case of males:**



ENTRES OF CLASS II HEIRS:



Did you Know?

Mother's father, mother, brother & sister has been recently added as entry 8 & 9.

Reference: Family law II Dr. Poonam Pradhan Saxena - Family Law Lectures 3rd Edition Ch 12 p 26

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Q.88) The effect of death of Muslim husband or wife during the period of iddat, following a revocable pronouncement of divorce on inheritance rights is

a) only husband can inherit

b) only wife can inherit

c) both can inherit

d) both cannot inherit

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Law – Muslim Law – Unit V – Q.25

25.

MCQ, Single Correct Question

Pronouncement of talaq can be

a revocable

b irrevocable

c either (a) or (b)

d only (b) and not (a).

(C)

Revocable marriage:

- The initial declaration of talaq is a revocable
- Repudiation which does not terminate the marriage.
- The husband can revoke the repudiation at any time
- During the waiting period (iddat) which lasts three full menstrual cycles.

Did you Know?

During revocable talaq, marriage does not terminate immediately and therefore, the husband and wife can inherit the property of the other if either die.

Irrevocable marriage:

- The declaration terminates marriage at once.
- There is no chance of reverting the situation.
- Triple talaq, also known as talaq-e-biddat, is irrevocable divorce.
- Followed by Hanafi Sunni Islamic schools of jurisprudence.
- The Quran established means to avoid hasty divorces.

Reference: Mohammedan Law By Aqil Ahmad, 24th Edn.,Page No. 172

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Q.89) The punishment for pronouncement of any irrevocable form of divorce by a Muslim husband upon his wife is

a) imprisonment for a term which may extend to three years

b) imprisonment for a term which may extend to three years and fine

c) imprisonment for a term which may extend to two years

d) imprisonment for a term which may extend to two years and fine

Ans: B

Exp:

Source: Edzorb Law Qbank – Personal Law – Muslim Law – Unit VI – Q.7

7.

MCQ, Single Correct Question

Mark the incorrect statement

a. In Mubaraat, the aversion is mutual on both sides

b. In Khula, there is aversion on the side of the wife only

c. The wife is entitled to Khula as of right

d. Talak-i-biddat is the effective result in Khula but not in Mubaraat.

(D)

Talaq-e-Biddat or **Talaq-i-Bain** **-Irrevocable divorce.**

- It is an instant **Triple Talaq** and
- It is effective as soon as the word "**Talaq**" has been **pronounced thrice**.
- This **right** is **exercised** by **husband** only.

When **talaq** is **delegated** to **wife** it can be in the form of mubarat or khula.

- **Mubarat** – **Divorce by mutual consent- mutual release.**
- **Khula** – **Divorce at the request of wife – Redemption.**

Update:

The Supreme Court on August 22, 2017 declared the practice of triple talaq as unconstitutional.

Did you Know?

As per 2019 Act, punishment for pronouncement of triple talaq is:

imprionment upto 3 years + fine

https://timesofindia.indiatimes.com/topic/Triple-Talaq#

Reference: Mohammedan Law By Aqil Ahmad, 24th Edn.,Page No. 172

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Q.90) Under Muslim law, Wakf means

a) permanent dedication of movable property

b) permanent dedication of immovable property

c) permanent dedication of movable or immovable property

d) permanent or temporary dedication of movable or immovable property

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Law – Muslim Law – Unit V – Q.50

50.

MCQ, Single Correct Question

Wakf can be created for

a Objects are uncertain

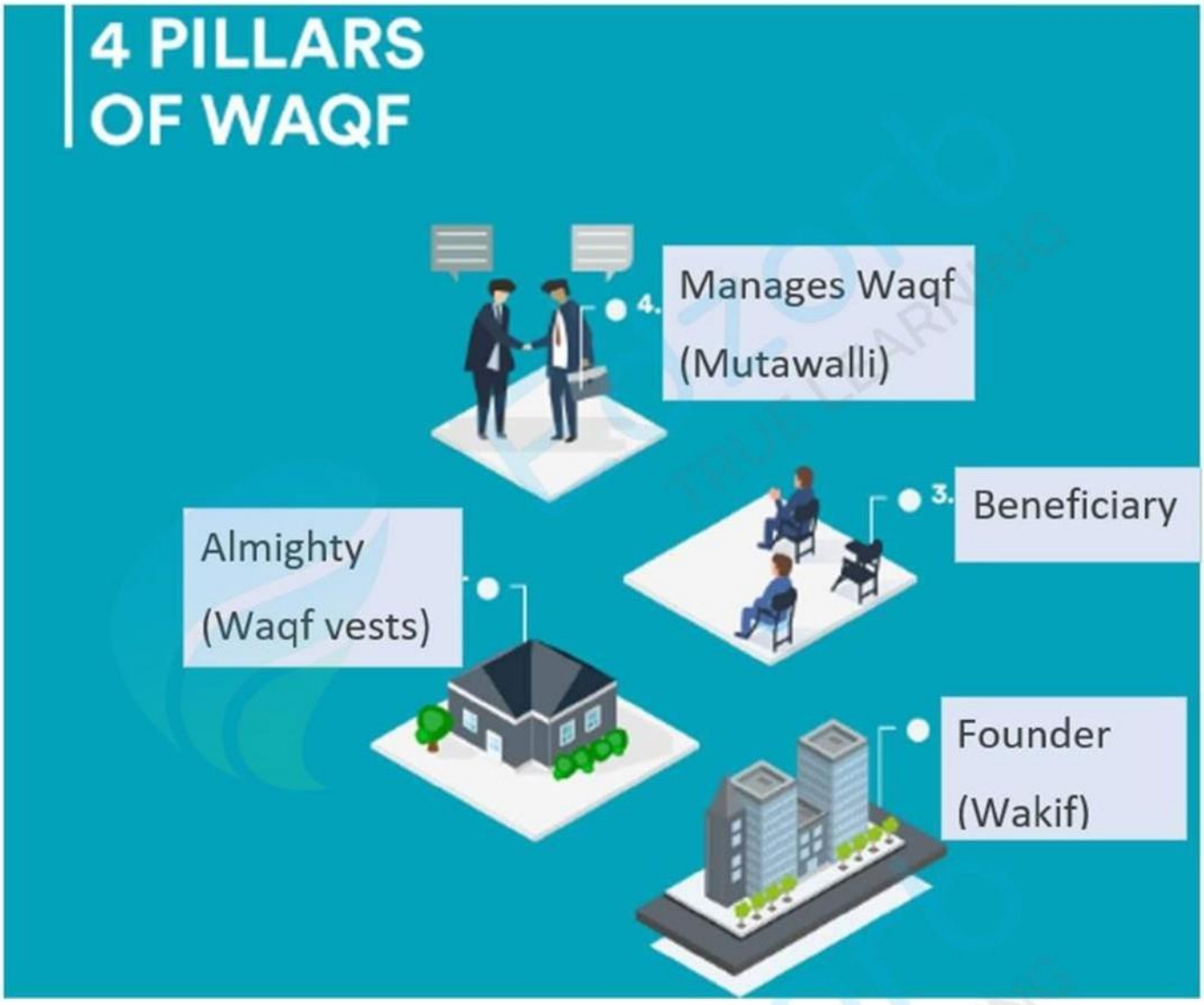
b Construction of church

c Alms to Poor

d Providing benefits to the rich

C

Wakf Act, 1954 defines **Wakf** as, *"Wakf means the permanent dedication by a person professing the Islam, of any movable or immovable property for any purpose recognized by Muslim Law as religious, pious, or charitable."*



Valid objects of Wakf:

Invalid objects:

- Objects are uncertian
- Creation of objects prohibited by Islam eg, church, temple.
- Providing for rich exclusively

Not valid obejcts of Wakf

Reference: Aqil Ahmed on Mohemmadan Law; 26th Ed., 2016, Page No. 133

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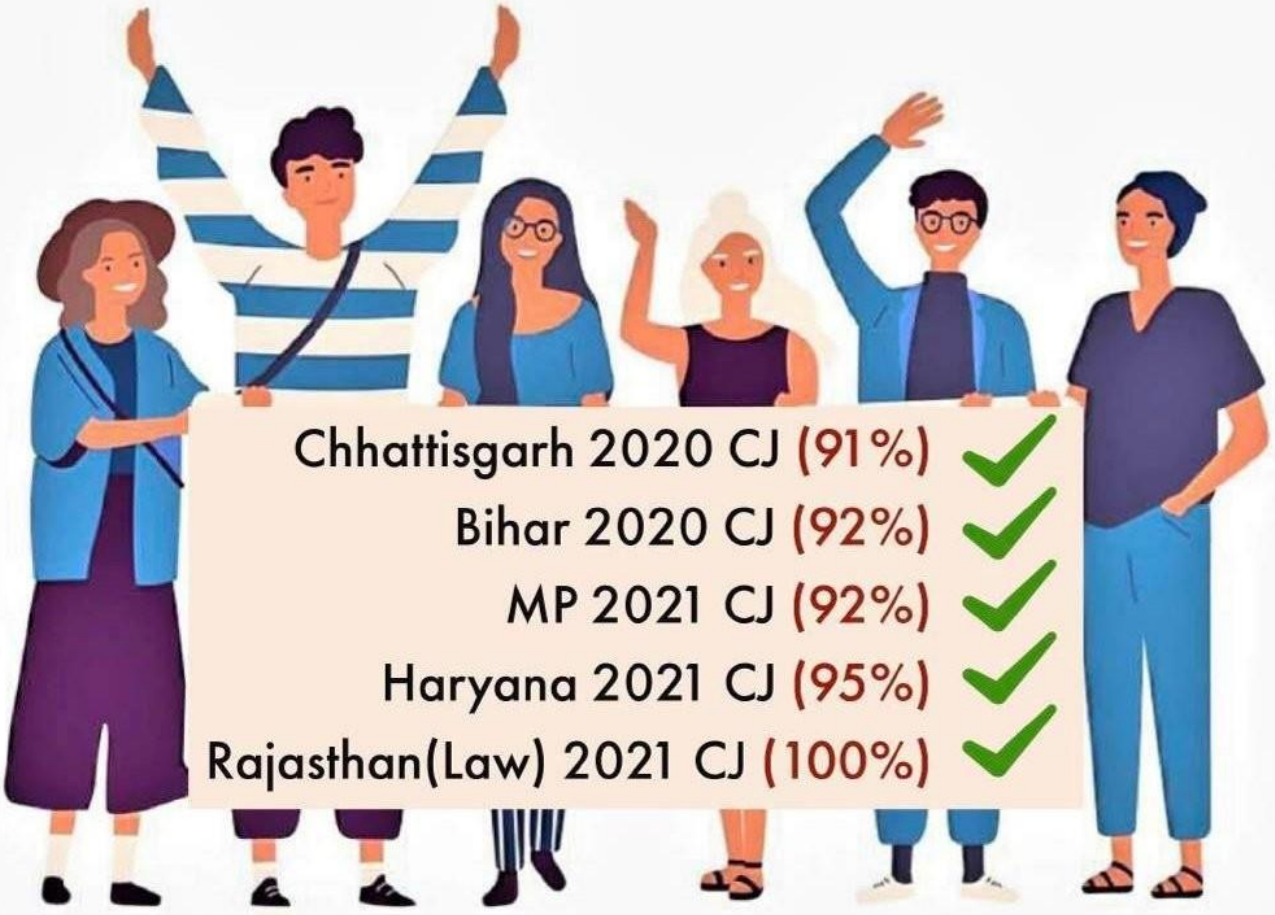

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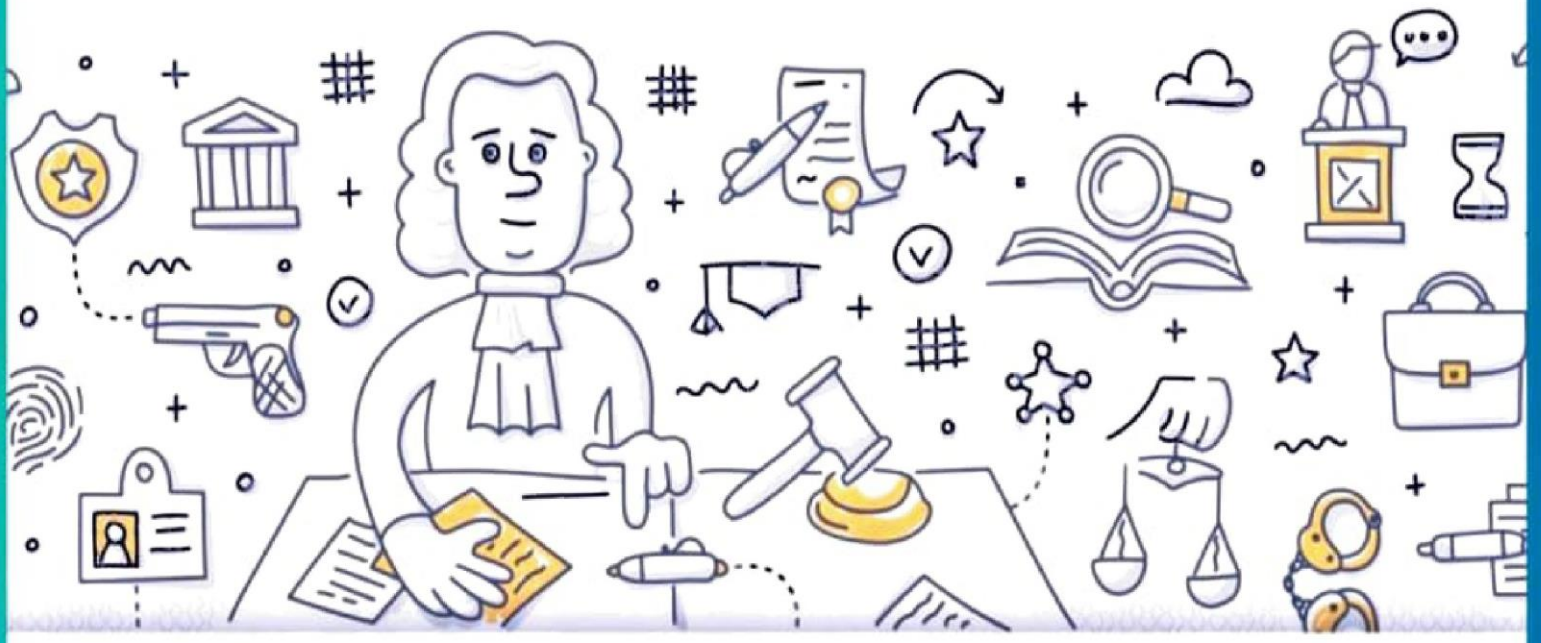
Section - 11
Partnership Act



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Q.91) Where partners upon or in anticipation of the dissolution of the firm make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits, such agreement is

a) Valid, if restrictions imposed are reasonable; notwithstanding anything contained in Section 27 of the Indian Contract Act

b) Void, irrespective of the nature of restrictions imposed, on the ground of being an agreement in restraint of trade

c) Voidable

d) None of the above

Ans: A

Exp:

Source: Edzorb Law Qbank – Partnership Act – Unit IV - Q.29

29.

MCQ, Single Correct Question

Under Section 54, partners may agree not to carry on business similar to that of the firm. This applies in the case of

a Anticipation of dissolution of the firm

b Upon the retirement of a partner

c Outgoing partner

d All of the above

Section 54:

Notwithstanding anything contained in **section 27**, of the Indian Contract Act, 1872

- Upon or in anticipation of the dissolution of the firm,
- Partner may make an agreement that some or all of them
  - **will not carry on a business** similar to that of the firm
  - within a specified period or
  - within specified local limits and
- Such **agreement shall be valid** if restrictions imposed are reasonable.

Here the agreement is valid between the partners.

Niranjan Shankar Golikari Vs Century Spinning & Mfg. Co.

AIR 1967 SC 1098

Held:

- The rule is that restraints **whether general or partial** may be good if reasonable.
- A restraint upon freedom of contract must be shown to be reasonably necessary for the purpose of freedom of trade.
- A restraint reasonably necessary for protection of covenantee must prevail unless some specific ground of public policy can be clearly established against it.
- A person may be restrained from carrying on trade by reason of his **voluntarily entering** into such agreement.

Other exceptions to Section 27 of Indian Contract Act under Partnership Act:

Reference: Indian Partnership Act, 1932

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Q.92) In which of the following situations, a public notice is not required to be given under the Indian Partnership Act, 1932

a) When a partner retires from the firm

b) When a partner is expelled from the firm

c) When the firm is dissolved

d) When an alteration is made in the name of the firm

Ans: D

Exp:

Source: Edzorb Law Qbank – Partnership Act – Unit III - Q.30

30.

MCQ, Single Correct Question

Which section deals with alteration in name of partnership firm

a 59

b 60

c 61

d 62

Section 60:

Alteration made in firm name or location of principal place of business:

Statement sent to registrar with prescribed fee specifying alteration

Statement to be signed & verified as per S.58

Registrar satisfied amend an entry in Register of firm

Registrar also files it alongwith statement relating to firm filed u/S.59

Did you Know?

No public notice is required when there is an alteration in the firm name.

Reference: Indian Partnership Act, 1932

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Q.93) An act of a firm means:

a) Any act of partner or agent of the firm which gives rise to a right enforceable by or against the firm

b) Any act by all the partners

c) Any omission by all the partners

d) All of the above

Ans: D

Exp:

Source: Edzorb Law Qbank – Partnership Act – Unit II - Q.2

2.

MCQ, Single Correct Question

An "act of firm" under the Partnership Act, 1932 means

a any act or omission by all the partners.

b any act or omission by any partner.

c any act or omission by an agent of the firm`

d all of the above.

(D)

PROVISION

- **Section 2 (a)** of the Partnership Act, 1932.

DEFINITION

- **'Act of firm'** as any act or omission by **all the partners**, or by **any partner or agent** of the firm which gives rise to a right enforceable by or against the firm.

JOINT LIABILITY

- **Section 25** of the Act - Every partner is **liable jointly** with all the other partners and also **severally**, for all acts of the firm done while he is a partner.

Reference: Mulla on The Indian Partnership Act; 10th Ed; 2012; Page No. 150

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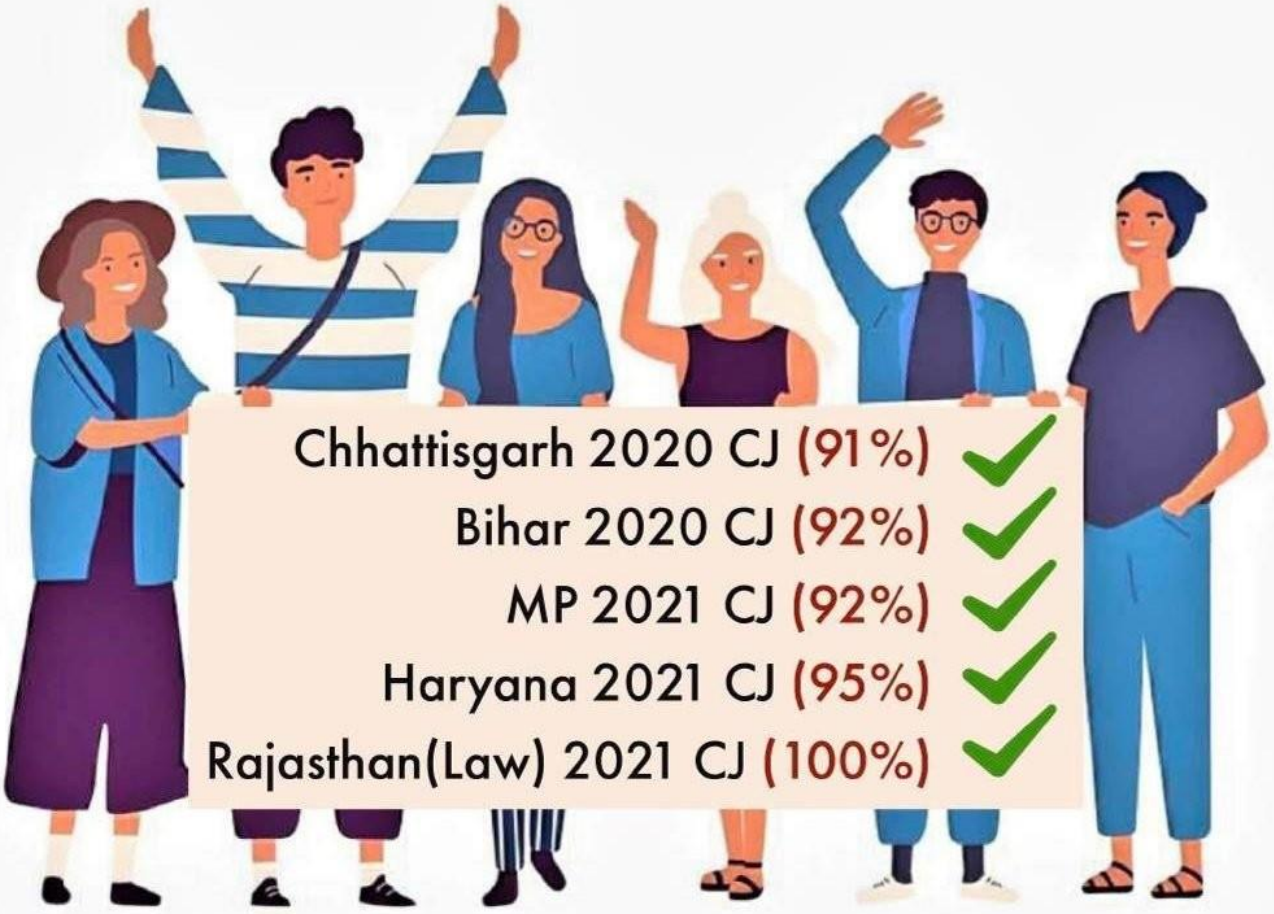

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Section - 12
Registration Act

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Q.94) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless attest with their signatures or initials such interlineation, blank, erasure or alteration.

a) The Sub Registrar

b) The Notary Public

c) The persons executing the document

d) Document Writer

Ans: C

Exp:

Source: Edzorb Law Qbank – Registration Act – Unit II – Q.16

16.

MCQ, Single Correct Question

Consider the following two statements, one labelled as Assertion (A) and the other as Reason (R)
Assertion (A): The registering officer may in his discretion refuse to accept for registration any document in which any interlineations, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineations, blank, erasure or alteration.
Reason (R): If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineations, blank, erasure or alteration.
Of the above statements:

a. Both A and R are true, and R is the correct explanation of A
b. Both A and R are true, but R is NOT a correct explanation o f A
c. A is true, but R is false
d. A is false, but R is true

(A)

Section 20:

- The registering officer **may in his discretion refuse to accept for registration** any document in which any interlineation, blank, erasure or alteration appears,
- Unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

The registration may still refuse to accept it.

While registering such document, the officer shall make a note in the register of such interlineation, blank, erasure or alteration.

Reference: Indian Registration Act, Section 20

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Q.95) Normally no document other than a Will shall be accepted for registration unless presented for that purpose to the proper officer within _____ months from the date of its execution.

a) One

b) Two

c) Three

d) Four

Ans: D

Exp:

Source: Edzorb Law Qbank – Registration Act – Unit II – Q.19

19.

MCQ, Single Correct Question

Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within the period of ..... from the date of its execution.

a 2 months

b 3 months

c 4 months

d 6 months

(C)

Section 23: Time for presenting documents:

Document other than a will shall be accepted for registration if presented to the proper officer **within four months from the date of its execution.**

Section 9 (1) of General Clauses Act, 1897:

The day on which document is executed is excluded from these four months.

Nandeshwar Vs Mahendra Nath

(56) A. Assam 123

- Registration of document presented for registration after the expiry of the period **provided in Part IV of this act is void.**
- The registering officer acts without authority when he registers a document not presented within aforesaid period.

Food for Thought!

The section is subject to provisions contained in **sections 24, 25 and 26** of the Act.

Reference: Indian Registration Act, Section 23

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Q.96) Which of the following documents needs compulsory registration as per the Registration Act, 1908?

a) Wills

b) Instruments acknowledging the receipt of payment

c) Lease of Immovable property not exceeding one year

d) Lease of immovable property exceeding one year

Ans: D

Exp:

Source: Edzorb Law Qbank – Registration Act – Unit II – Q.6

6.

MCQ, Single Correct Question

Leases of immovable property from year to year, or for any term exceeding..... Year/s shall be registered.

a 1

b 2

c 3

d 4

(A)

Section 105 of TPA: **Lease**

Lease is the enjoyment of possession of immovable property for a certain period of time or in perpetuity.

Section 17(1)(d): Registration of lease deed:

Lease to be from:

Siri Chand [deceased] thr. Lrs. Vs Surinder Singh

Civil Appeal no. 2617 of 2020 decided 20.06.2020

- Where lease agreement does not provide for duration of tenancy, it is not required to be registered under the provisions of the Registration Act.
- Further, in absence of any specification regarding duration of tenancy, presumption may be made that the tenancy was of monthly nature.

Reference: Indian Registration Act, Section 17

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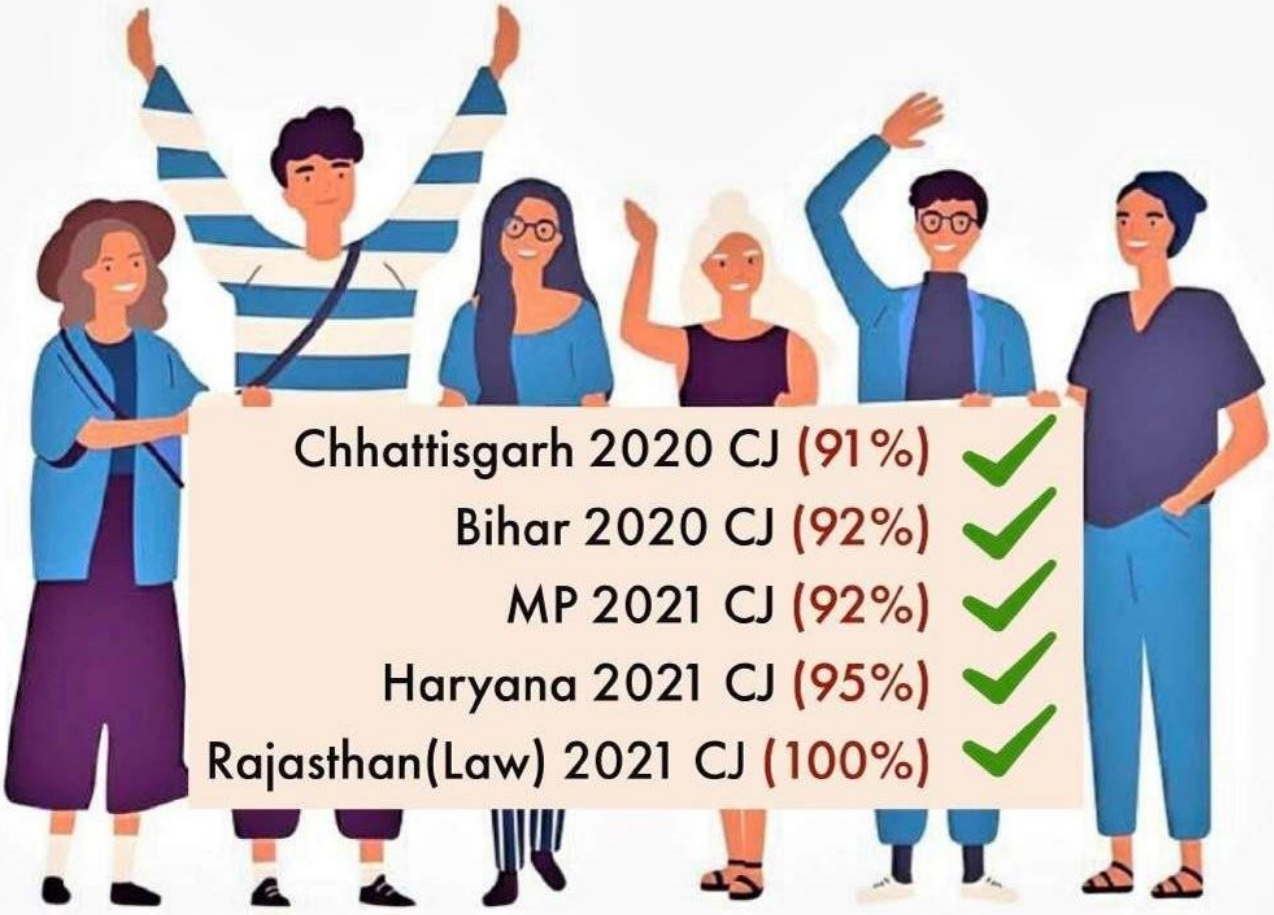

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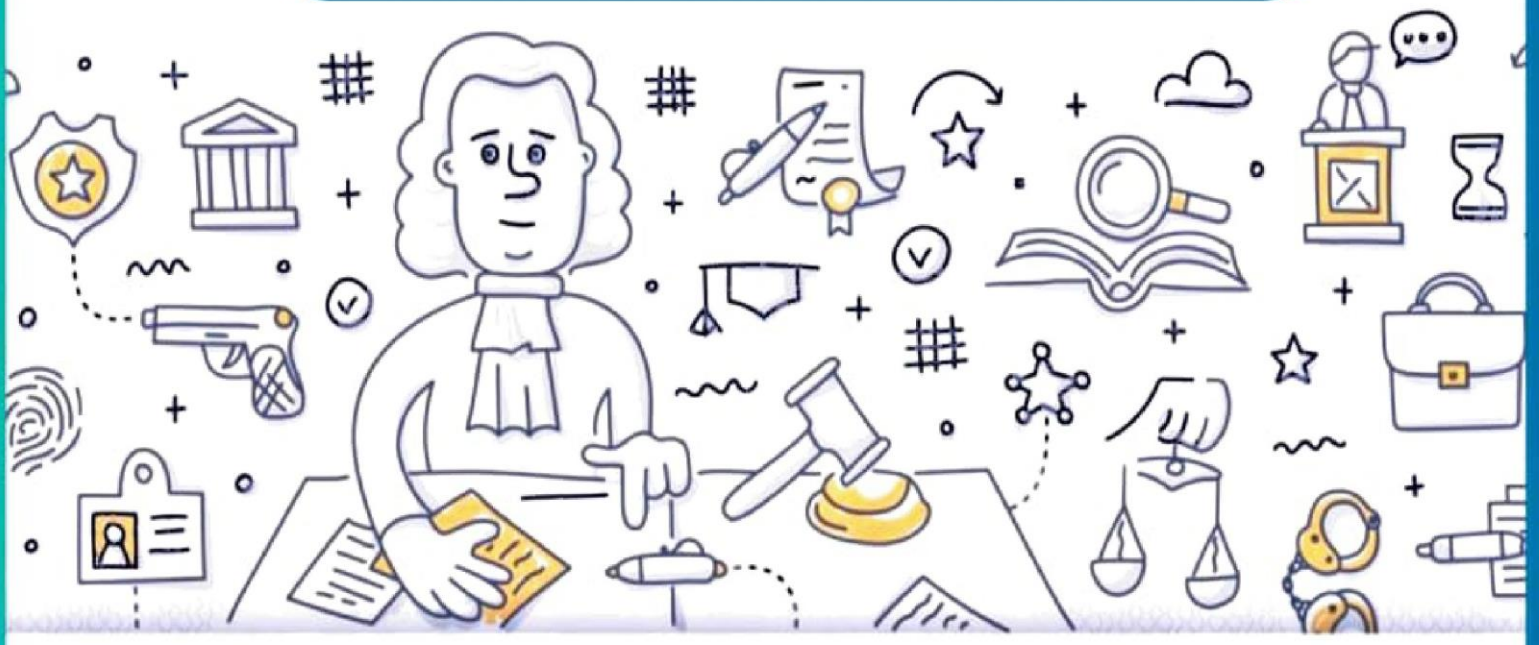
Section - 13
Haryana Urban (Control Rent & Eviction) Act, 1973



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Q.97) No person shall convert a residential building into a non-residential building except with the permission in writing of

a) The Landlord

b) The Tenant

c) The Controller appointed by the State Government under the Haryana Urban (Control of Rent and Eviction) Act, 1973

d) The Municipal Authority

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Local Laws - Haryana Urban (Control of Rent and Eviction) Act, 1973 – Section 11

Section 11: Conversion of a residential building into a non-residential building.:

No person shall convert a residential building into a non-residential building **except with the permission in writing of the Controller**.

Residential building → Cannot be converted into → Non-residential building

Reference: Haryana Urban (Control of Rent and Eviction) Act, 1973

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Q.98) When the fair rent of building rented has been made or fixed under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, no further increase or decrease in such fair rent shall be permissible for a period of

a) Two years

b) Three years

c) One year

d) Five years

Ans: D

Exp:

Source: Edzorb Law Premium+ 2.0 – Local Laws - Haryana Urban (Control of Rent and Eviction) Act, 1973 – Section 5

Section 5: Revision in fair rent in certain cases:

(1) When the fair rent has been fixed u/**s. 4**, no further increase or decrease in such fair rent shall be permissible **for a period of 5 years**:

PROVISO

I. **Increase is allowed**: In cases where any addition, improvement or alteration has been carried out:

- ✓ At expense of Landlord
- ✓ In occupation of tenant
- ✓ Additions requested by tenant

Rent is increased only if improvements are done **at the request of the tenant.**

II. **Decrease is allowed**: In cases where there is a decrease or diminution in the accommodation or amenities provided.

(2) **Dispute** between the landlord and the tenant in regard to any increase or decrease **shall be decided by the Controller**.

Reference: Haryana Urban (Control of Rent and Eviction) Act, 1973

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Q.99) A custom must be immemorial. In India this implies that

a) The custom dates back to 1189 AD

b) It should date back to 1773 for mofussil districts and 1775 for presidencies

c) long usage is sufficient

d) It should date back to 1950

Ans: C

Exp:

Source: Edzorb Law Qbank – Personal Law – Hindu Law – Unit I – Q.21

21.

MCQ, Single Correct Question

Valid custom must be:

a Immemorial

b Reasonableness

c Both a and b

d None of the above

According to **Halsbury law**

- **A custom** is a specific principle
- Which has existed either really or hypothetically from time immemorial and
- Has received the power of law in a specific territory
- Though in spite of or not steady with the general precedent-based law of the community

Customs in order to get legal sanctioning must have following features

A custom named sati pratha was practiced but with the development of law it was considered immoral for the women of the society.

Navtej Singh Johar Vs UOI

6 September, 2018

Facts:

Homosexuality violation of custom

Held:

Homosexuality is not a violation of social norm (custom) rather it is an unfair practice against one's personal choices.

Reference: Modern Hindu Law by Paras Diwan

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Q.100) 'Uberrima Fides' means

a) Reason for deciding the judgment

b) in utmost good faith

c) As much as he deserved

d) The principle that courts abide by

Ans: B

Exp:

Source: Edzorb Law Qbank – Contract Act – Unit IV – Q.15

15.

MCQ, Single Correct Question

Uberimma fides means

a in utmost good faith

b valuable consideration

c law to be followed

d on face of it

Uberrima fides (uberrimae fidei) is a Latin phrase meaning ***"most abundant faith or utmost good faith"***

A legal doctrine which governs insurance contracts

All parties to an insurance contract must deal in good faith

Making a full declaration of all material facts in the insurance proposal

This contrasts with the legal doctrine caveat emptor ("let the buyer beware")

Life Insurance Corporation Vs Smt. Asha Goel & Anr

13 December, 2000

Facts:

- Insurance policy taken by husband of respondent and insured died within 1 and half year of taking of the policy

Held:

- Claim repudiated on the ground non-disclosure of medical history of the ailment
- Policy repudiated after passing of limitation period of 2 years (Sec. 45 Insurance Act, 1938)

Reference: Indian Contract Act, 1872

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Q.101) 'Persona non-grata' means:

a) By the fact itself

b) Person not wanted

c) Granting legal personality

d) No discrimination between persons

Ans: B

Exp:

Source: Edzorb Law Qbank – Constitution of India - Unit V – Q.25

25.

MCQ, Single Correct Question

Persona non-grata means

a person not wanted

b person wanted

c person required to attend the court

d none of the above

Legal term used in diplomacy

Persona non grata: Latin word meaning "**an unwelcome person**"

Indicating proscription against a foreign person entering or remaining in country

- State Abel sends a diplomat to state Bora.
- Due to war, or severed relations between states or due to some offense committed by diplomat.
- State A can issue a statement declaring diplomat to be persona non grata(unwelcome) to their state.

Anil Garg Vs Western Coalfields Ltd.

5 August, 2002

Facts:

- Restriction on petitioner's movement and activities within coal mines area
- Order declaring "persona non grata "
- Order violative of Article 19.

Held:

- Order declaring petitioner as persona non grata is valid and proper.

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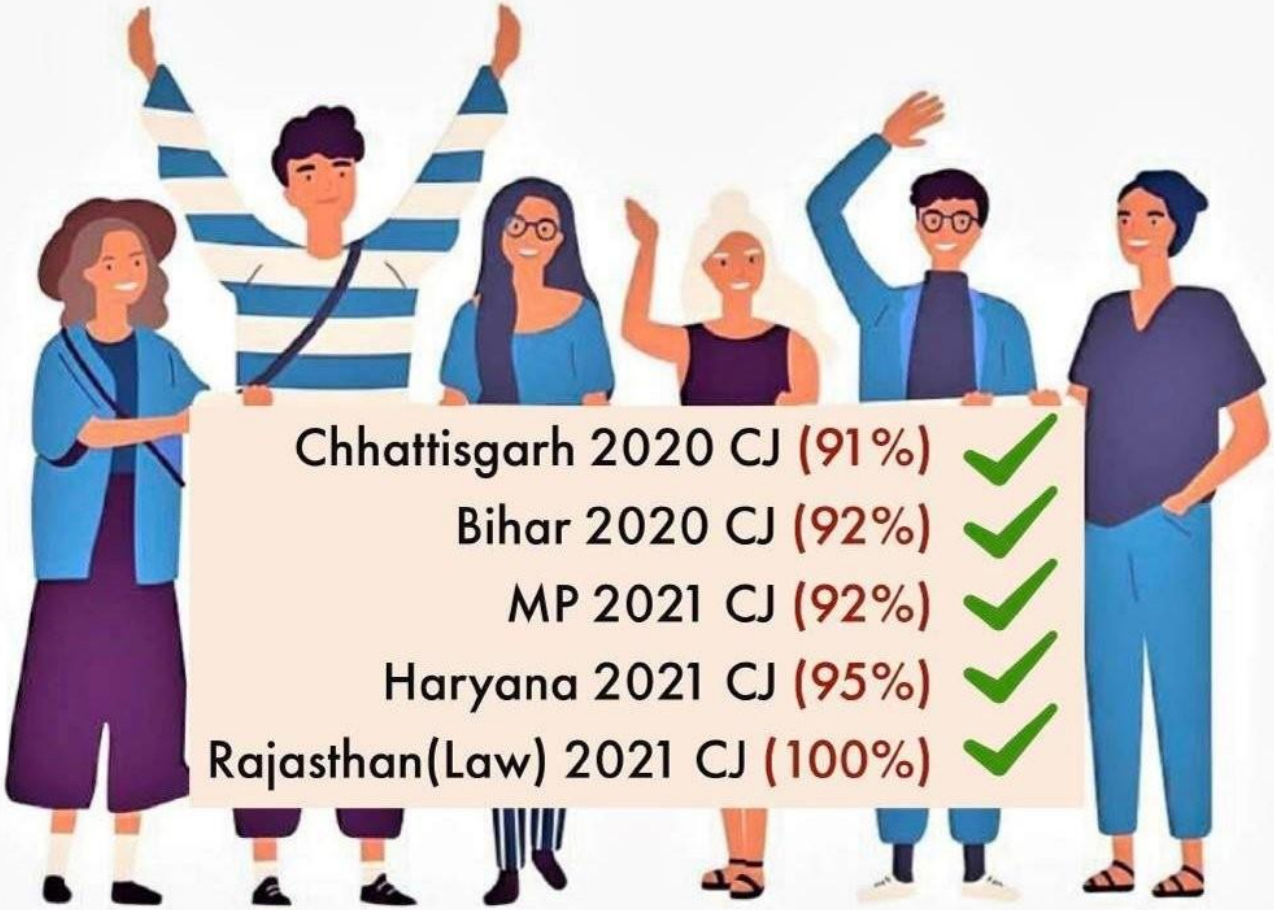

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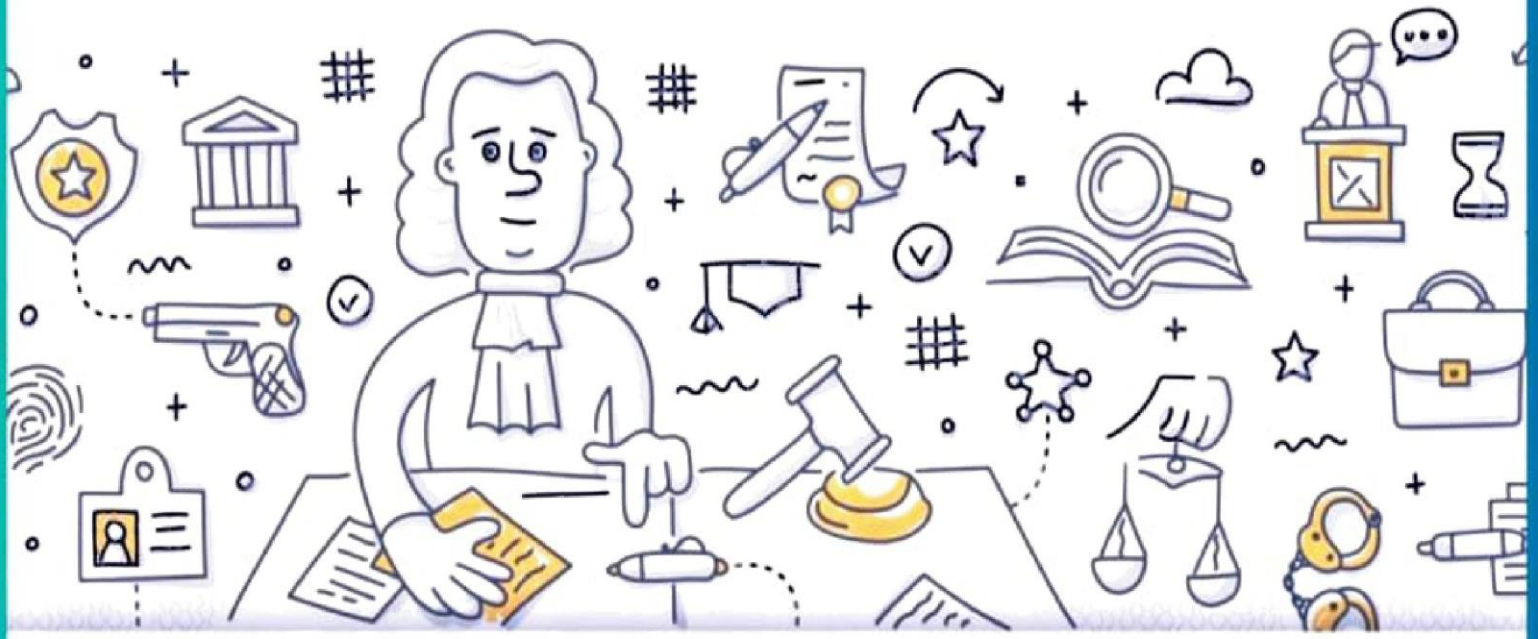
Section - 15
IPC



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Q.102) A police officer has received a sum of Rs.5000/ against fine from the persons violating traffic rules. Instead of depositing the fine money with State Treasury, he utilized the same for his personal use. What offence under Indian Penal Code, the police has committed?

a) Criminal breach of trust

b) Mischief

c) Cheating with Government

d) None of the above

Ans: A

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part III – Section 405

Of Criminal Breach of Trust

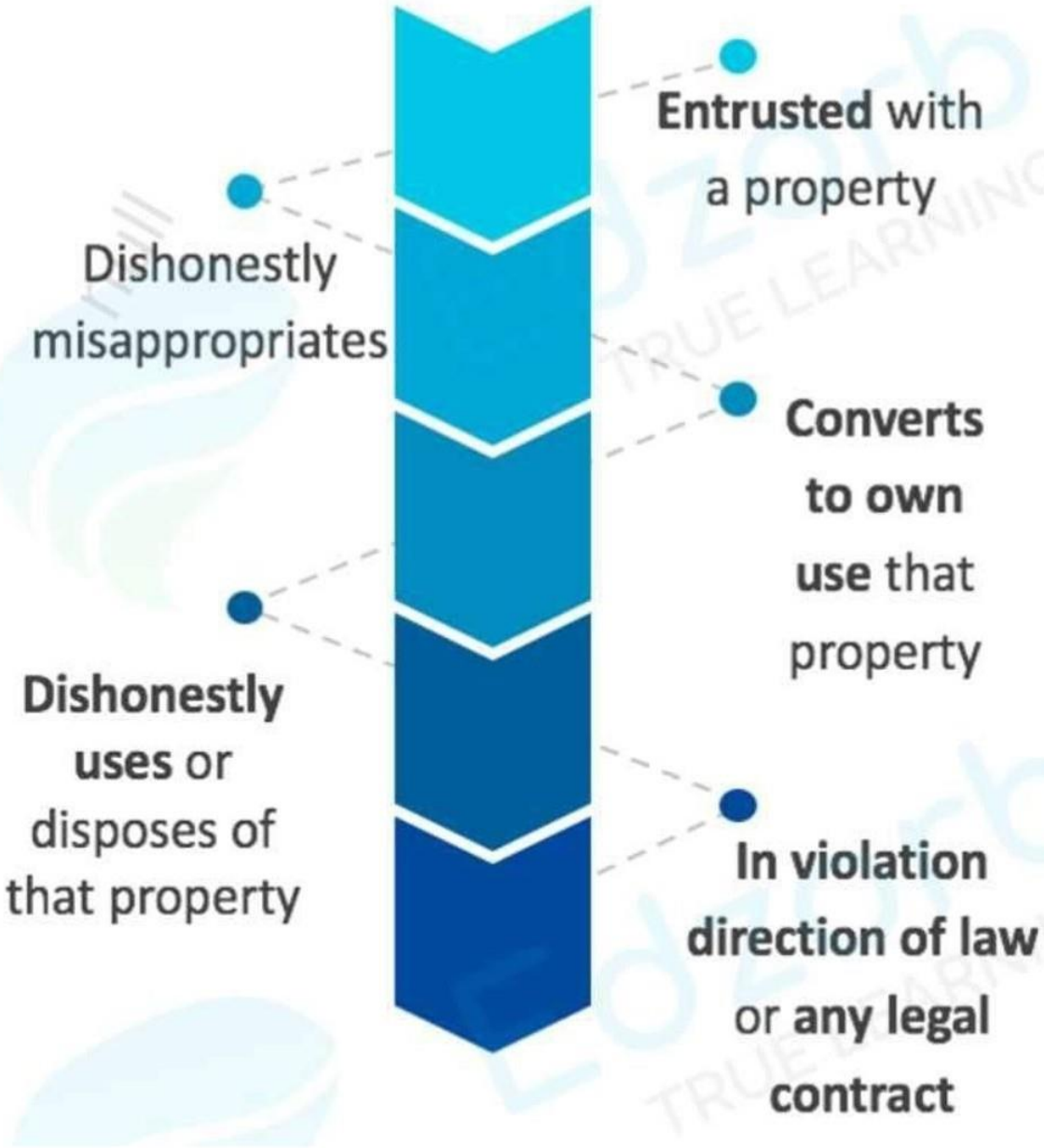
Section 405:

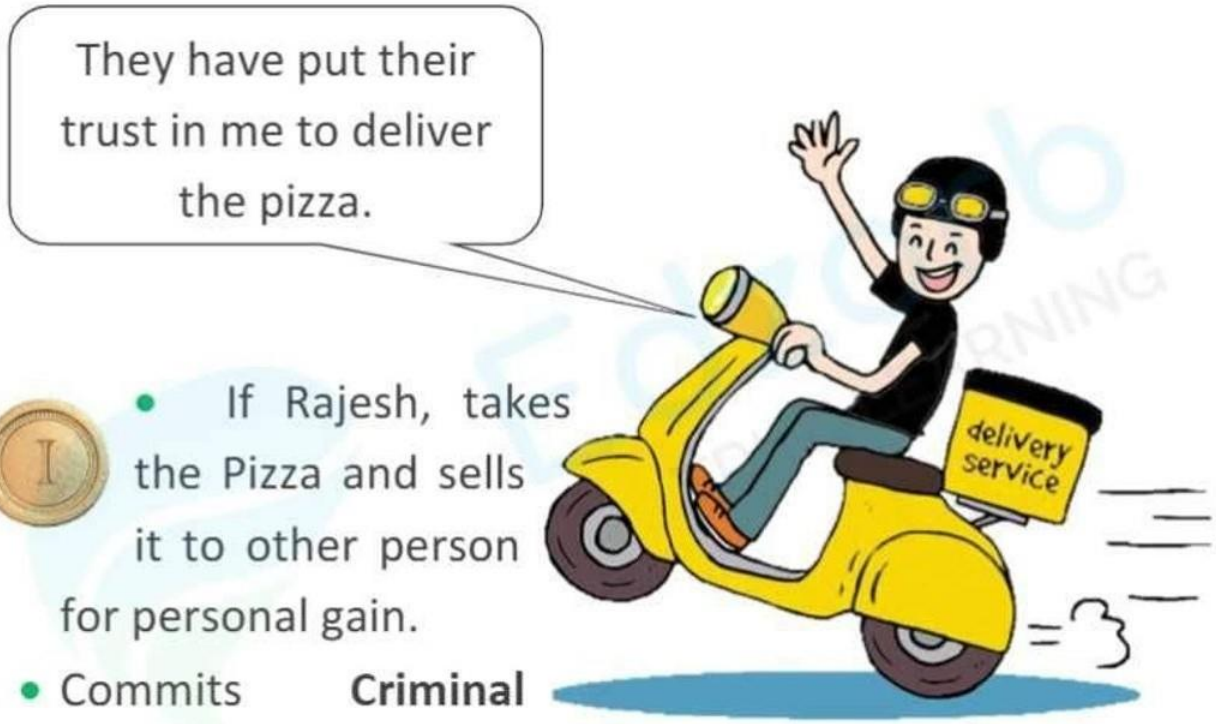
Criminal breach of trust:

Entrustment:

- A person is **entrusted with property** or with any dominion over property in any manner
- **Act** – Such a person:
  - Dishonestly misappropriates or
  - Converts to own use that property or
  - Dishonestly uses or disposes of that property **in violation**
    - **Of any direction of law** prescribing the mode in which such trust is to be discharged, or
    - **Of any legal contract**, express or implied, made touching the discharge of such trust, or
    - Wilfully suffers any other person so to do,
- Such a person commits **criminal breach of trust**.

CRIMINAL BREACH OF TRUST





- If Rajesh, takes the Pizza and sells it to other person for personal gain.
- Commits **Criminal Breach of Trust.**

Section 405
Criminal Breach of Trust

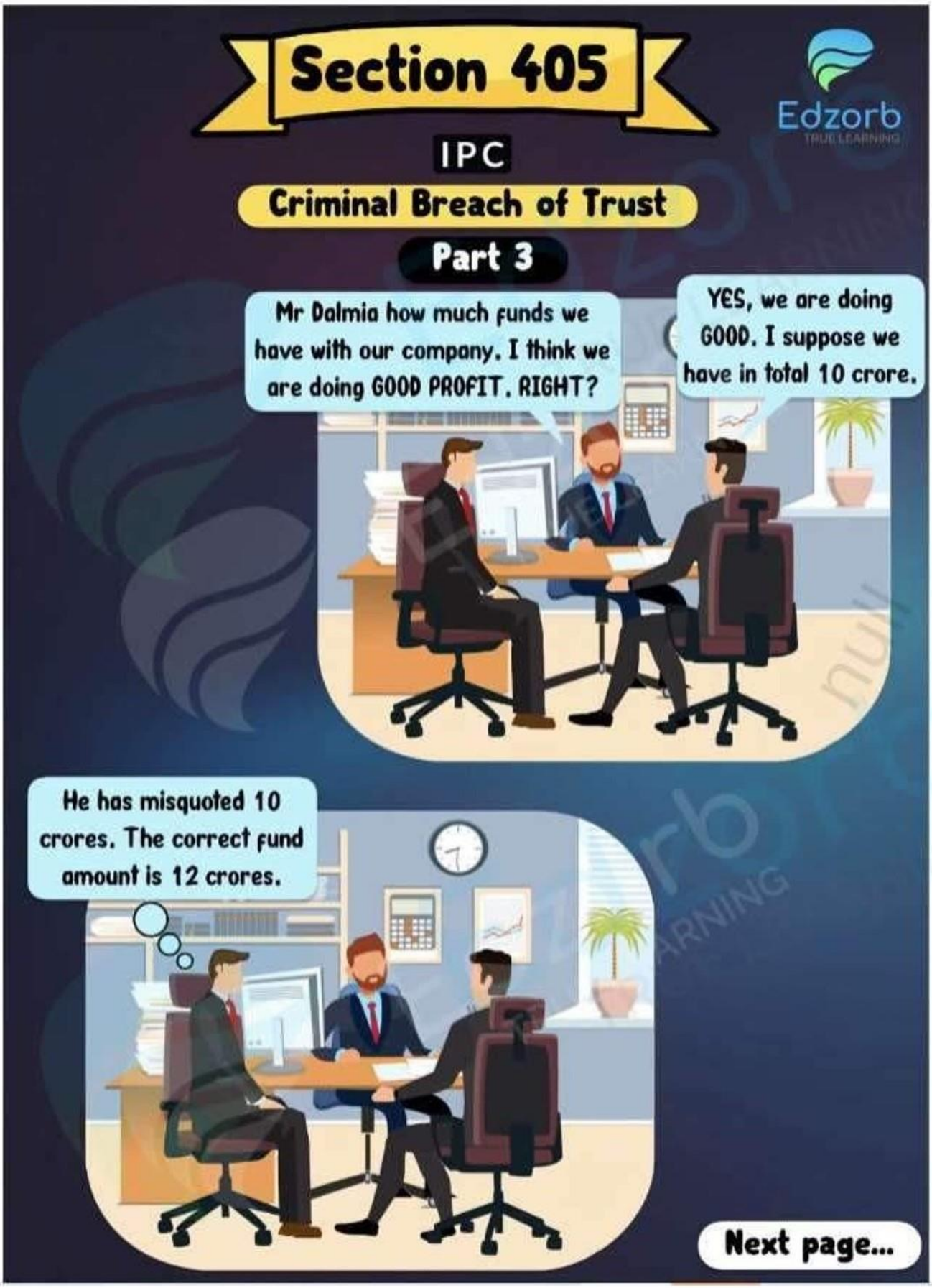
- How does offender gets the property?
  - E = Entrusted
  - D = Dominion
- What does the offender do with the property?
  - Dishonest misappropriation
  - Uses the property
  - Disposes the proprty
  - Allows other person to use/dispose
- Against whom the offence is committed?
  - Against the direction of law
  - Against Legal contract

Section 405

IPC

Criminal Breach of Trust

Part 3



Section 405

IPC

Criminal Breach of Trust

Next page...

Section 405

IPC

Criminal Breach of Trust

Liable for Criminal Breach of Trust

Whether funds of the company falls under the ambit of Section 405?

- In **R.K. Dalamia Vs Delhi Administration 1962 AIR 1821**, the **Hon'ble Apex Court** held that the word **'Property'** under S. 405 includes property of any kind i.e., **Movable and Immovable property.**

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Q.103) A hangman who hangs the prisoners pursuant to the order of the court is exempt from criminal liability by virtue of

a) Section 77 of IPC

b) Section 78 of IPC

c) Section 79 of IPC

d) Section 76 of IPC

Ans: B

Exp:

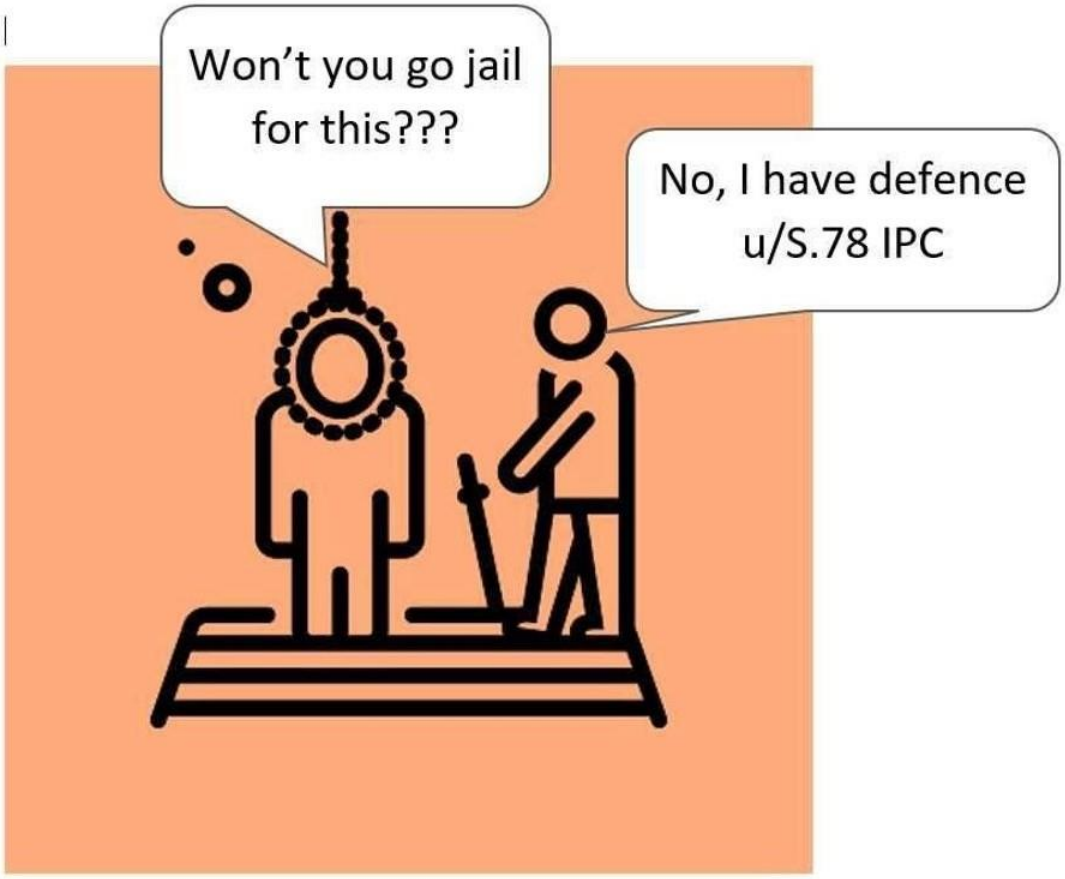
Source: Edzorb Law QBank – IPC – Unit VI – Q.40

Section 78

- Act **done in pursuance** of or **under warrant** of **judgment** or **order** of, a Court of Justice.
- The act must be done during the time judgment or order **remains in force**.
- Even if the order is passed by court without jurisdiction.

Proviso:

- **The person who is doing the act in good faith believes that the Court had such jurisdiction.**



Let's go inside. We have the court's orders.

Reference: Indian Penal Code, 1862 s 78

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Q.104) 'A' beat his wife. She fell down and became unconscious. Believing her to be dead and to save himself from being arrested for murder. 'A' hanged her from the fan with a rope. Postmortem report disclosed her death by hanging. 'A' is liable for

a) Murder

b) Culpable homicide

c) Hurt

d) Grievous hurt

Ans: B

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part II – Section 299

Of offences affecting life

Section 299:

Culpable homicide:

- Whoever **causes death**
- By doing an **act**
- With the **intention** of causing death, or
- With the **intention** of causing **such bodily injury** as is **likely** to cause death, or
- With the **knowledge** that he is likely by such act to cause death, commits the offence of culpable homicide.

Section 299 – Mens Rea			
Intention to cause	Death		
Intention to cause	Bodily Injury	Likely to	Death
Knowledge to do	Act	Likely to	Death

It will be fun to see her fall and die!!

Lays sticks and turf over a pit

Offence of culpable homicide:

The victim believing the ground to be firm, walks on it, **falls in and is killed**

Intention:

To cause by this act (*of laying stick over the pit to hide it so that the person won't be able to see it*) **and** thereby **causing death.**

Knowledge:

That death is **likely to be** thereby caused.

I will give him this gun and ask him to shoot at the bush
Little does he know; he will be shooting at the moron hiding behind the bush. Huhuh!!!

They won't be able track me here!!
Shoot shoot!!

Knowledge: He knew Raju was behind the bush.

Intention: Cause death of Raju.

- Therefore, committed the offence of culpable homicide.

In absence of guilty mind, person would not be liable for Culpable Homicide

- Dispute was going on between husband and wife.
- Wife was along with baby.
- **Husband struck a blow** on her body rather than vital part of her body.
- Accidently that blow struck baby and baby died.

Section 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 aforesaid.

01 Intention of causing death

02 Intention of causing such bodily likely to cause death

03 Intention of causing bodily injury sufficient in the ordinary course of nature to cause death,

04 Knowledge that act is Imminently dangerous & must in all probability cause death without any excuse

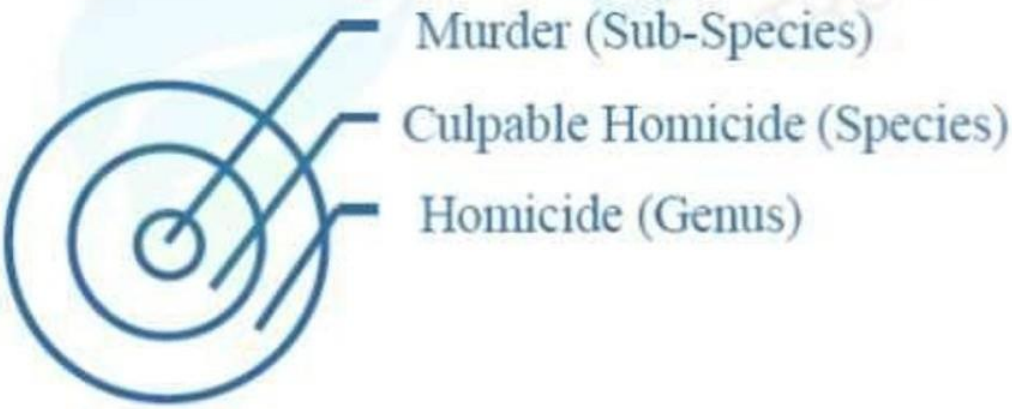
Palani Goundan	In Re Thavamani Case
1919	1943
• From the very beginning there was intention to cause bodily injury.	• From the very beginning there was intention to cause death.
• Public Prosecutor failed to prove that causing injury by ploughshare was likely to cause death	• Everything was proved properly.
• Liable for causing of grievous hurt and concealing evidence.	• Liable for causing murder

- Murder is an **aggravated form** of culpable homicide
- There is a **Definite Knowledge** that the act would result in the death
- **Probability** of causing death **is higher.**

REMEMBER!!

Emperor Vs Dhirajia (1940)

- She jumped into the well along with her baby and her baby died.
- She jumped into the well with excuse.
- Excuse was that she did due to fear of her husband who were running behind her.
- Allahabad High Court held that every sane person shall be presumed to have knowledge about his/ her own conduct.
- **She had done with excuse.**
- So she was liable only for culpable homicide rather than murder.



Reg Vs Govinda

(1877) ILR 1 Bom 342

Accused kicked his wife and struck her several times

- These blows **didn't cause serious** injury.
- She, however, fell on the ground and then the accused put **one knee on her chest, and struck her two or three times** on the face.
- The blows effect on the girl's left eye, producing a contusion (injury without breaking skin) and girl died.

The matter was referred to Melville J:

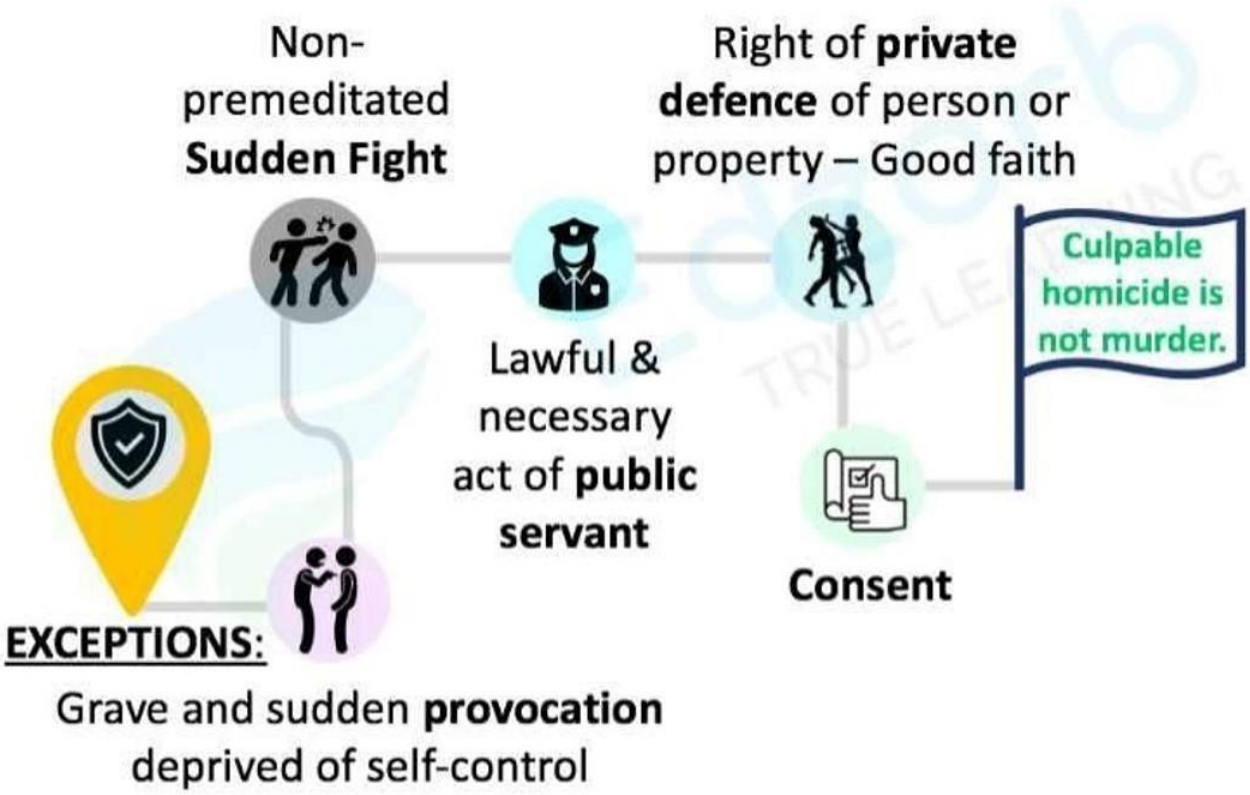
- Whether the offence is culpable homicide or murder **depends upon the degree of risk to human life.**

S. 299	S. 300
• If death is a **likely result**, it is culpable homicide.	• If it is the **most probable result**, it is murder.
• It is on the comparison of **Section 299(b)** and **Section 300** "**thirdly**" that the decision of doubtful cases like the present must generally **depend.**	
• If the bodily injury intended to be inflicted is likely to cause death	• If such injury is sufficient in the ordinary course of nature to cause death

- **The distinction is fine, but appreciable**
  - It is a question of degree of probability.
  - **Nature of the weapon used**.
- **In this case, the offence is culpable homicide, and not murder.**
- Ordinarily, it would not cause death.

- But a **violent blow in the eye from a man's fist**, while the **person struck is lying** with his or her head on the ground, is **certainly likely to cause death**, either by producing a contusion or extravasation of blood on the surface or in the substance of the brain.
- **Convicted** of culpable homicide and **sentenced to seven years imprisonment.**

EXCEPTIONS TO MURDER:



Exception 1:

- Culpable homicide is not murder
- If the offender, **whilst deprived of the power of self-control**
- **By grave and sudden provocation**
- **causes the death**
- Death **of the person who gave** the provocation
- **Or death** of **any other person** by mistake or accident.

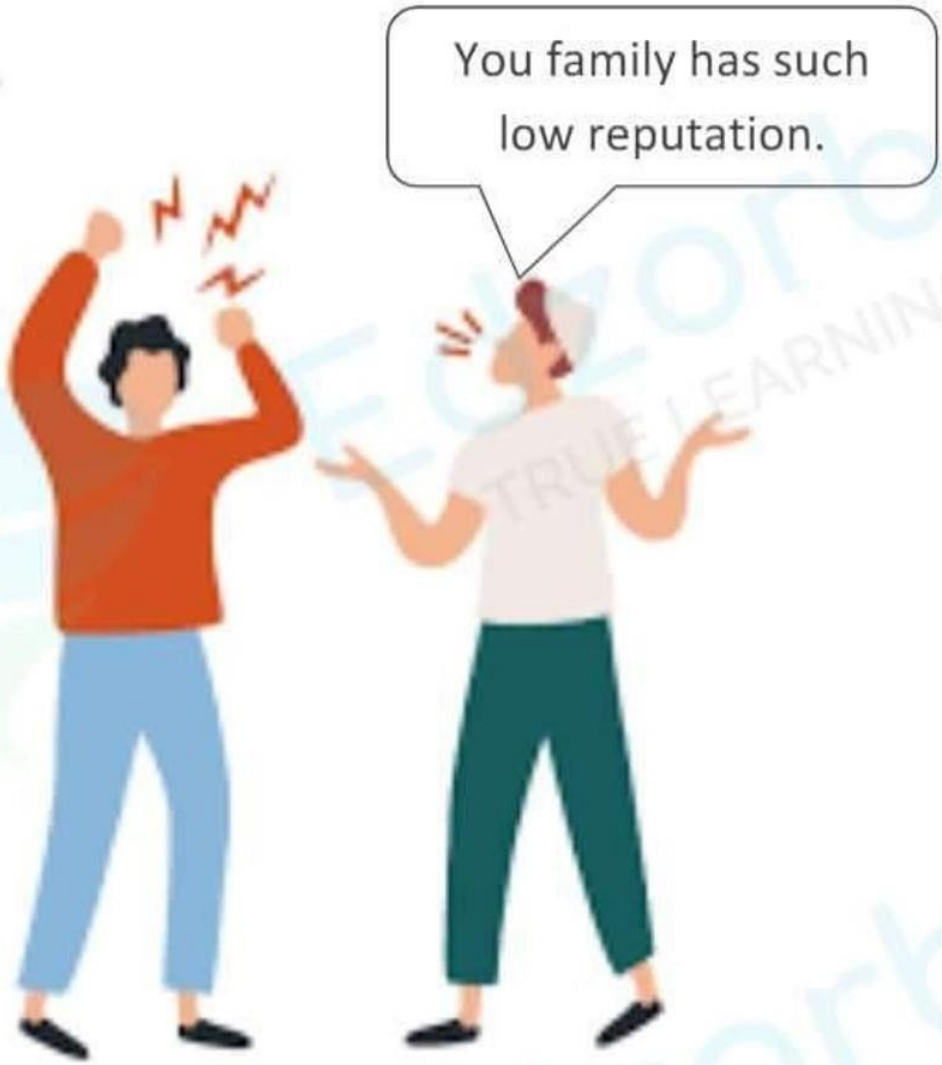
Is this provocation enough to cause death??

- Grave.
- Sudden
- Deprived of power of self-control
- Death is caused during the period of provocation
- Death of the person who gave the provocation or
- Any other by mistake/accident

The above exception is subject to the following provisos:—

I. Not to be Voluntarily sought:

- That the provocation is n**ot sought or voluntarily provoked by the offender**
- As an excuse for killing or doing harm to any person.



- Minto was bad mouthing Chintu's family
- Chintu got angry and stated hitting Minto.
- **Minto took out the pistol and killed Chintu.**
- Here, the provocation was voluntarily sought.

II. Act of the Public servant:

- Provocation is not given by anything done in **obedience to the law**
- It is not given by a public servant in the lawful exercise of the powers of such public servant.

- Ramadhir cannot say, after killing the officer that he was provoked by the officer.

III. Right to Private Defence

- The provocation **is not given by anything** done in the lawful exercise of the right of private defence.

Explanation:

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

Arumugam Servai Vs State of TN

(2011) 6 SCC 405

- The Supreme Court strongly deprecated **the practice of khap/katta panchayats taking law into their own hands**

KM Nanavati Vs State of Maharashtra,

AIR 1962 SC 605

Guideline:

- The test of "grave and sudden" provocation **is whether a reasonable person,** belonging to the same class of society as the accused, placed in the situation in which the accused was placed **would be so provoked as to lose his self-control.**
- **Words and gestures may also,** under certain circumstances, **cause** grave and sudden provocation
- **The mental background** created **by the previous act of the victim** may be taken into consideration **in ascertaining whether** the subsequent act caused grave and sudden provocation for committing the offence.
- **The fatal blow** should be traced to the influence of passion arising from that provocation
- **It should not be calculated after the passion had cooled down by lapse of time, or otherwise giving scope for premeditation and calculation.**

Did you Know?

Law of Commission of India, 242nd Report:

- **Existing provisions** in IPC, 1860 are **adequate enough** to take care of Honor Killing.
- The commission suggested a new law (instead of amending IPC, 1860) to tackle the problem namely **"Prohibition of Interference with the Freedom of Matrimonial Alliances Bill 2011"**.

Reference: Indian Penal Code, 1862 s 300

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Q.105) For abduction the abducted person should be

a) Below 16 years of age

b) Below 18 years of age

c) Insane person

d) Of any age

Ans: D

Exp:

Source I: Edzorb Law Qbank – IPC – Unit XIX – Q.14

Source II: Bare Act Revolution – IPC – Section 362

14.

MCQ, Single Correct Question

For constituting an offence of 'Abduction' under Indian Penal Code, 1860, the abducted male person should be

a Below 16 years of age

b Below 18 years of age

c Insane

d Of any age

(D)

Section 362

Abduction

Ingredients:

- Force or deceitful means
- Compels or induces
- Any person
- To go from any place.

Kidnapping Section 359-361	Abduction Section 362
Only Minor or, Person of unsound mind	**Any person** who has been compelled or induced to go from any place. **Bahadur Ali Vs King Emperor** **AIR 1923 Lah 158.**
Lawful **guardianship** is required	No requirement of lawful guardianship

Consent is immaterial	Consent condones the accused from the offense charged against him
Intention is immaterial **Queen Vs prince (1875) LR 2**	Intention is relevant for attributing games
Kidnapping is **not a continuing offense** As soon as the person takes or remove from lawful guardianship, he kidnaps	Abduction is a **continuing** process

Reference: The Indian Penal Code by Ratanlal & Dhirajlal 33rd Ed., 2013, Page No. 727

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Section 362

IPC

Abduction

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

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Section 362

IPC

Abduction

Next page...

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Section 362

IPC

Abduction

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Section 362

IPC

Abduction

Whether the girl is liable for any offence?

- Section 362 only provides the definition of Abduction.
- It has not been made punishable under IPC.
- It is punishable only when done with any further criminal act as provided under S. 364-369.

Quick Recap

As per S.40 of IPC, offence means an act punishable under this code (IPC).

Next page...

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Section 362

IPC

Abduction

Essentials

- Compelling by force or Inducing by deceitful means
- Any person

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Difference

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IPC

Kidnapping Vs Abduction

Kidnapping	Basis	Abduction
■ Kidnapping is classified in Section **359** Defined in Section **360** and **361**.	**Provision**	■ Defined in Section **362** Made punishable only under S. **364-369**.
■ Minor: **Boy**: 16 years of age **Girl**: 18 years of age, or **Unsound mind**	**Victim**	■ Any person
■ Kidnapping is an offence which involves taking away or enticing of a person.	**Means Employed**	■ Abduction involves taking away of a person by fraud or by force.
■ **Intention** of the person is of no **significance**.	**Intention**	■ **Intention plays a major role** in the offence of abduction.

1/2

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Difference

IPC

Kidnapping Vs Abduction

Kidnapping	Basis	Abduction
■ Kidnapping is a substative offence Punishable under Section **363.**	**Nature of Offence**	■ Abduction is merely an auxiliary act. Not punishable unless it is done with a criminal intent.
■ **Consent** of the person who is taken outside the custody of lawful guardian is **immaterial.**	**Consent**	■ **Consent** given by the person who is taken, will take the act out of the purview of abduction.
■ Once a person is taken **out of the country** or **outside the custody** of lawful guardian, the offence of kidnapping is **complete.**	**Completion of the Offence**	■ The offence of abduction involves forcibly or fraudulently taking of a person from one place to another, hence it is a **continuing offence.**

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Q.106) The case of Bachan Singh v State of Punjab is concerned with

a) Capital punishment in India

b) Custody of under trial prisoners

c) prosecution for attempt to suicide

d) None of the above

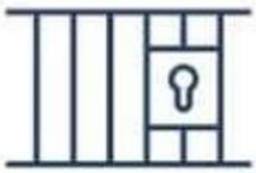
Ans: A

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part II – Section 302

Section 302:

Punishment for murder:



- DEATH or
- Imprisonment for life
- And shall also be liable to fine.

Edzorb
TRUE LEARNING

Mala In Se

BAD IN THEMSELVES

S. 302 of Indian Penal Code

Sunil Kumar Ghosh v. State of W.B.
AIR 1970 Cal 384

DEATH PENALTY

Laxman Naik Vs State of Orissa,

AIR 1995 SC 1387

- A **cold-blooded** brutal murder after rape of the accused's brother's daughter— falls within "rarest of rare cases.
- Laxman Naik, was convicted under sections 376 and 302 for committing rape and murder of his brother's daughter, aged seven years.

Held:

- The case revealed a **sordid story of** dastardly and monstrous act of an abhorrent nature is said to have been committed.
- By the appellant, **who was an agnate and paternal uncle of the deceased victim**
- This **sends shock waves not only to the judicial conscience but to anyone** having slightest sense of human values.

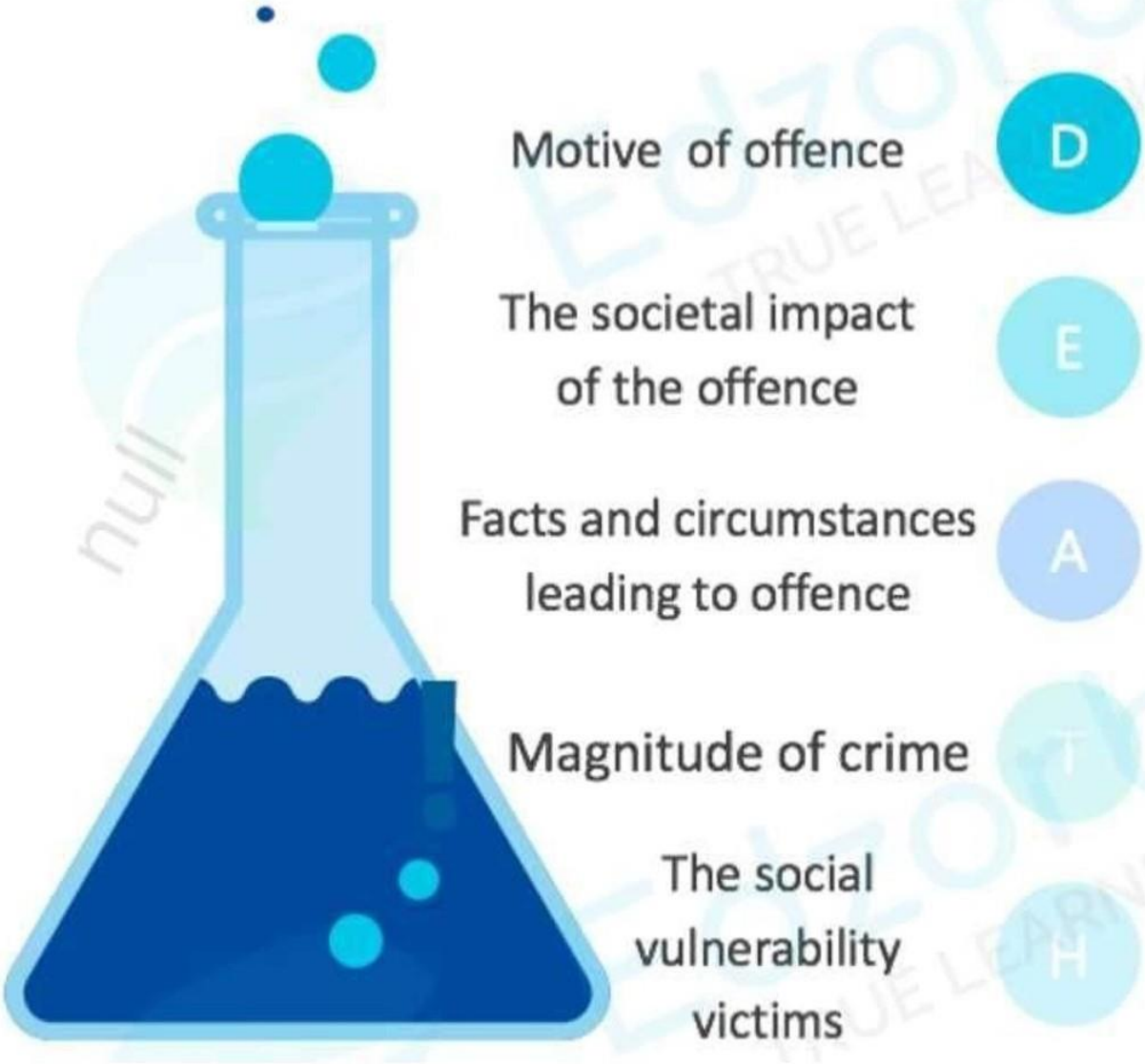
Macchi Singh Vs State of Punjab

A.I.R 1983 SC 957

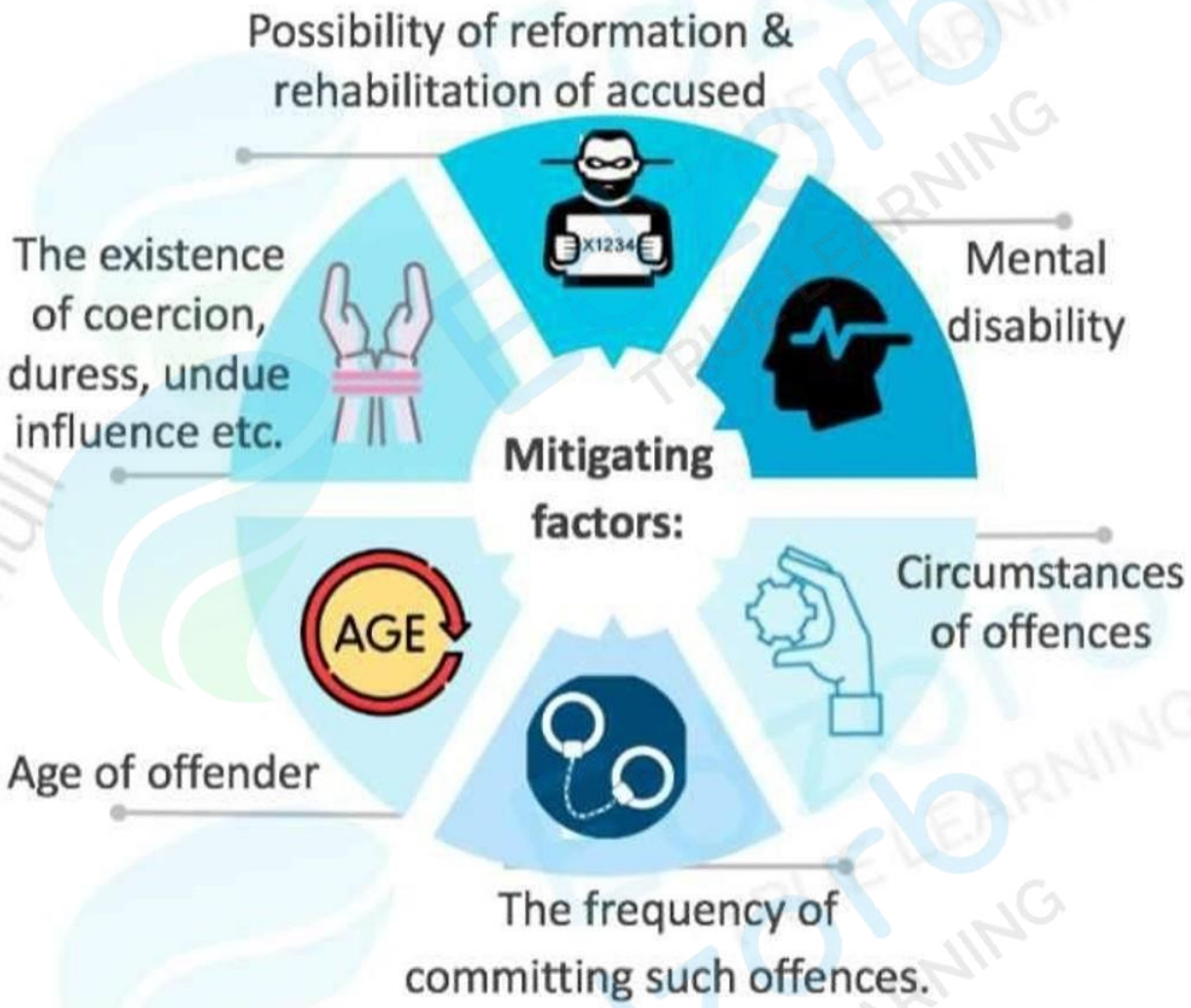
A feud between two families has

- Rarest of Rare = **gravest cases of extreme culpability.**
- Following questions may be asked and answers
  - Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and called for a death sentence?
  - Are the circumstances of the crime such that there is no alternative but to impose death sentence?
- Death sentence must be **imposed only when life imprisonment appears** to be an altogether **inadequate punishment**.

Some factors which determines the judgment of death penalty:



Some Mitigating Factor to Not give Death Penalty:



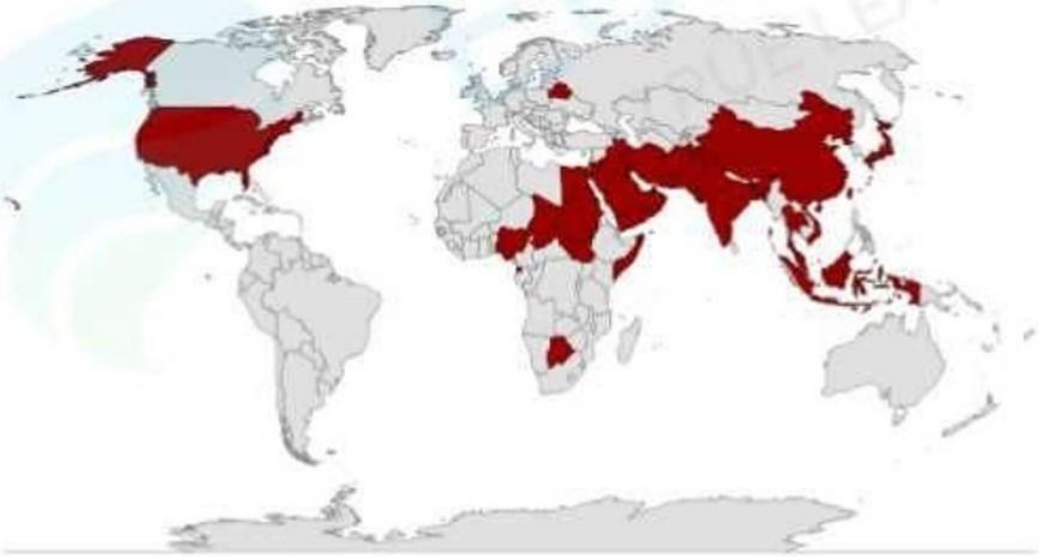
Bachan Singh Vs State Of Punjab

AIR 1982 SC 1325

Rarest of Rare Doctrine

- By the majority of 4 to 1, the **constitutionality of death penalty was upheld** by the Supreme Court
- **First time** in the history of our judiciary that the court **acknowledged** the **doctrine of rarest of the rare case.**
- **Punishments for the convicts of murder is life imprisonment to which the death punishment is an exception.**

Countries which carried out executions in 2013 - 2019



Surendra Koli v State of UP

AIR 2011 SC 970

Nithari's serial rape-cum-murder

- **Mohinder Singh** lured minor girls, strangulated them, sexually **abused even the death bodies** of the girls, dismembered them and sometimes cooked a few parts and ate them.
- It fitted the classification of the rare category of murder cases marked by violence, brutality and heinousness warranting imposition of death penalty.
- **Death by hanging is the just and appropriate punishment**

Reference: Indian Penal Code, 1862 s 302

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Q.107) Grave and sudden provocation is a

a) question of fact

b) question of law

c) mixed question of law and fact

d) presumption under law

Ans: A

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part II – Section 300

Section 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 aforesaid.

01 Intention of causing death

02 Intention of causing such bodily likely to cause death

03 Intention of causing bodily injury sufficient in the ordinary course of nature to cause death,

04 Knowledge that act is Imminently dangerous & must in all probability cause death without any excuse

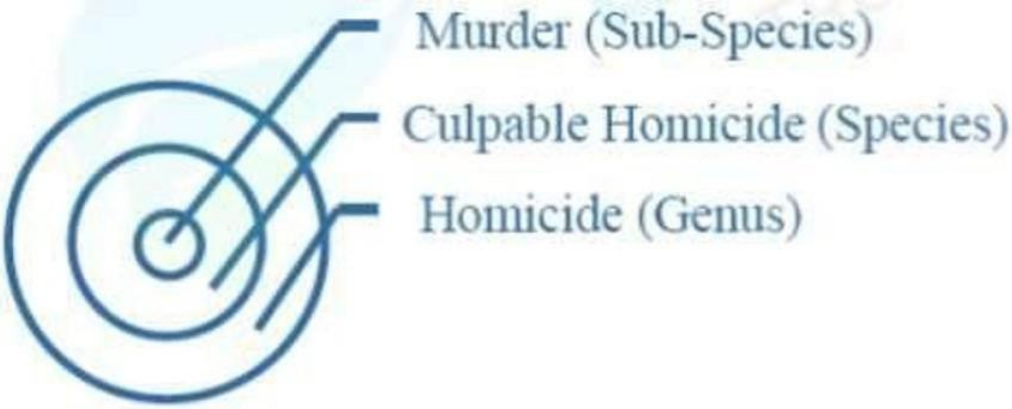
Palani Goundan	In Re Thavamani Case
1919	1943
• From the very beginning there was intention to cause bodily injury.	• From the very beginning there was intention to cause death.
• Public Prosecutor failed to prove that causing injury by ploughshare was likely to cause death	• Everything was proved properly.
• Liable for causing of grievous hurt and concealing evidence.	• Liable for causing murder

- Murder is an **aggravated form** of culpable homicide
- There is a **Definite Knowledge** that the act would result in the death
- **Probability** of causing death **is higher.**

REMEMBER!!

Emperor Vs Dhirajia (1940)

- She jumped into the well along with her baby and her baby died.
- She jumped into the well with excuse.
- Excuse was that she did due to fear of her husband who were running behind her.
- Allahabad High Court held that every sane person shall be presumed to have knowledge about his/ her own conduct.
- **She had done with excuse.**
- So she was liable only for culpable homicide rather than murder.



Reg Vs Govinda

(1877) ILR 1 Bom 342

Accused kicked his wife and struck her several times

- These blows **didn't cause serious** injury.
- She, however, fell on the ground and then the accused put **one knee on her chest, and struck her two or three times** on the face.
- The blows effect on the girl's left eye, producing a contusion (injury without breaking skin) and girl died.

The matter was referred to Melville J:

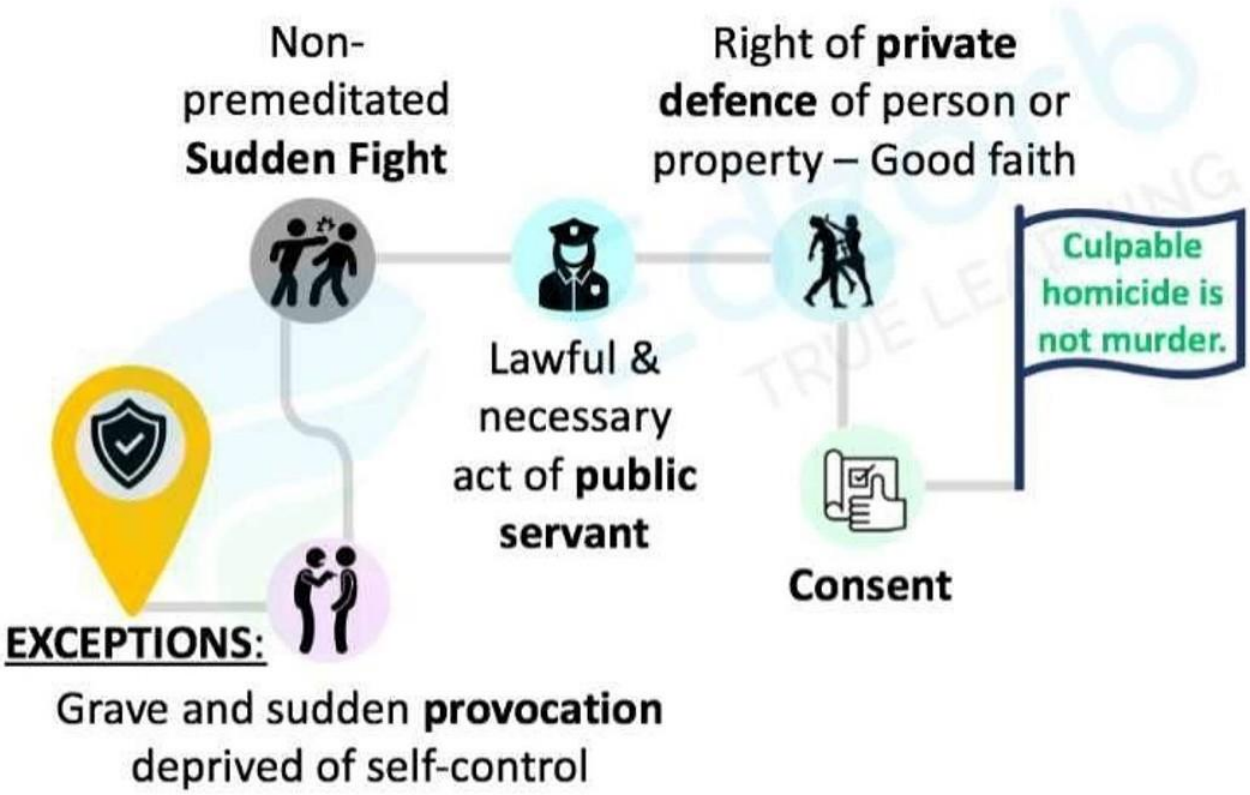
- Whether the offence is culpable homicide or murder **depends upon the degree of risk to human life.**

S. 299	S. 300
• If death is a **likely result**, it is culpable homicide.	• If it is the **most probable result**, it is murder.
• It is on the comparison of **Section 299(b)** and **Section 300** "**thirdly**" that the decision of doubtful cases like the present must generally **depend.**	
• If the bodily injury intended to be inflicted is likely to cause death	• If such injury is sufficient in the ordinary course of nature to cause death

- **The distinction is fine, but appreciable**
  - It is a question of degree of probability.
  - **Nature of the weapon used**.
- **In this case, the offence is culpable homicide, and not murder.**
- Ordinarily, it would not cause death.

- But a **violent blow in the eye from a man's fist**, while the **person struck is lying** with his or her head on the ground, is **certainly likely to cause death**, either by producing a contusion or extravasation of blood on the surface or in the substance of the brain.
- **Convicted** of culpable homicide and **sentenced to seven years imprisonment.**

EXCEPTIONS TO MURDER:



Exception 1:

- Culpable homicide is not murder
- If the offender, **whilst deprived of the power of self-control**
- **By grave and sudden provocation**
- **causes the death**
- Death **of the person who gave** the provocation
- **Or death** of **any other person** by mistake or accident.

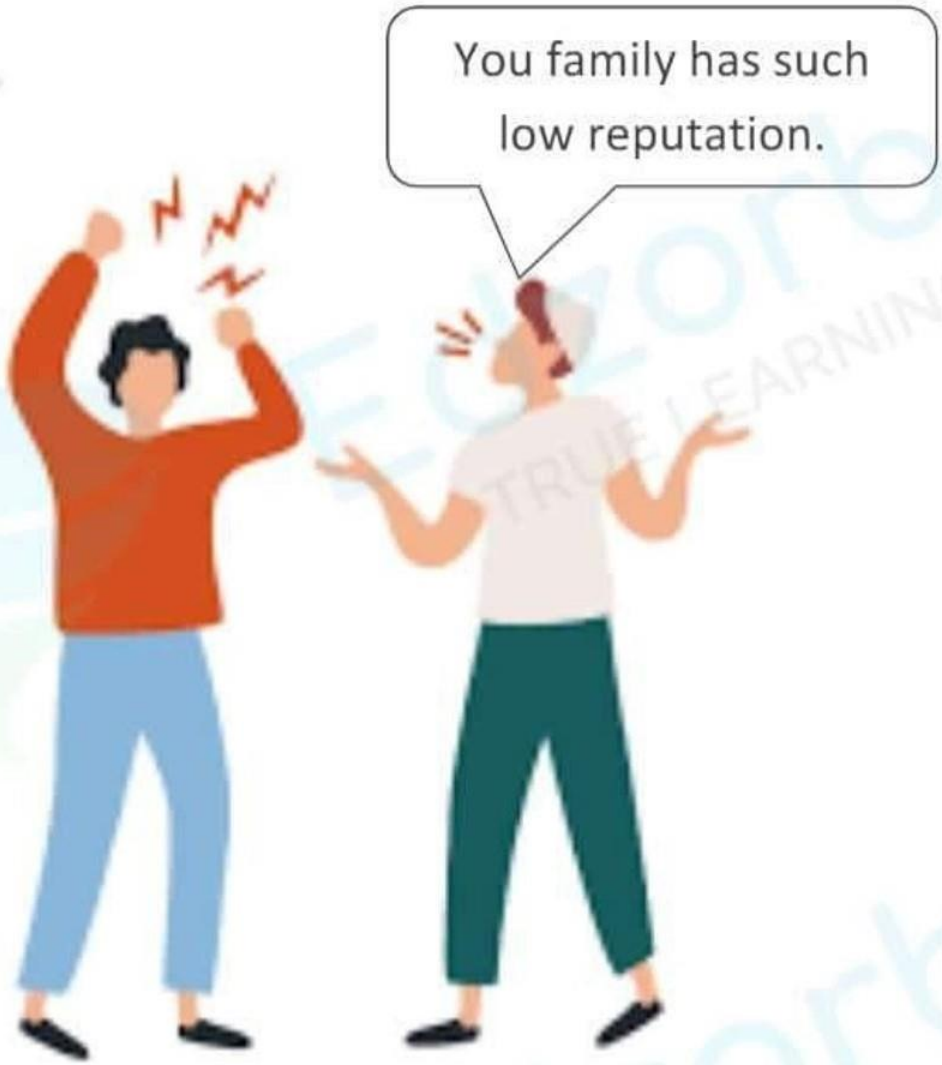
Is this provocation enough to cause death??

- Grave.
- Sudden
- Deprived of power of self-control
- Death is caused during the period of provocation
- Death of the person who gave the provocation or
- Any other by mistake/accident

The above exception is subject to the following provisos:—

I. Not to be Voluntarily sought:

- That the provocation is n**ot sought or voluntarily provoked by the offender**
- As an excuse for killing or doing harm to any person.



- Minto was bad mouthing Chintu's family
- Chintu got angry and stated hitting Minto.
- **<u>Minto took out the pistol and killed Chintu.</u>**
- Here, the provocation was voluntarily sought.

II. Act of the Public servant:

- Provocation is not given by anything done in **obedience to the law**
- It is not given by a public servant in the lawful exercise of the powers of such public servant.

- Ramadhir cannot say, after killing the officer that he was provoked by the officer.

III. Right to Private Defence

- The provocation **is not given by anything** done in the lawful exercise of the right of private defence.

Explanation:

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

Arumugam Servai Vs State of TN

(2011) 6 SCC 405

- The Supreme Court strongly deprecated **the practice of khap/katta panchayats taking law into their own hands**

KM Nanavati Vs State of Maharashtra,

AIR 1962 SC 605

Guideline:

- The test of "grave and sudden" provocation **is whether a reasonable person,** belonging to the same class of society as the accused, placed in the situation in which the accused was placed **would be so provoked as to lose his self-control.**
- **Words and gestures may also,** under certain circumstances, **cause** grave and sudden provocation
- **The mental background** created **by the previous act of the victim** may be taken into consideration **in ascertaining whether** the subsequent act caused grave and sudden provocation for committing the offence.
- **The fatal blow** should be traced to the influence of passion arising from that provocation
- **It should not be calculated after the passion had cooled down by lapse of time, or otherwise giving scope for premeditation and calculation.**

Did you Know?

Law of Commission of India, 242nd Report:

- **Existing provisions** in IPC, 1860 are **adequate enough** to take care of Honor Killing.
- The commission suggested a new law (instead of amending IPC, 1860) to tackle the problem namely "**Prohibition of Interference with the Freedom of Matrimonial Alliances Bill 2011**".

Reference: Indian Penal Code, 1862 s 300

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Q.108) 'A' voluntarily burns valuable security belonging to 'Z' intending to cause wrongful loss to 'Z'. A has committed the offence of

a) Criminal force

b) Mischief

c) Assault

d) Battery

Ans: B

Exp:

Source: Edzorb Law Qbank – IPC – Unit XV – Q.25

25.

MCQ, Single Correct Question

Mischief is defined under which section

a 425

b 426

c 427

d 428

Section 425

Mischief

Ingredients:

- Intention
- To cause wrongful loss or damage to the public/ person
- Causes the destruction/diminish value of any property

Explanation 1:

Intention and knowledge of the **likelihood** of wrongful is sufficient

- Shyam lights up a firecracker near cash bundle of Ram.
- He knew such an act is likely to burn the cash.
- He commits MISCHIEF

Intention or likelihood to cause **wrongful loss or damage**

Destruction or diminishing value or utility **of property**

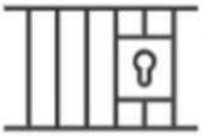
Wrongful loss or damage – public or any person.

Nabin Chandra Gogoi Vs State
1961 Cr LJ 226

- The petitioner having shot dead a rhinoceros with a gun.
- The petitioner contended that the conviction under **Section 429** does not apply in killing of wild animals like rhinoceros.
- It is clear from the language of the section that the various animals enumerated therein are all domestic animals.
- A **rhinoceros cannot** in any sense of the term be described **as a domestic animal**.
- The words "**or any other animal**" in the section should refer to animals of the same kind or class, ***ejusdem generis***, that is to say to domestic animals, and not to wild animals.
- Destruction of property is essential in the case of a mischief.

Section 426:

Punishment for mischief—



- Imprisonment up to **3 months**, or **with fine,** or with both.

Byomkesh Bhattacharya Vs Lakshmi Narayan Datta

1978 Cr LJ 848

- Act of the accused of **spoiling the cooked food** of the complainant **by throwing dirty sweepings**, refuse and foul water is an **offence of mischief**.
- Change in the property so as to destroy or diminish its value or utility **does not necessarily** mean a change in character, composition or form.
- If **something is done to the property contrary to its natural use and serviceable-ness** that destroys or diminishes its value or utility, it will amount to "mischief".

Reference: Indian Penal Code, 1862 s 425 s 426

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Q.109) Public servant disobeying a direction of the law with intent to cause injury is dealt under

a) Section 164 of IPC

b) Section 165 of IPC

c) Section 166 of IPC

d) Section 167 of IPC

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part I – Section 166

Section 166:

- A public servant – disobeying
- **Disobeying direction of the law** regarding conduct as public servant.
- With intention and knowledge **that disobedience** will cause **injury to any person.**
- Such a public servant **shall be punished**.

- Simple imprisonment up to 1 years
- **OR** with fine, or with both.

- Disobedience of law.
- Caused injury to the victim whose money was stolen

Reference: Indian Penal Code, 1860 s 159 s 166

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Q.110) Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes, is dealt under

a) Section 506 of IPC

b) Section 507 of IPC

c) Section 508 of IPC

d) Section 509 of IPC

Ans: B

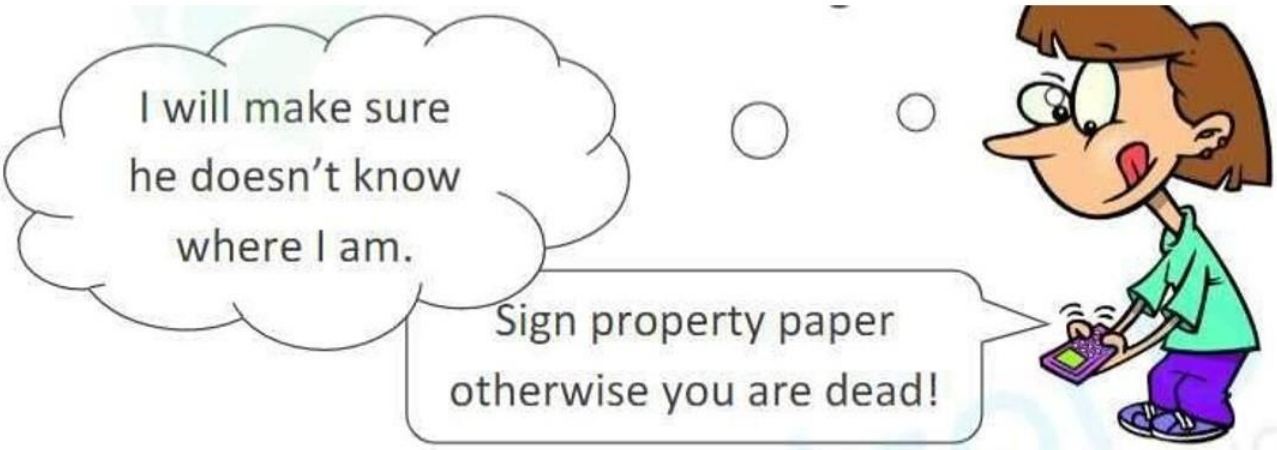
Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part IV – Section 507

Section 507

Criminal intimidation by an anonymous communication

- Offence committed = **criminal intimidation.**
- Mode:
  - **By an anonymous communication or**
  - **By taking precaution to conceal the name or abode of the threat giver.**



- Punishment =
  - **2 years + Punishment provided u/s 506)**

- Raju makes an **anonymous call** to the police station.
- He **intimidated to** have all the people **killed** in exchange if police releases his friend from prison.

- This was criminal intimidation under this section.

Reference: Indian Penal Code, 1862 s 507

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Q.111) Z is thrown from his horse and is insensible. A, a surgeon, finds out that Z requires to be trepanned. A, not intending Z's death, but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself.

a) A has committed offence

b) A has committed no offence

c) A has committed culpable homicide

d) Both (a) and (c)

Ans: B

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part I – Section 92

Section 92:

Act done in good faith for benefit = No offence

- Act done has caused harm to a person
- **But, the** act **was done for benefit of the person**
- The act was done in **Good Faith.**
- And most importantly, **Consent was not obtained because**:
  - It was impossible for that person to signify consent, or
  - The person is incapable of giving consent, or
  - The person has no guardian to obtain consent.

- Ram met with an accident.
- He was unconscious and rushed to the hospital.

Act **was done for benefit of the person**

He needs urgent surgery.

Alas!

Despite best efforts, couldn't save him.

Consent not obtained **because:**

Impossible for that person to signify consent.

The person **is incapable** of giving consent.

The person has no guardian to obtain consent.

Exception

- Intentional causing of death
- Death for – other than preventing death etc.
- Voluntary causing of hurt
- Not extend to the abetment of any offence

Proviso:

This exception is <u>not applicable</u> to:

S. 88 Explanation – **Mere pecuniary benefit <u>is not benefit</u>** within the meaning of **S. 92**

S. 89

Reference: Indian Penal Code, 1862 s 92

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Q.112) Voyeurism is punishable under

a) Section 354 A of IPC

b) Section 354 B of IPC

c) Section 354 C of IPC

d) Section 376 A of IPC

Ans: C

Exp:

Source I: Edzorb Law Qbank – IPC – Unit XVIII – Q.6

Source II: Bare Act Revolution – IPC – Section 354

6.

MCQ, Single Correct Question

Match the following and choose the correct answer from the codes below

Offence	Section
A. Stalking	1. Section 376E
B. Voyeurism	2. Section 354D
C. Gang Rape	3. Section 370
D. Trafficking of person	4. Section 354C
	5. Section 376D

Codes:

A B C D

a 1 4 5 3

b 2 4 5 3

c 4 2 1 3

d 2 4 1 3

(B)

Section 354 A - Sexual Harassment	Section 354 B - Sexual Assault with the intnet to disrobe
Amendment 2013	
Section 354 C - Voyeurism	Section 354D - Stalking

Current Laws on Human Trafficking:

- **Section 370**, Indian Penal Code
- **Article 23** of the Indian Constitution
- The Bonded Labour System (Abolition) Act, 1976
- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
- The Immoral Traffic (Prevention) Act, 1956

People's Union for Democratic Rights Vs Union of India (1982) 3 SCC 235

- PIL for the emancipation of Bonded Labour
- It would be "forced labour" where a person provides **labour** or service to another **for remuneration which is less than the minimum wage**
- Violative of Article 23

Did you Know?

A new Bill has been introduced called *The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018*

Reference:
People's Union for Democratic Rights Vs Union of India (1982) 3 SCC 235
Bill No. 89-C of 2018, 'The Trafficking of Persons (Prevention, Protection And Rehabilitation) Bill, 2018'
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Section 354C

IPC

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Voyeurism

- Any man who **watches, or captures** the image of **a woman engaging in a private act** in circumstances where she would usually have the **expectation of not being observed** either by the perpetrator or by any other person at the behest of the perpetrator or **disseminates such image** shall be punished.

On first conviction with imprisonment of either description for a term which shall not be less than **one year**, but which may extend to **three years**, and shall also be liable to **fine**, and be punished on Second or **subsequent conviction**, with imprisonment of either description for a term which shall not be less than **three years**, but which may extend to **seven years**, and shall also be liable to **fine**.

Next page...

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Section 354C

IPC

Voyeurism

Next page...

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Section 354C

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Voyeurism

Punishment

Imprisonment not be less than 1 year, but which may extend to 3 years, and shall also be liable to fine.

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Section 354C

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Voyeurism

- For the purpose of this section, "**private act**" includes an **act of watching** carried out in a place which, in the circumstances, would reasonably be **expected to provide privacy** and where the **victim's genitals, posterior or breasts are exposed** or covered only in underwear; or the victim is **using a lavatory**; or the victim is **doing a sexual act** that is not of a kind ordinarily done in public.

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Section 354C

IPC

Voyeurism

Private Act = Privacy Expected

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Section 354C

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Voyeurism

Punishment

Subsequent conviction, with imprisonment of either description for a term which shall not be less than 3 years, but which may extend to 7 years, and shall also be liable to fine.

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Section 354C

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Voyeurism

- Where the victim **consents to the capture** of the images or any act, but **not to their dissemination** to third persons and where such image or act is disseminated, such dissemination shall be **considered an offence** under this section.

Next page...

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Section 354C

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TRUE LEARNING

Voyeurism

Punishment

Imprisonments not be less than 1 year, but which may extend to 3 years, and shall also be liable to fine.

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Case law

IPC

P. Prabhakara Rao v. State of A.P.

Criminal Petition No.2948 of 2019

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Case law

IPC

P. Prabhakara Rao v. State of A.P.

Criminal Petition No.2948 of 2019

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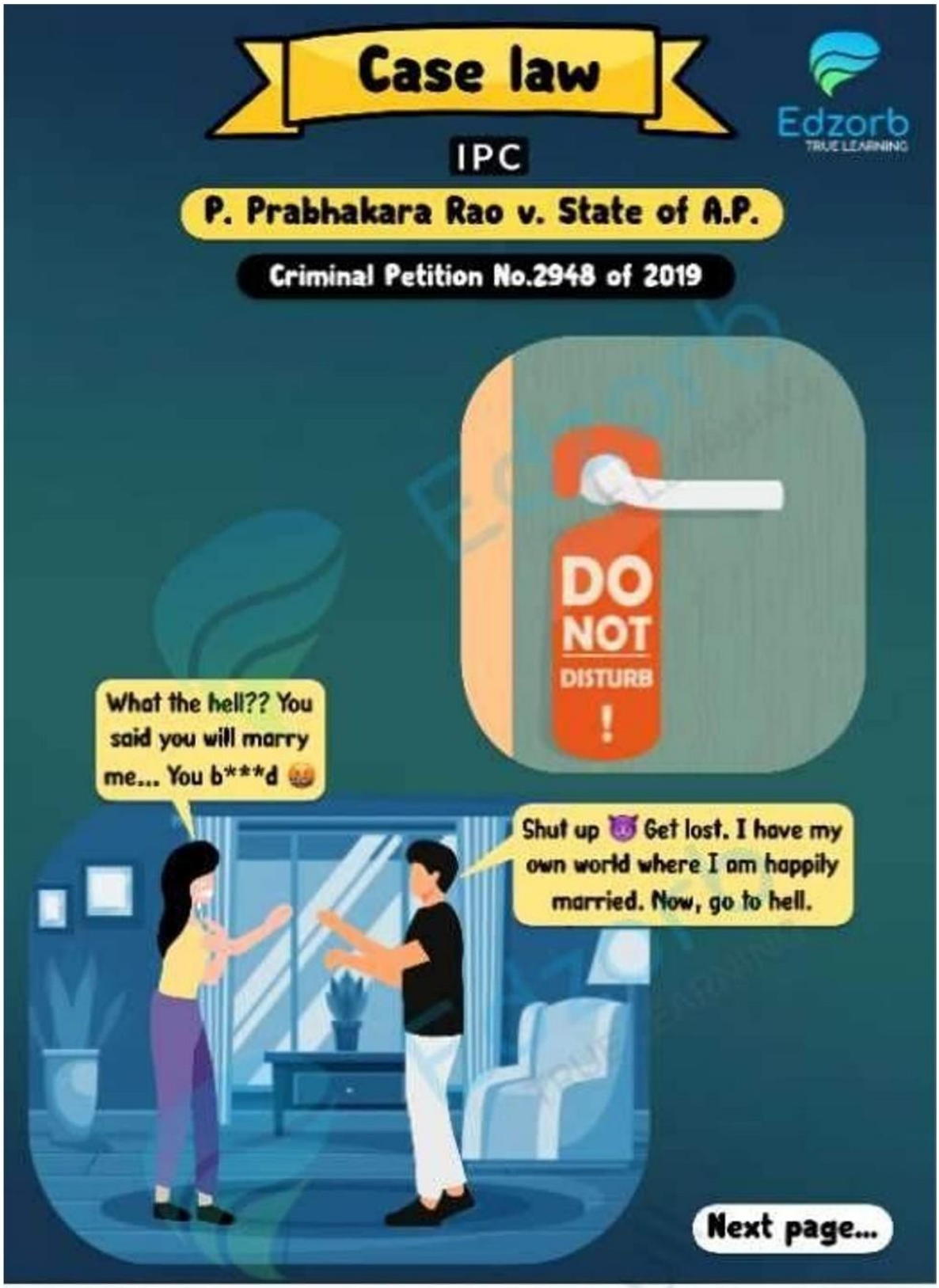

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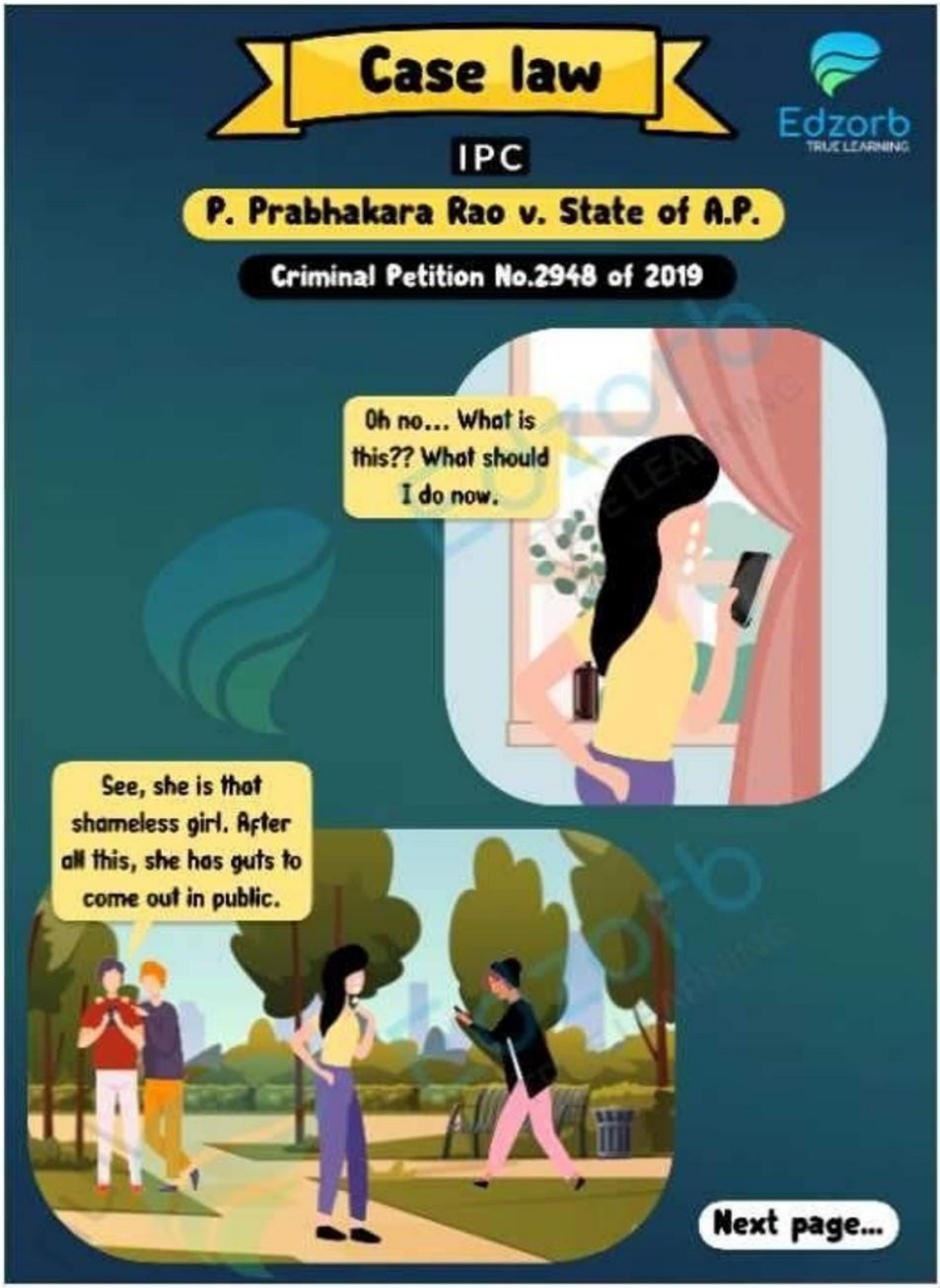

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Case law

Edzorb
TRUE LEARNING

IPC

P. Prabhakara Rao v. State of A.P.

Criminal Petition No.2948 of 2019

Held:

- The petitioner went to the extent of **sending the intimate photographs** of the de facto complainant which were taken by him clandestinely, on WhatsApp to the employees of the Police Department.
- So, he has indulged in commission of grave offences **punishable u/S 354C.**
- Therefore, the **FIR will not be quashed** as prima facie case of Voyeurism u/s 354C is being made out.

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Section 354C

IPC

Voyeurism

Conviction	Punishment	Classification	Triable by
First conviction	1 to 3 years + Fine	Cognizable & Bailable	Any Magistrate
Subsequent conviction	3 to 7 years + Fine	Cognizable & Non-Bailable	Any Magistrate

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Q.113) Under Section 82 and Section 83 of IPC an offence is punishable if it is done by a child

a) of below seven years of age

b) of above seven years of age but below twelve years if he has not attained sufficient maturity and understanding

c) of above seven years of age but below twelve years having attained sufficient maturity and understanding

d) all the above

Ans: C

Exp:

Source: Bare Act Revolution – IPC – Section 82 & 83

Section 82

IPC

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TRUE LEARNING

Act of a Child Under Seven Years of Age

- Nothing is an offence which is done by a child under **seven years of age.**

6 years old

Doli Incapax

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Section 83

IPC

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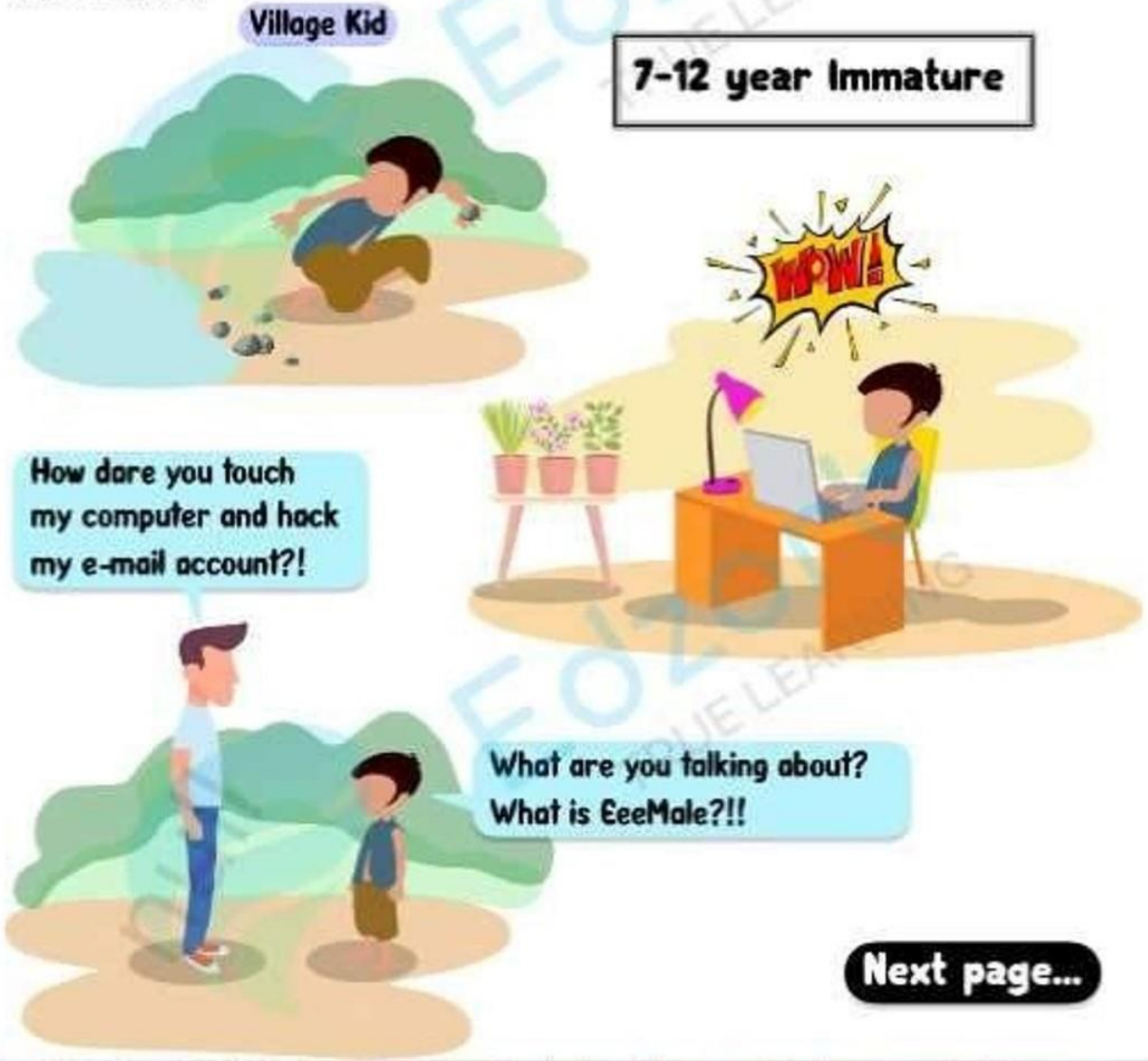
TRUE LEARNING

Act of a Child Above Seven and Under Twelve of Immature Understanding

- Nothing is an offence which is done by a child **above seven years of age and under twelve**, who has **not attained** sufficient **maturity** of understanding to judge of the nature and consequences of his conduct on that occasion.



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Section 83

IPC

Act of a Child Above Seven and Under Twelve of Immature Understanding

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Q.114) Making a false document or part of a document with any one of the intents specified in Section 463 IPC constitutes

a) Mischief

b) Fabrication of false documents

c) Forgery

d) (a)and (c) only

Ans: C

Exp:

Source: Edzorb Law Premium+ 2.0 – Simplified Notes – IPC – Part IV – Section 463

Section 463

Committing Forgery:

- Whoever **makes any false document** or **false electronic record** or part of a document or electronic record
- **Intention:**
  - To cause **damage** or injury to the public or to any person

- To **support** any **claim** or title
- To cause any **person to part with property**
- To **enter** into any express or implied **contract**
- To **commit fraud** or that fraud may be committed.

Did you Know?

Definition of forgery u/s 463 is similar to the S. 1(10) of the **repealed British Forgery Act 1913.**

4

Shiv Bahadur Singh Vs State of Vindhya Pradesh

AIR 1954 SC 322

- In case a doctor **issues a false certificate,** he will be guilty of **fabricating** false evidence and **not forging** a false certificate.
- But if a **doctor puts up a certificate**, seat or designation, or a degree **he does not possess**, he will be guilty of forgery.

Reference: Indian Penal Code, 1860 s 463

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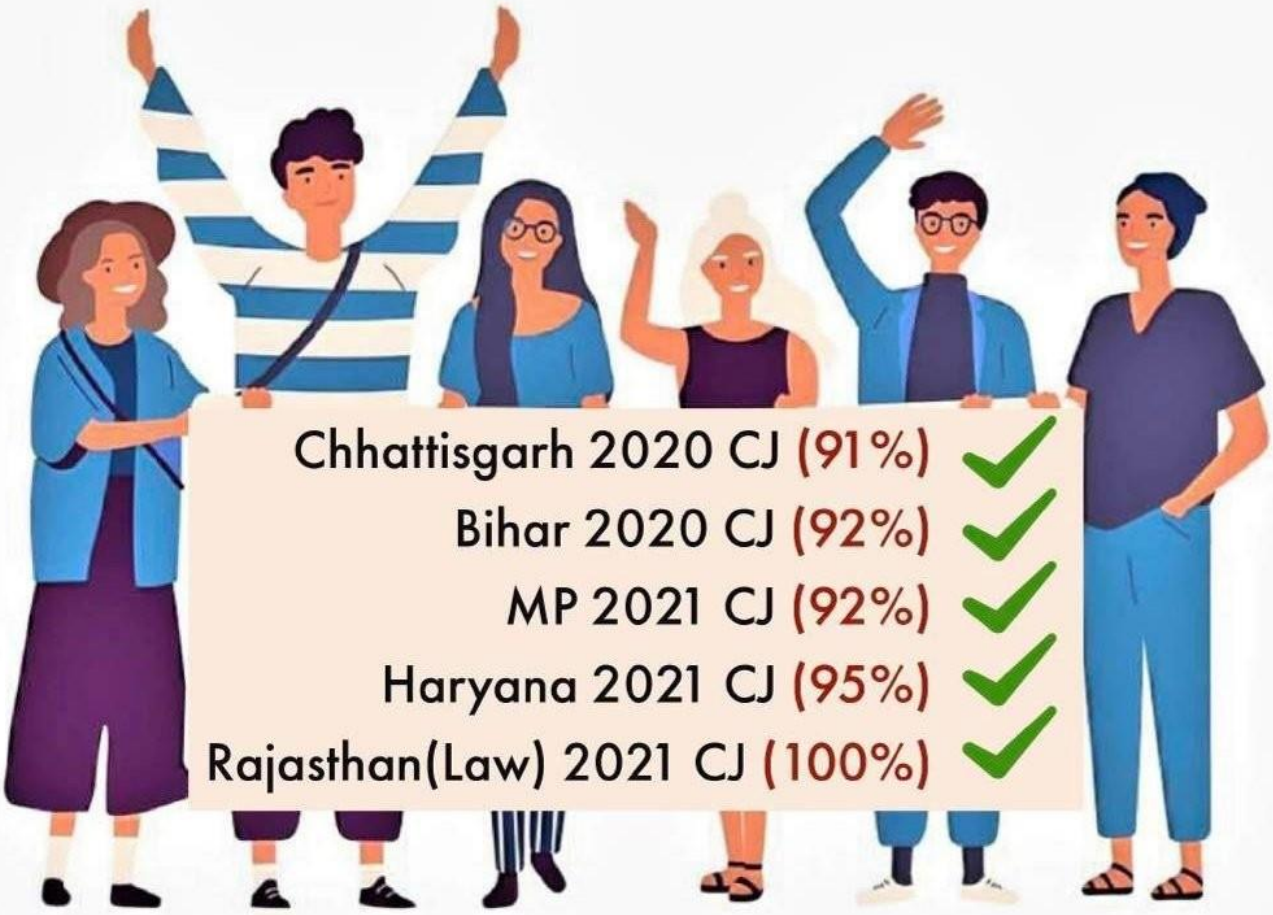

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Bihar 2020 CJ (92%) ✓
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Haryana 2021 CJ (95%) ✓
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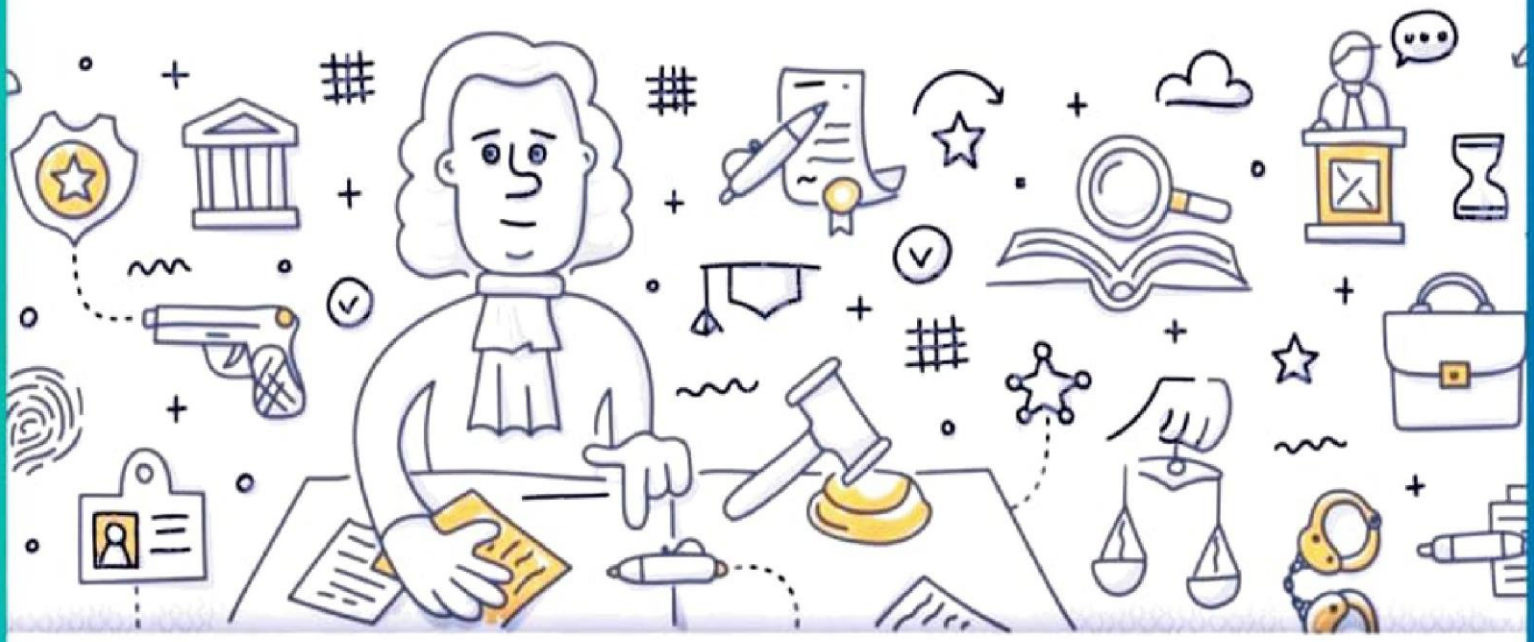
Section - 14
Constitution



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Q.115) The feature of 'Concurrent List' in our Constitution is borrowed from which country's Constitution?

a) Japan

b) Ireland

c) United States

d) Australia

Ans: D

Exp:

Source: Edzorb Law Qbank – Constitution of India – Unit X – Q.3

3.

MCQ, Single Correct Question

The Directive Principles of State Policy in the Constitution of India have been taken from which of the following :

a) The Constitution of Ireland

b) The Canadian Constitution

c) The Australian Constitution

d) The U.S. Constitution

(A)

Sources of Indian Constitution:

Source	Provisions
Constitution of the United States	• Preamble • Fundamental Rights • Federal Feature
British Constitution	• Writs • Single citizenship • Procedure established by law
Canadian Constitution	• Distribution of power between Central and State
Irish Constitution	• DPSP • Method of election of President
French Constitution	• Liberty, fraternity and equality
Australian Constitution	• Concurrent List

USSR	• Fundamental duties

Reference: The Constitutional Law of India

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Q.116) Which was the first case to introduce the concept of Judicial Review?

a) Donoghue v Stevenson (1932)

b) Marbury v Madison (1803)

c) Entick v Carrington (1765)

d) Rylands v Fletcher (1868)

Ans: B

Exp:

Source: Edzorb Law Qbank – Admin Law – Unit I – Q.12

12.

MCQ, Single Correct Question

When reviewing administrative action, the Courts duty is to confine itself to the question of legality. What is/are the ground(s) for judicial review?

a Committed an error of law or exceeded its powers

b Breach of natural justice or decision without reason

c Both (a) and (b)

d None of the above

(C)

Judicial Review is the power of the Supreme Court or High Court to examine an executive or legislative act and to invalidate that act if it is contrary to constitutional principles.

Grounds of judicial review of any administrative action:

- **Committed an error of law or exceeded its power:** It means that when the administrative authority does not have power but gives decision beyond its authority.

R. Vs Minister of Transport
(1934) 1 KB 277

The Minister had no power to revoke a license. The order of the minister revoking the license, was thus, held to be passed without jurisdiction & hence ultra vires.

- **Principles of natural justice:** The principles of natural justice are mandatory to be observed in the administrative action.

A.K. Kraipak Vs Union of India

AIR 1970 SC 150

- The rule of principle of natural justice are applicable to quasi-judicial proceedings and administrative proceedings too
- The administrative authority must apply these rules otherwise the decision will be null and void.

Did you Know?

The concept of Judicial Review was introduced in **Marbury v Madison (1803)**.

Reference: https://indiankanoon.org/doc/639803/

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Q.117) Who among the following was the first Chief Justice of Supreme Court during British India?

a) Sir Elijah Imphey

b) Sir Robert Chambers

c) Sir John Anstruther

d) Justice H.L. Kania

Ans: A

Exp:

Source: Edzorb Law Qbank – Consitution of India – Unit V – Q.24

24.

MCQ, Single Correct Question

Who is the 48th Chief Justice of India

a NV Ramana

b SA Bodbe

c Dipak Mishra

d None of the above

Current Chief Justice of India

Nuthalapati Venkata Ramana

Born 27 August 1957

Serving as the 48th Chief Justice of India

First Chief Justice of Supreme Court: Sir Elijah Impey (13 June 1732 – 1 October 1809)

MP for New Romney

Chief Justice of the Sadr Diwani Adalat

First Chief Justice of Supreme Court of Judicature at Fort William in Bengal

Q.118) Which among the following language is not there in the 8th Schedule of Constitution of India?

a) Dogri

b) Rajasthani

c) Sindhi

d) Manipuri

Ans: B

Exp:

Source: Edzorb Law Qbank – Constituion of India – Unit XVI – Q.22

22.

MCQ, Single Correct Question

The Constitution (92nd Amendment) Act, 2003 is about:

a) Inclusion of four additional languages as official languages in the Eighth Schedule of the Constitution

b) Imposition of "Service Tax" by the Centre

c) Establishment of a separate National Commission for Scheduled Tribes

d) Total number of ministers including Prime-Minister in the Union Council of Ministers

(A)

92nd Amendment Act, 2003:

Added 4 languages in 8th schedule include **Bodo, Dogri, Maithili and Santali languages**, making total number of languages to 22.

Reference: 92nd Constitutional Amendment Act

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Q.119) In India sovereignty lies with

a) The Constitution

b) The Supreme Court

c) The Parliament

d) The people

Ans: D

Exp:

Source: Edzorb Law Qbank – Constitution of India – Unit II – Q.3

3.

MCQ, Single Correct Question

What is the chief source of legal authority or sovereignty in India?

a The people.

b The Constitution.

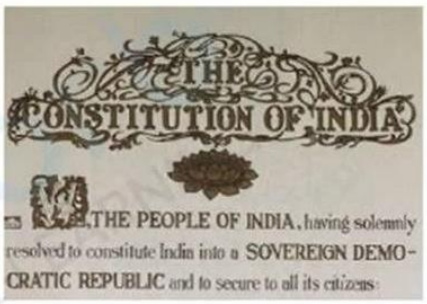
c The Parliament.

d The Parliament and State Legislatures.

(A)

The **Preamble** states that the constitution derives its authority from the people of India. The preamble starts as - **"We the people of India"**

Preamble of the Indian constitution is borrowed from the **US Constitution**.



India is a democratic country hence it derives its power from the people. The citizens exercise their right to vote elect the representatives.

PUCL Vs Union of India

A distinction between the **right to vote** and **freedom of voting** was made. Although the right to vote is only a **constitutional right** (**Article 326**), the freedom of voting falls under the ambit of '**expression**' under **Article 19(1)(a)** of the Constitution., while a statute can decide the modalities of voting, the act of voting is guaranteed under **Article 19(1)(a)** of the Constitution.

Read more about the case: https://indiankanoon.org/doc/15059075/
Deriving authority from the people:
https://www.thehindu.com/opinion/op-ed/deriving-authority-from-we-the-people/article30655212.ece

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 6, 15.
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Q.120) Under the Constitution, the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India as per

a) Article 40

b) Article 43

c) Article 44

d) Article 48

Ans: C

Exp:

Source I: Edzorb Law Qbank – Constitution of India - Unit X – Q.15

Source II: Bare Act Revolution – Consitution of India – Directive Principles of State Policy

15.

MCQ, Single Correct Question

The provision of uniform civil code for citizens has been provided in the Indian Constitution in :

a Article 39

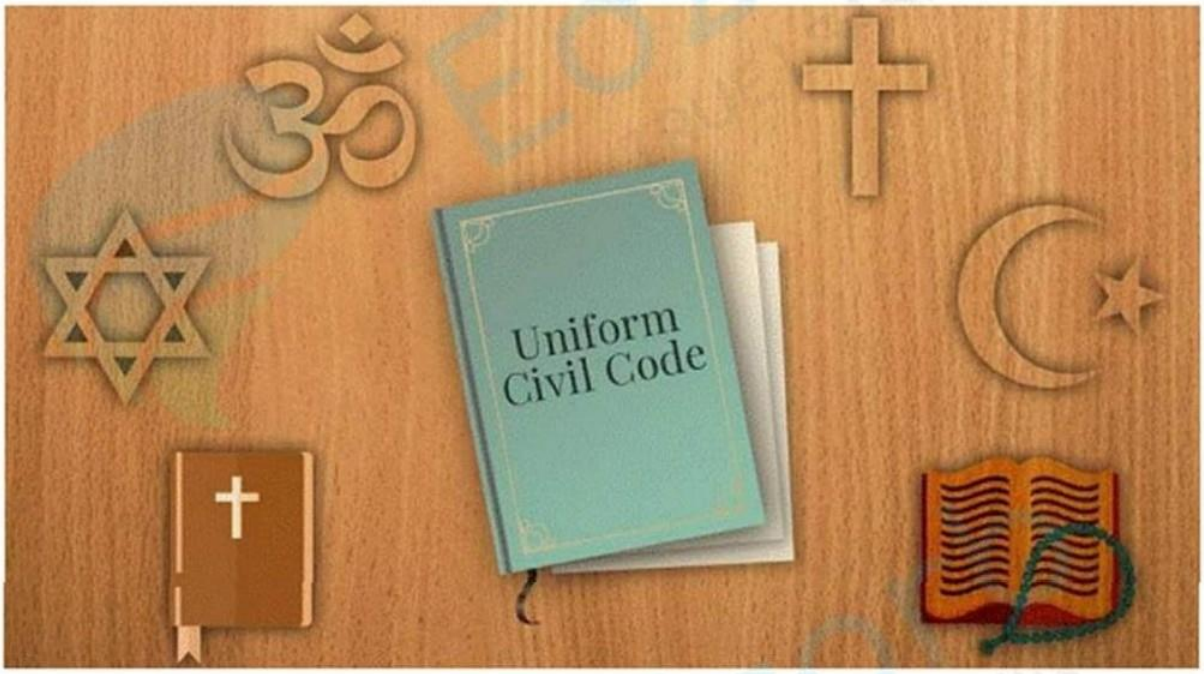
b Article 41

c Article 43-A

d Article 44

(D)

Uniform Civil Code: The Uniform Civil Code (UCC) calls for the formulation of one law for India, which would be applicable to all religious communities in matters such as marriage, divorce, inheritance, adoption.



Article 44: Uniform Civil Code:

The state shall endeavour **to secure a Uniform Civil Code** for the citizens throughout the territory of India.

John Vallamattom Vs Union of India

21 July, 2003, SC

- **Article 44** provides that the State shall endeavour to secure for all citizens a Uniform Civil Code throughout the territory of India.
- It is a matter of great regrets that **Article 44** of the Constitution has not been given effect to.
- Parliament is still to step in for framing a common civil code in the country. A Common Civil Code will help the cause of national integration by removing the contradictions based on ideologies.

Merits and Demerits of UCC

Merits	Demerits
• Will provide equal status to all	• Due to diversity in India, difficult to come up with similar law for all
• Promote gender equality too	• It has been already provided by the constitution.
• To bypass the issue of reform of existing personal laws.	• Interference of state in personal laws hinders freedom of religion.

• UCC is necessary to promote national integration.	• It will lead to encroachment of rights of minority.

Good read:
https://www.livemint.com/Opinion/YJFZYlzt2IN3lkOlljLjfO/Why-India-needs-a-uniform-civil-code.html

Food for Thought!

Do you think like Goa, the concept of Uniform Civil Code will be successful in the rest of the part of the country?

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1485

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DIRECTIVE PRINCIPLES OF STATE POLICY

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Non justiciable | Part IV | Articles 36 to 51 | Resemble the Instrument of Instructions

Socialistic Principles

- Aim at providing social & economic justice
- Set the path towards welfare state.

Article 38
State to secure the promotion of welfare of people

Article 39
Certain principles of policy to be followed by the state

Article 39 A
Equal justice and free legal aid

Article 41
Right to work, to education and Public assistance- Unemployment

Article 42
Just and Human condition for work and Maternity relief

Article 43
Secure living wage, decent standard of living & Cultural opportunities to all workers

Article 43 A
To take steps to secure participation of workers in Management

Article 47
To raise level of nutrition and standard of living of people

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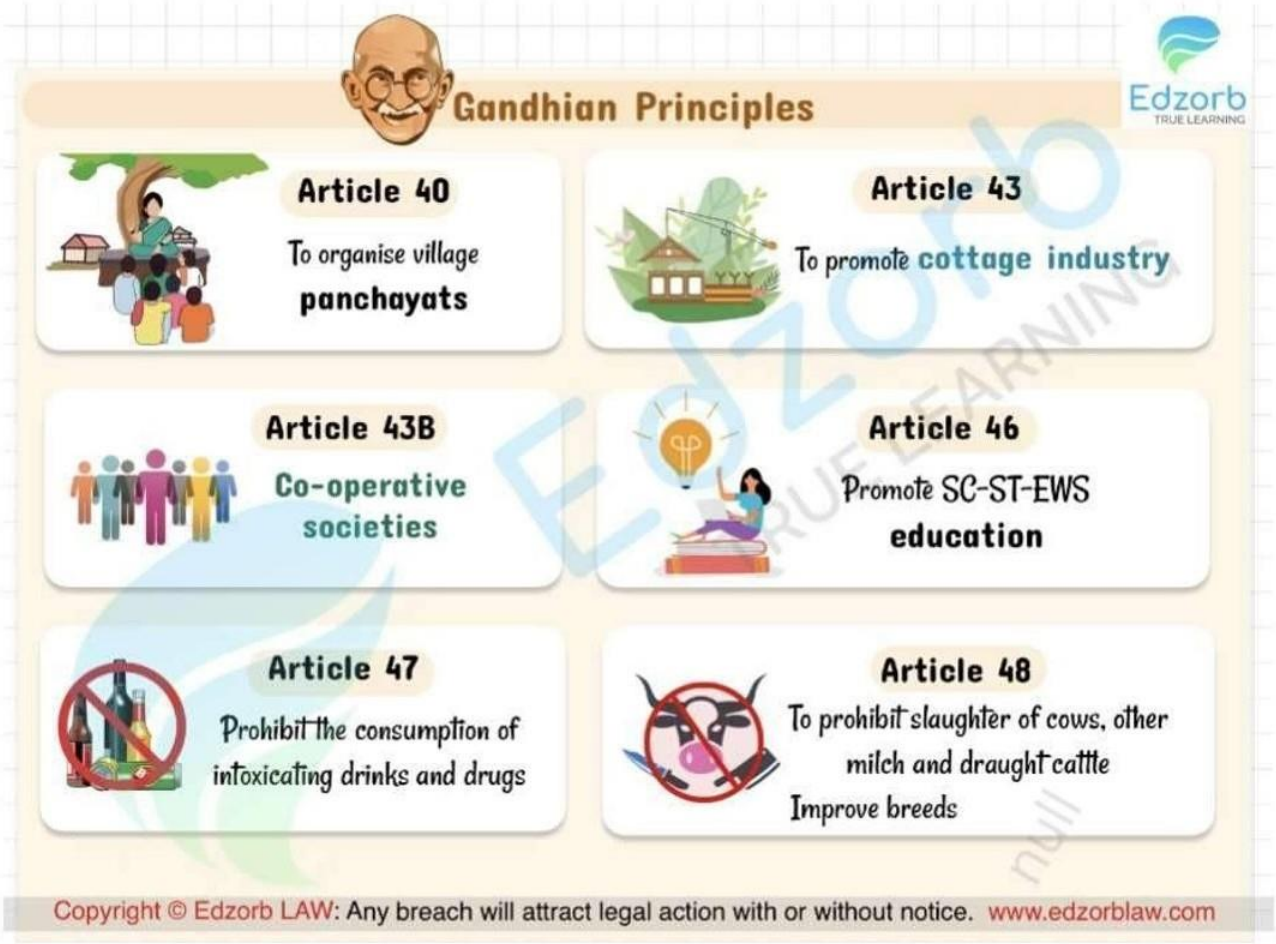
Gandhian Principles
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TRUE LEARNING
Article 40
To organise village panchayats
Article 43
To promote cottage industry
Article 43B
Co-operative societies
Article 46
Promote SC-ST-EWS education
Article 47
Prohibit the consumption of intoxicating drinks and drugs
Article 48
To prohibit slaughter of cows, other milch and draught cattle
Improve breeds
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Liberal Principles

Edzorb

Article 44

Uniform civil code

Article 45

To promote early **childhood** care & education till 6 years

Article 48

Agriculture, Husbandary on scientific lines

Article 48A

To protect and improve **environment**

Article 49

To **protect monuments**, places objects of artistic or historic interest which are declared to be of national importance

Article 50

To **separate** the **judiciary** from the **executive** in the public services of the State

Article 51

- To promote international peace & security
- Settlement of international disputes by arbitration
- Respect for international law and treaty obligations

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Q.121) The satisfaction of the President means the satisfaction of the Council of Ministers and not his personal satisfaction, was held in

a) Shamsher Singh v State of Punjab

b) U.N. Raov Indira Gandhi

c) Ram Jawaya Kapoor v State of Punjab

d) Sardar Lal v Union Government

Ans: A

Exp:

Source: Edzorb Law Qbank - Constitution of India – Unit X – Q.29

29.

MCQ, Single Correct Question

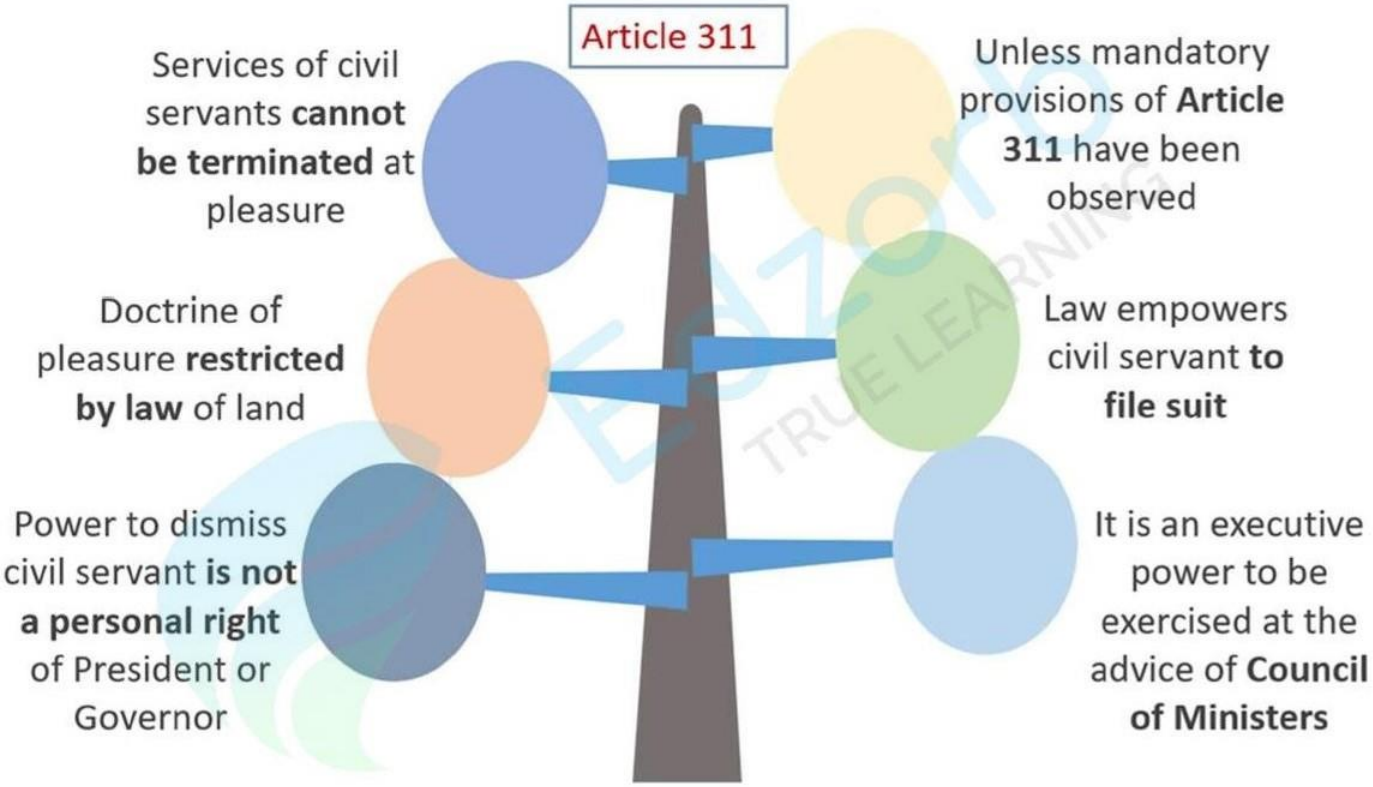
Shamsher Singh Vs State of Punjab deals with

a Fundamental rights

b Fundamental duties

c Satisfaction of president

d None of the above


Article 311
Services of civil servants **cannot be terminated** at pleasure
Unless mandatory provisions of **Article 311** have been observed
Doctrine of pleasure **restricted by law** of land
Law empowers civil servant **to file suit**
Power to dismiss civil servant **is not a personal right** of President or Governor
It is an executive power to be exercised at the advice of **Council of Ministers**

Shamsher Singh vs State of Punjab

23 August, 1974

Facts:

- A Subordinate Judge on probation
- His services were terminated by the Government of Punjab in the name of Governor of Punjab
- By an order which did not give any reasons for termination.
- State contended that satisfaction under Art.311 does not talk about personal satisfaction of the President/Governor.

Held:

- Orders of termination passed on that account liable to be quashed and set aside.
- The President as well as Governor is Constitutional head.
- The satisfaction does not mean personal satisfaction but satisfaction of Council of Ministers on whose aid they generally function.

Reference: The Constitutional Law of India

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Q.122) Article 360 of the Constitution has been invoked

a) Only one time

b) Two times

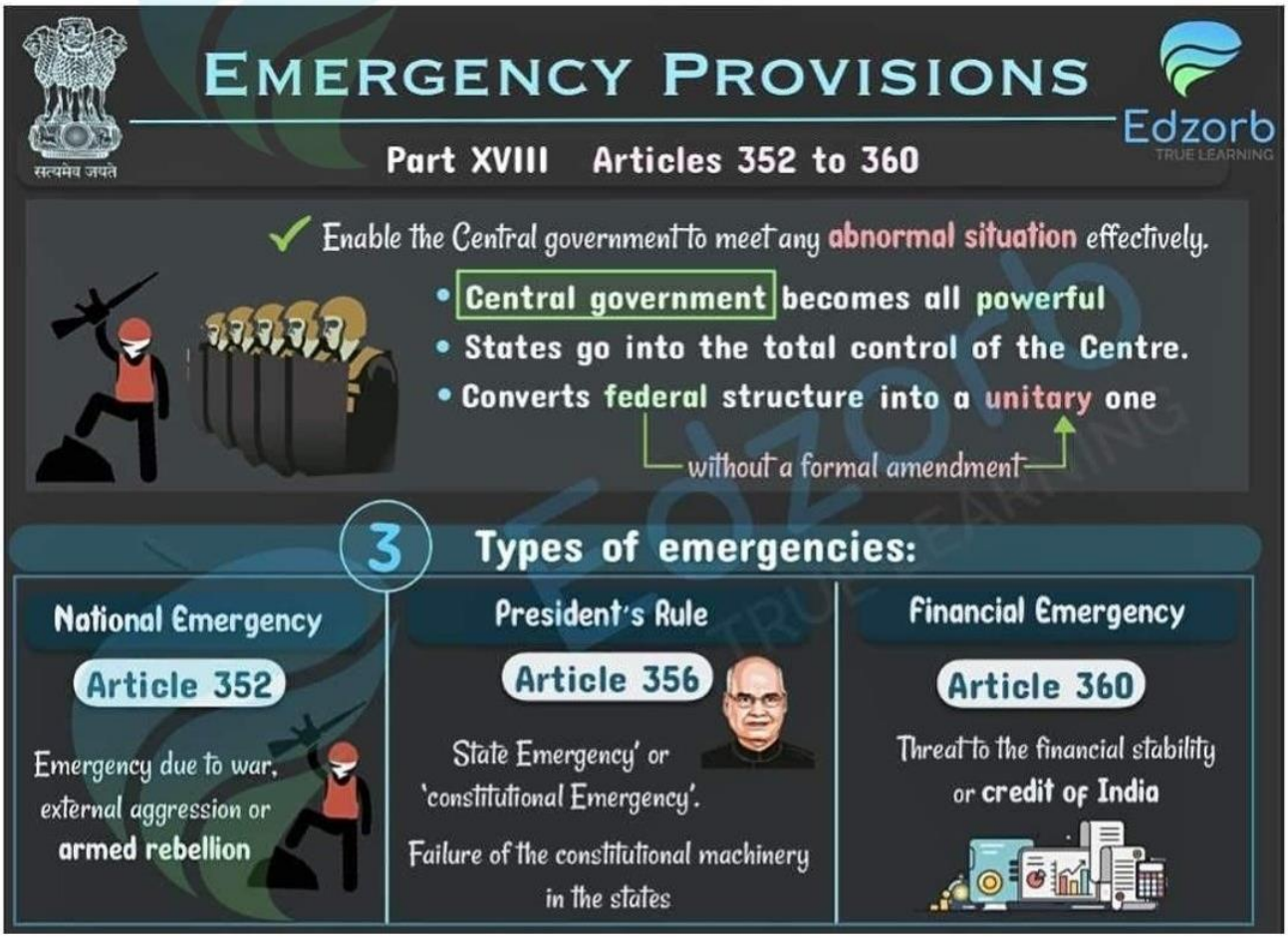
c) Three times

d) Never

Ans: D

Exp:

Source: Bare Act Revolution – Consitution of India – Emergency Provisions



Article 352 National Emergency

Grounds of Declaration

President

- When the security of India or a part of it is threatened by war or external aggression or armed rebellion.
  - 'External Emergency'
  - 'Internal Emergency'
- Can declare a national emergency before the actual occurrence — If he is satisfied that there is an imminent danger.
- Applicable to the entire country or only a part — 42nd Amendment Act of 1976

1975 Congress government

CONSTITUTION mentioned 'internal disturbance' as the third ground

- Declared a National Emergency on the ground of 'internal disturbance'
- Advised the president to proclaim emergency without consulting her cabinet.

Substituted: 'Armed rebellion' for 'Internal disturbance' — 44th Amendment Act of 1978

- Introduced safeguard to eliminate any possibility of the PM alone taking a decision
- Immunity from the judicial review-provision was deleted

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National Emergency

Edzorb TRUE LEARNING

Parliamentry Approval and Duration

Must be approved by Both the Houses of Parliament

1 month (from date of its issue) — Special majority

If Lok Sabha dissolved — Proclamation — survives until 30 days

From the first sitting of the Lok Sabha after its reconstitution

Rajya Sabha has in the meantime approved it.

If approved by both the Houses — Emergency continues — 6 Months — Can extend indefinite period — Parliament approval (every 6 months)

Revocation of Proclamation

Revoked by President (at any time) — Does not require the parliamentary approval.

If Lok Sabha passes a resolution disapproving its continuation. — Simple Majority

NOTICE

1/10 of total number of members Lok Sabha

Special sitting of the House (within 14 days)

Minerva Mills case 1980

Supreme Court : National Emergency can be challenged in a court

Effects of National Emergency

Centre-State Relations

Executive	Legislative	Financial
State governments are brought under the complete control of the Centre	Parliament - can make laws on any subject (State List)	President - reduce or cancel the transfer of finances (Centre to states)

Lok Sabha and State assembly

- Extended term (5 years) 1 year at a time (any length of time)
- Cannot continue > 6 months (After revoking emergency)
- Parliament may extend the tenure (5 years) 1 year each time (for any length of time)

Effect on the Fundamental Rights

- **Article 358** suspension of -Article 19
- **Article 359** suspension of other Fundamental Rights (except Articles 20 and 21)

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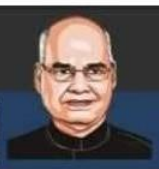
Article 356



President's Rule

Edzorb TRUE LEARNING

Two grounds

Proclaimation

Article 356

President — If satisfied that state **cannot** be carried on in accordance with the provisions of the **Constitution.**

Article 365

whenever a **state fails to comply** with or to give effect to any direction from the Centre.

Parliamentry Approval and Duration

Must be approved by **Both** the Houses of Parliament

2 months (from date of its issue)

Simple majority

If Lok Sabha dissolved — Proclamation — survives until **30 days**

From the first sitting of the Lok Sabha after its **reconstitution**

Rajya Sabha has in the meantime approved it.

If **approved** by both the Houses
Emergency continues — **6 Months** — Can extend **3 years max.**
Parliament approval (every 6 months)

Revocation of Proclamation

Revoked by **President** (at any time) — Does not require the **parliamentary approval.**

Not beyond judicial review.

44th Amendment Act of 1978

President's Rule can be extended by 6 months at a time only when:

Proclamation of **National Emergency** should be in operation (whole of India / whole or any part of state)

Election Commission must certify : general elections to the legislative assembly state cannot be held.

Consequences of President s Rule

- can **take up** the functions of the **State government**
- can declare that the **powers** of the state legislature are to be exercised by the **Parliament.**
- take necessary steps -**suspension** of the constitutional provisions (body /authority in the state)

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Article 360

Financial Emergency

Edzorb
TRUE LEARNING

President : proclaim a Financial Emergency if he is **satisfied** — **Financial stability /credit of India** or any part of its territory is threatened.

Parliamentry Approval and Duration

Must be approved by **Both** the Houses of Parliament
2 months (from date of its issue) **Simple majority**

If Lok Sabha dissolved — **Proclamation** — survives until **30 days**
From the first sitting of the Lok Sabha after its **reconstitution**
Rajya Sabha has in the meantime approved it.

If **approved** by both the Houses
Emergency continues — **Indefinitely** till it is revoked.
- No maximum period prescribed
- No parliamentary approval (continuation)

Revocation of Proclamation

Revoked by **President** (at any time) — Does not require the **parliamentary approval.**

Effects of Financial Emergency

Executive authority of the Centre extends

Direct state to observe such canons of **financial propriety** as are specified by it

Directions as the **President** may deem necessary and adequate for the purpose.

Not beyond judicial review.

Direction may include

Reduce salaries and allowances

Persons serving
- **State**
- **Union**
- **Judges** SC & HC

Reservation of all **money bills** or other financial bills For consideration of the President (passed by State legislature)

No Financial Emergency has been declared so far

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Q.123) The protection and improvement of environment including forests and wild life of the country is

a) Directive Principles of State Policy

b) Fundamental National Policy

c) Fundamental Duty of a Citizen

d) Both Directive Principles of State Policy and Fundamental Duty of a Citizen

Ans: D

Exp:

Source I: Edzorb Law Qbank - Constitution of India – Unit X – Q.23

Source II: Bare Act Revolution – Constitution of India – Directive Principles of State Policy

Source II: Bare Act Revolution – Constitution of India – Fundmental Duties

23.

MCQ, Single Correct Question

To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures is, for every citizen of India:

a) A fundamental right

b) A legal right

c) A fundamental duty

d) None of the above

(C)

Article48-A of Indian Constitution:

"The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."

Article 51-A(g) of Indian Constitution:

"It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."

Thus, protection and improvement of natural environment is the duty of the State (**Article 48-A**) and every citizen (**Article 51- A (g)**).

Other provisions dealing with the environment law:

Article 21 of the Indian Constitution:

> ***No person shall be deprived of his life or personal liberty except according to procedure established by law.***

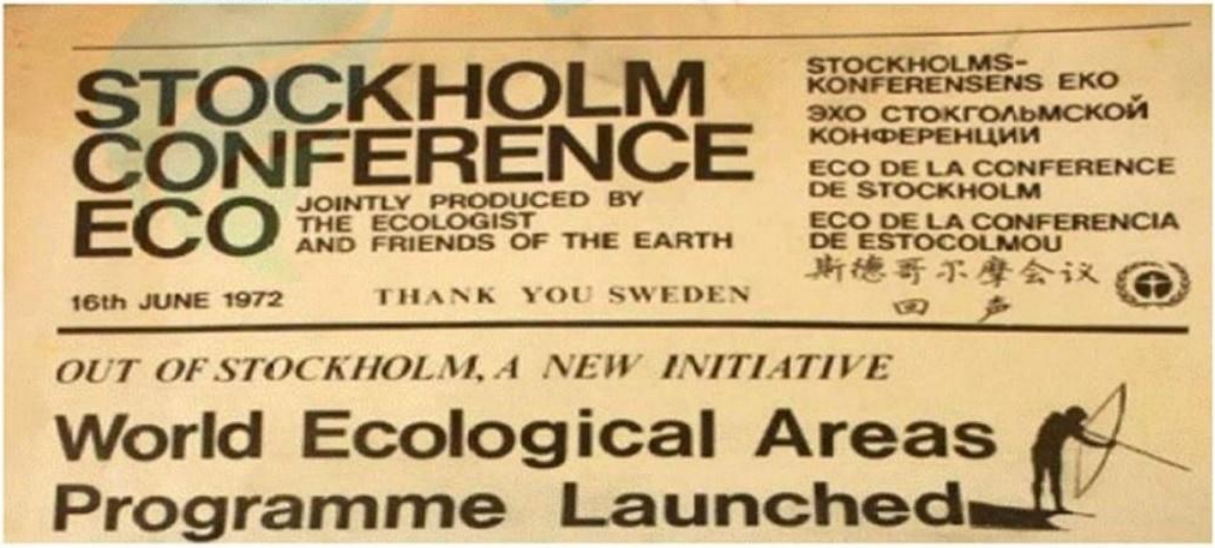
Subhash Kumar Vs State of Bihar and others
1991 AIR 420

The right to get **pollution free water and air** is a fundamental right included under **Right to life**.

Article 253 of the Indian Constitution:

> ***'Parliament has power to make any law for the whole or any part of the country for implementing any treaty, agreement or convention with any other country.'***

In the wake of Stockholm Conference of 1972, Parliament enacted **Air Act and Environment Act** confirms this view.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斯德哥尔摩会议
回声
16th JUNE 1972
THANK YOU SWEDEN
OUT OF STOCKHOLM, A NEW INITIATIVE
World Ecological Areas Programme Launched

Did you Know?

World Environment Day is celebrated on 5th of June every year.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1485

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DIRECTIVE PRINCIPLES OF STATE POLICY

Edzorb
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Non justiciable | Part IV | Articles 36 to 51 | Resemble the Instrument of Instructions

Socialistic Principles

- Aim at providing social & economic justice
- Set the path towards welfare state.

Article 38
State to secure the promotion of welfare of people

Article 39
Certain principles of policy to be followed by the state

Article 39 A
Equal justice and free legal aid

Article 41
Right to work, to education and Public assistance- Unemployment

Article 42
Just and Human condition for work and Maternity relief

Article 43
Secure living wage, decent standard of living & Cultural opportunities to all workers

Article 43 A
To take steps to secure participation of workers in Management

Article 47
To raise level of nutrition and standard of living of people

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Gandhian Principles

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Article 40

To organise village **panchayats**

Article 43

To promote **cottage industry**

Article 43B

Co-operative societies

Article 46

Promote SC-ST-EWS **education**

Article 47

Prohibit the consumption of intoxicating drinks and drugs

Article 48

To prohibit slaughter of cows, other milch and draught cattle

Improve breeds

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Liberal Principles

Article 44

Uniform civil code

Article 45

To promote early **childhood** care & education till 6 years

Article 48

Agriculture, Husbandary on scientific lines

Article 48A

To protect and improve **environment**

Article 49

To **protect monuments**, places objects of artistic or historic interest which are declared to be of national importance

Article 50

To **separate** the **judiciary** from the **executive** in the public services of the State

Article 51

- To promote international peace & security
- Settlement of international disputes by arbitration
- Respect for international law and treaty obligations

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FUNDAMENTAL DUTIES Part IVA

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Sardar Swaran Singh Committee recommendaations

42nd Constitutional Amendment Act 1976

Article 51 A It shall be the duty of every citizen of India:

a

Abide by the Constitution

Respect —

• Institutions
• National Flag
• National Anthem

b Cherish and follow the noble ideals that inspired the national struggle for freedom

c Uphold and protect the Sovereignty Unity and Integrity of India

d Defend the country and render national service when called upon to do so

e Promote harmony

- Spirit of common brotherhood amongst all
- Transcending religious linguistic and regional diversities
- Renounce practices derogatory to the dignity of women

f Value and preserve

Rich heritagge of the country's composite culture

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g **Protect & improve** the natural environment including **forests lakes rivers** and **wildlife** and to have compassion for living creatures

h **Develop SCIENTIFIC TEMPER**, humanism and the spirit of **inquiry** and **reform**

i **SAFEGUARD public property** and to abjure violence

j **Strive towards** excellence in all spheres of **individual & collective activity** so that the nation constantly rises to higher levels of endeavour and achievement

k **PROVIDE OPPORTUNITIES** for **education** **to his child or ward** between the age of **6-14 years.**
(86th Constitutional Amendment Act, 2002)

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Q.124) Secularism is part of the Basic Structure of the Indian Constitution as held in:

a) Excel Wear v. Union of India (SC, 1978)

b) F.N Balsara v State of Bombay (SC, 1951)

c) Narasu Appa Mali v State of Bombay (SC, 1951)

d) S.R. Bommaiv. Union of India (SC, 1994)

Ans: D

Exp:

Source: Edzorb Law Qbank – Constitution of India – Unit IV – Q.10

10.

MCQ, Single Correct Question

According to Clause (1) of the Article 25 of the Indian Constitution, the freedom of religion is subject to the interest of

a Public order

b Morality

c Health

d All of the above

(D)

Article 25 (1) of the Constitution of India: **Right to religion**

*Every individual is "equally entitled to freedom of conscience" and has the right "to profess, practice and propagate religion" of one's choice. Practicing religion or the act of propagating it should not, however, affect the "**public order**, **morality** and **health**."*

- **Freedom of Conscience:** It means a person has freedom to believe in the religious tenets of any sect or community.
- **Profess:** To declare freely and openly one's faith and belief.
- **Practise:** To perform the prescribed religious duties, rites and rituals and to exhibit his religious beliefs.
- **Propagate:** It means the right to communicate the person's beliefs to another person. The propogate does not include forceful conversion of someone to one's own religion.

Points to Remember

- India is a secular state i.e. it has no religion of its own and gives freedom of religion to the people of the nation.
- The word 'secular' and 'socialist' was added in the Preamble by 42nd amendment act.
- Secularism is the basic structure of the constitution. (**S. R. Bommai v. Union of India; AIR 1994 SC 1918**)

Did you Know?

42nd Amendment Act was enacted by the INC head Indira Gandhi during the emergency **1975-1977**. Due to its larger number of changes and amendments in the same act this amendment is also known as **'Mini Constitution'**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1317

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Q.125) The Constitution does not provide for the post of

a) Deputy Chairman of Rajya Sabha

b) Deputy Speaker of Lok Sabha

c) Deputy Prime Minister

d) Deputy Speaker of State Legislative Assembly

Ans: C

Exp:

Source: Edzorb Law Qbank – Constitution of India – Unit XI – Q.34

34.

MCQ, Single Correct Question

Deputy Prime Minister office is a

a Constitutional Body

b Non-constitutional Body

c Quasi- Judicial Body

d Judicial Body

Deputy Prime Minister of India

Position	He is the deputy head of the Government of the Republic of India.
Rank	The second highest ranking member of the Union Council of Ministers.
From	Non-constitutional body.
Duties	A deputy prime minister traditionally serves as acting prime minister when the prime minister is temporarily absent or incapable of exercising power.

Did you Know?

Till now, only three people have serve has deputy Prime Minister, namely, **Vallabhai Patel, Morarji Desai and L.K. Advani.**

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.24

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