

DJS Prelims Examination 2022

SET - 1



Detailed Analysis with Explanations

Part 1 / 14

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DJS Prelims Analysis

2022

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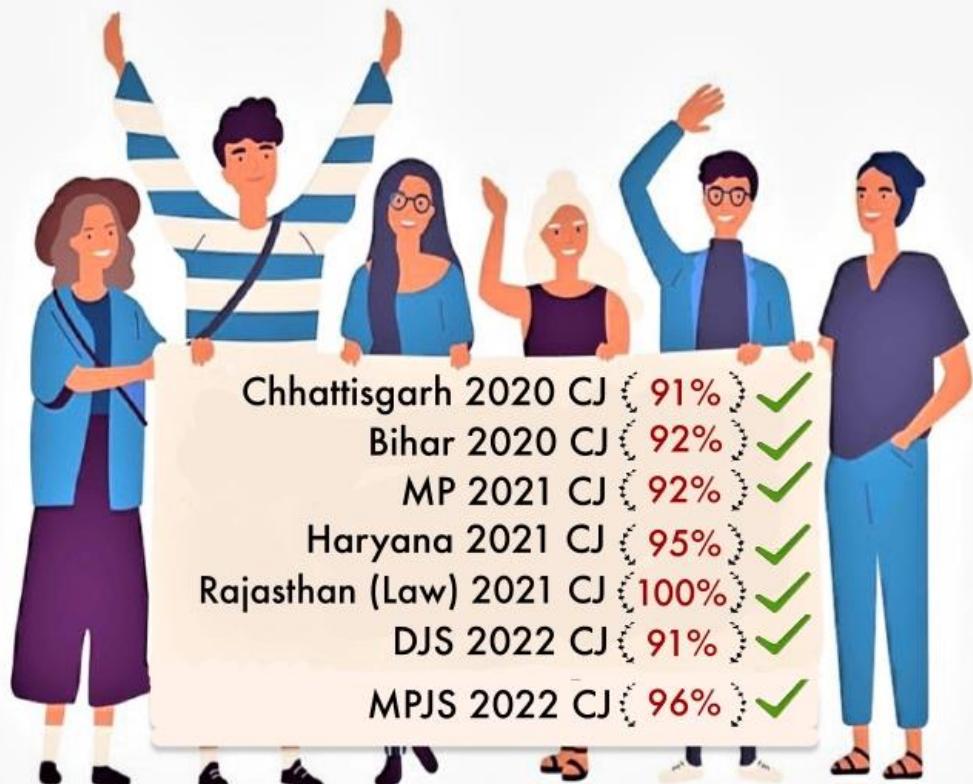


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Section - 1 CrPC



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Q.1) Which of the following statement is correct?

- 1) The provisions contained in the Code regulate the investigation, inquiry or trial only in relation to Indian Penal Code,*
- 2) The provisions contained in the Code regulate the investigation, inquiry or trial in relation to only special offences.*
- 3) The provisions contained in the Code regulate the investigation, inquiry or trial in relation to Offences under laws other than Indian Penal Code subject to the provisions of such other enactment.*
- 4) All of the above*

Ans: 3

**Source: Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part I – Section 4**



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Section 4: Trial of offences under the IPC & other laws:



Pankajbhai Nagjibhai Patel Vs State of Gujarat

(2001) 2 SCC 595

Section 4(2): When the special statute does not prescribe procedure Cr.P.C. is applicable.

Reference: Code of Criminal Procedure, S.4

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Q.2) "A Metropolitan Magistrate is subordinate to the Chief Metropolitan Magistrate of the Metropolitan Area but an Additional Chief Metropolitan Magistrate appointed in same area may not be subject to such subordination, though both are subject to general control of the Sessions Judge of the same session division."

- 1) The above statement is correct.*
- 2) The above statement is correct but subject to order that may be passed by the High Court defining the extent of subordination, if any, of the Additional Chief Metropolitan Magistrate.*
- 3) Both(1) and (2) are incorrect.*
- 4) Both (1) and (2) are correct.*

Ans: 3

Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part I – Section 6, Section 12,
Section 16 & Section 17



CHAPTER II: CONSTITUTION OF CRIMINAL COURTS AND OFFICES

Section 6: Classes of Criminal Court:

Supreme Court



High Court



- Besides the **High Courts** and the Courts **constituted under any law**, other than this Code, there shall be, in every State, the following classes of **Criminal Courts**.



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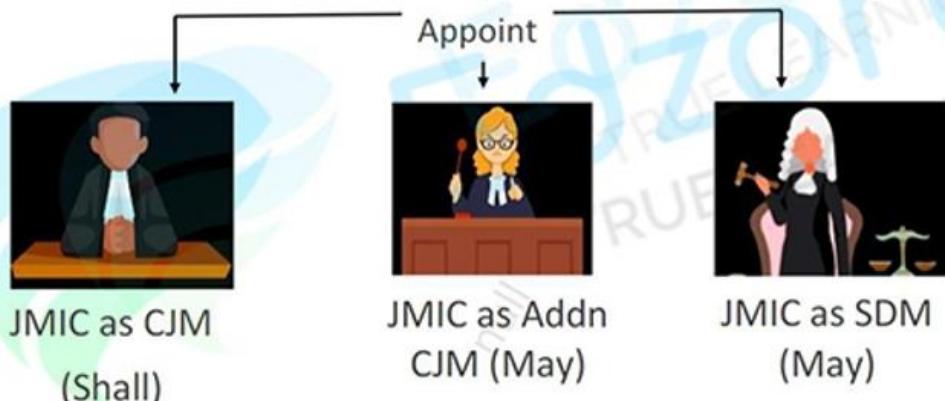
Section 12: Chief Judicial Magistrate (CJM) and Additional Chief Judicial Magistrate (Addn. CJM) etc.:

(1) CJM:



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

High Court



(2) Additional CJM (Clause 2):

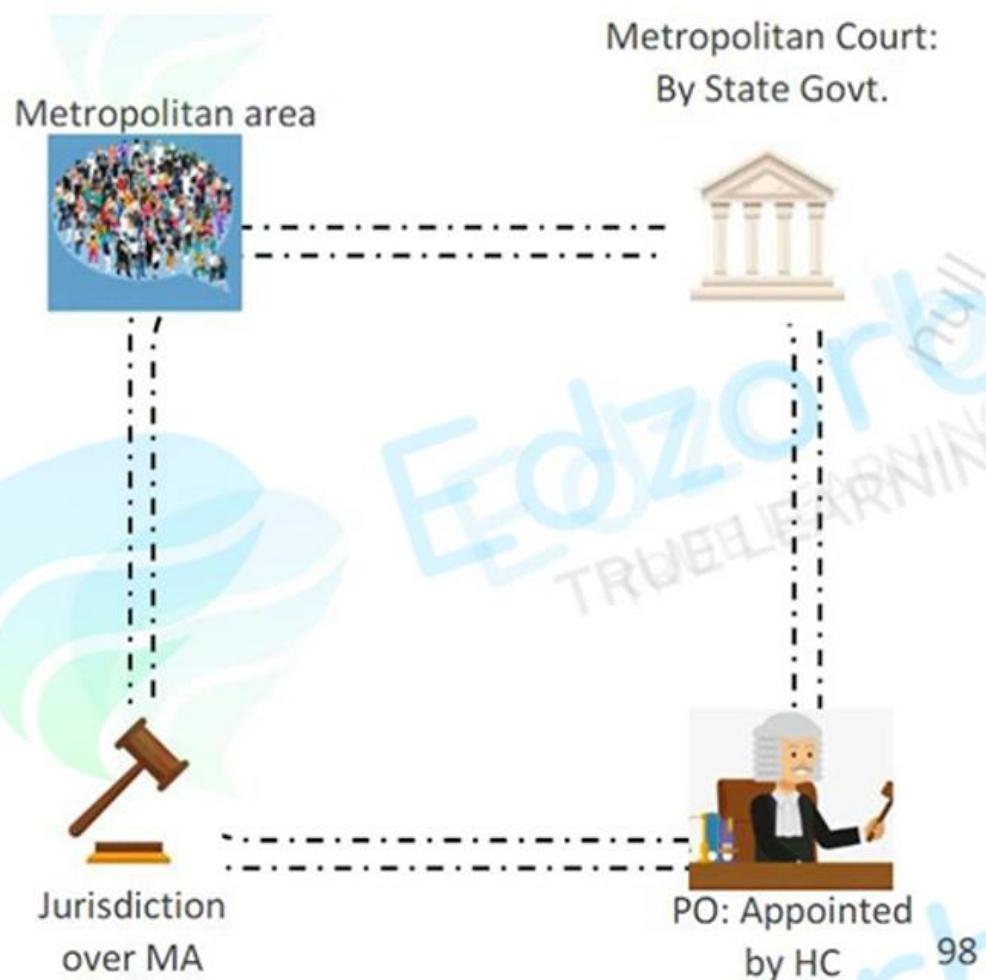
- **Appointment:** High Court
- **Who?** JMIC is appointed as Addn. CJM.
- **Powers:** All or any of a CJM under this code/law for time being in force.



Section 16: Courts of Metropolitan Magistrates:

- **Established (clause 1):** In every metropolitan area
➤ As many and at such places as State Government may, after consultation with the High Court, by notification, specify.
- **Presiding Judge (clause 2):** Appointed by High Court.
- **Jurisdiction & Power (clause 3):** Extend throughout MA.





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Section 17: Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate:

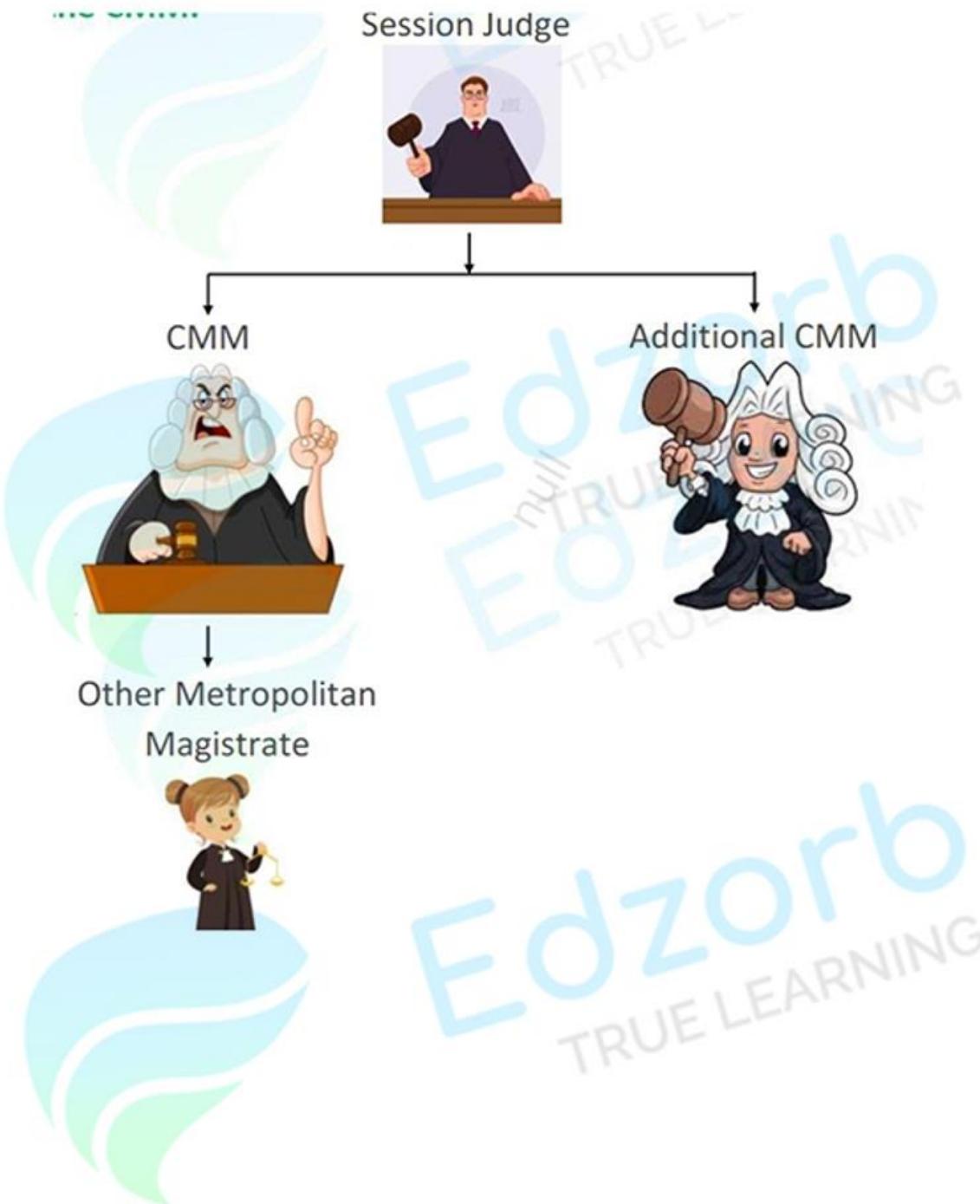
Chief Metropolitan Magistrate (CMM): High Court shall appoint a Metropolitan Magistrate to be the CMM for such metropolitan area.





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(2) The High Court may, for the purposes of this Code, define the extent of the **subordination of the Addnl. CMM to CMM**.



May define extent
of Subordination



(3) The **CMM may**, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the **allocation of business to an Addnl. CMM**.



I have made the rules for all, work accordingly.

A cartoon illustration of a judge with a large white wig and a black robe. The judge is sitting at a desk, pointing their right index finger upwards while speaking.

Reference: Code of Criminal Procedure, S.19

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Q.3) When after hearing the evidence for prosecution and the accused in a trial on charge for five offences each punishable wit imprisonment that may extend to three years, the Additional Chief Metropolitan Magistrate is of the opinion that the accused is guilty, he may -

- 1. pass a judgment of conviction and sentence him to terms of imprisonment on each count directing it to run consecutively but such that the aggregate punishment does not exceed fourteen years of imprisonment.*
- 2. pronounce the judgment of conviction and then submit the case to Court of Session if he is of the opinion that the case merits punishment more severe than he is empowered to inflict.*
- 3. Both (1) and (2) are correct*
- 4. Both (1) and (2) are incorrect*

Ans: 1

Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part I – Section 31



Section 31: Sentence in cases of conviction of several offences at one trial:

I. Person convicted of two or more offences:

- Subject to the provisions of **section 71** of the IPC,
- The Court may sentence him for such offences, to the **several punishments prescribed** therefor which such Court is competent to inflict:



General Rule: The punishment will run consecutively i.e. one after the other.

However, the court may direct that the punishment will run concurrently i.e. side by side.



II. In case of Consecutive Sentences:

- It shall not be necessary for the Court to send the offender for trial before a higher Court only for the reason
- That aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence.

JMIC

Accused is liable under:

S. 379 of IPC:
imprisonment for 3 yrs.
and S. 448 of IPC:
imprisonment for 1 yr.



- JMIC is competent to give only 3 years of imprisonment as per **Section 29 CrPC**.
- Here, the magistrate has given 4 years of imprisonment in accordance with **Section 31 CrPC**.



Sambhaji Krishan Ji Vs State of Maharashtra

(1974) 1 SCC 196

Held: The Courts directing that the sentences of imprisonment for fixed terms shall commence only after the expiration of the sentence of imprisonment for life, then it will be patently illegal.

This is because, **the sentence of imprisonment for life is for the whole remainder of the biological life of the convict.**

Provided that

In no case shall such person be sentenced to imprisonment for a longer period than 14 years

The aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence



(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section **shall be deemed to be a single sentence.**

Accused is liable under:

S. 379 of IPC:
imprisonment for 3 yrs.
and S. 448 of IPC:
imprisonment for 1 yr



For appeal, imprisonment for 4 years be considered and not 3 years and 1 year individually.

Gagen Kumar Vs State of Punjab

(2019) 5 SCC 154

Held: It is a mandatory legal requirement to specify whether sentences awarded to an accused convicted for two or more offences, would run concurrently or consecutively.

Reference: Code of Criminal Procedure, 5.31

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Q.4) It is lawful to use reasonable force necessary to compel a person arrested on charge of committing an offence to facilitate a lab technician of a private clinic of a registered medical practitioner to gather sample of his sweat when there are reasonable grounds for believing that the examination of the same will afford evidence as to commission of an offence

- 1) provided that it is so done at the request of a police officer not below the rank of a sub-inspector and in good faith in the aid and under direction of the registered medical*
- 2) Provided that it can be so done as in (1) above in case the offence alleged to have been committed is rape or attempt to rape only in the absence of a medical practitioner employed in a hospital run by the Govt. or local authority within the radius of sixteen kilometers from the place where the offence is stated to have been committed*
- 3) Both (1) and (2) are correct*
- 4) Both (1) and (2) are incorrect*

Ans: 3

**Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part 1 – S.53 & 53A**



Section 53: Examination of accused by medical practitioner at the request of police officer:

I. Charge of committing an offence of arrested person:

- When a person is arrested on a charge of committing an offence.
- Offence is of such a nature and alleged to have been committed.
- Committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence.



II. Request by Police Officer:

The registered medical practitioner at the request of:

- Police officers not below the rank of sub-inspector, and
- For any person acting in good faith in his aid and under his direction.





III. Examination of the arrested person:

- It shall be lawful for a registered medical practitioner to make examination of arrested person,
- As is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

Female is to be examined:



When female is
to be examined

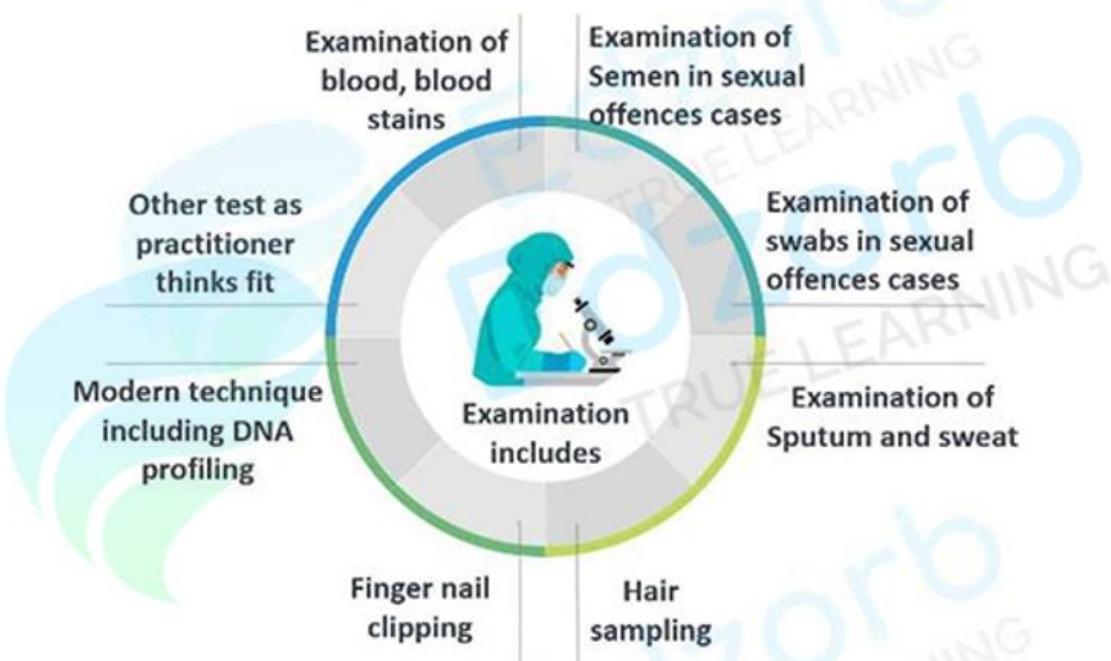


The examination shall
be made only by or
under supervision of,
female registered
medical practitioner.



Explanation: In this section and in **sections 53A** and **54**:

- Examination shall include:



- Registered medical practitioner means:

- Medical practitioner who possesses any medical qualification as defined in **section 2(h)** of the Indian Medical Council Act, 1956 and



- Whose name has been entered in a State Medical Register.

Ritesh Vs State of U.P. and Anr

(2019) SC

Held:

Magistrate has power to direct the accused to give voice samples during investigation without his consent.

Reference: Code of Criminal Procedure, S.53

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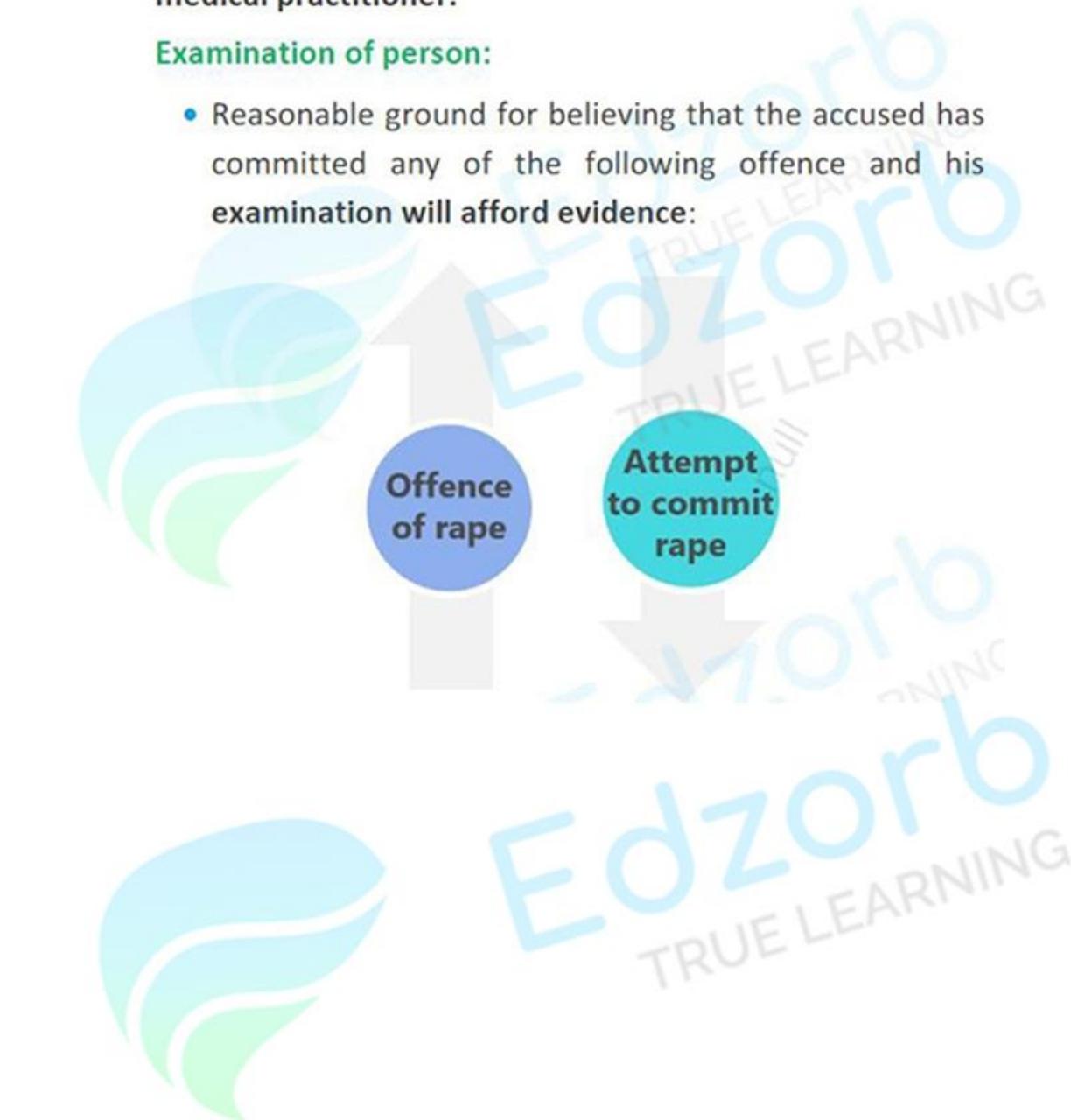
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Section 53A: Examination of person accused of rape by medical practitioner:

Examination of person:

- Reasonable ground for believing that the accused has committed any of the following offence and his examination will afford evidence:



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- Examination to be conducted by:



Registered medical practitioner employed in a hospital: by Govt. or local authority

Any other medical practitioner:

In case of absence of above practitioner within radius of 16 Kms from the place where the offence has been committed

- The medical practitioner must be acting at the request of a:

Police officer not below the rank of a sub-inspector and

For any person acting in good faith in his aid and under his direction



- It shall be lawful for medical practitioner to:
 - Make such an examination of the arrested person and
 - Use such force as is reasonably necessary for that purpose.

Report by medical practitioner:

- Registered medical practitioner conducting examination shall prepare a report.
- Particulars of the report:



- The report shall state precisely the **reasons for each conclusion** arrived at. (**Clause 3**)



- Exact time of **commencement and completion shall be noted** in report. (**Clause 4**)

- Report to be **forwarded to Investigating officer**, who shall forward the same to Magistrate as part of document referred to in **S.173(5)(a)**. (**Clause 5**)

Reference: Code of Criminal Procedure, 5.53A

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Q.5) A Person arrested on charge of committing an offence may be directed by jurisdictional court, on the request of the Officer in charge of the concerned police station to undergo Test identification by any person who may have witness the acts constituting the offence and may be privy to the identity of the perpetrator-

- 1. In such manner as court deems fit.*
- 2. Under supervision of the judicial magistrate if the person identifying the person arrested is mentally or physically disabled.*
- 3. The identification proceedings shall be mandatorily video graphed if the person identifying the person arrested is mentally or physically disabled.*
- 4. All the above statements are correct.*

Ans: 4

**Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – S.54A**



Section 54A: Identification of person arrested:

- Where a person is arrested on a charge of committing an offence and
- His identification by any other person is necessary for investigation,



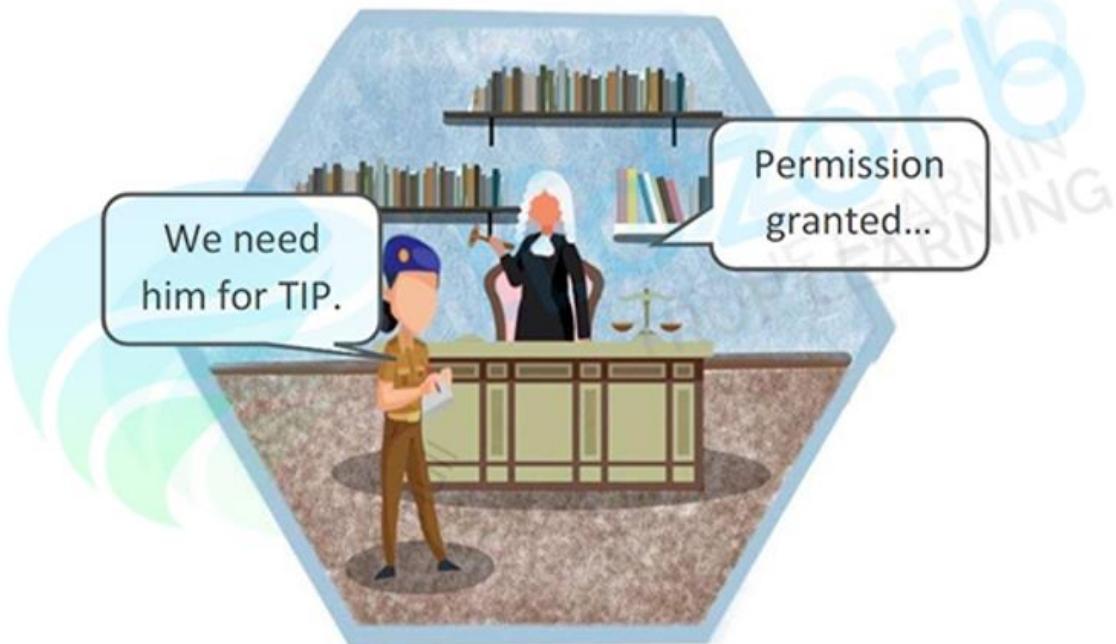
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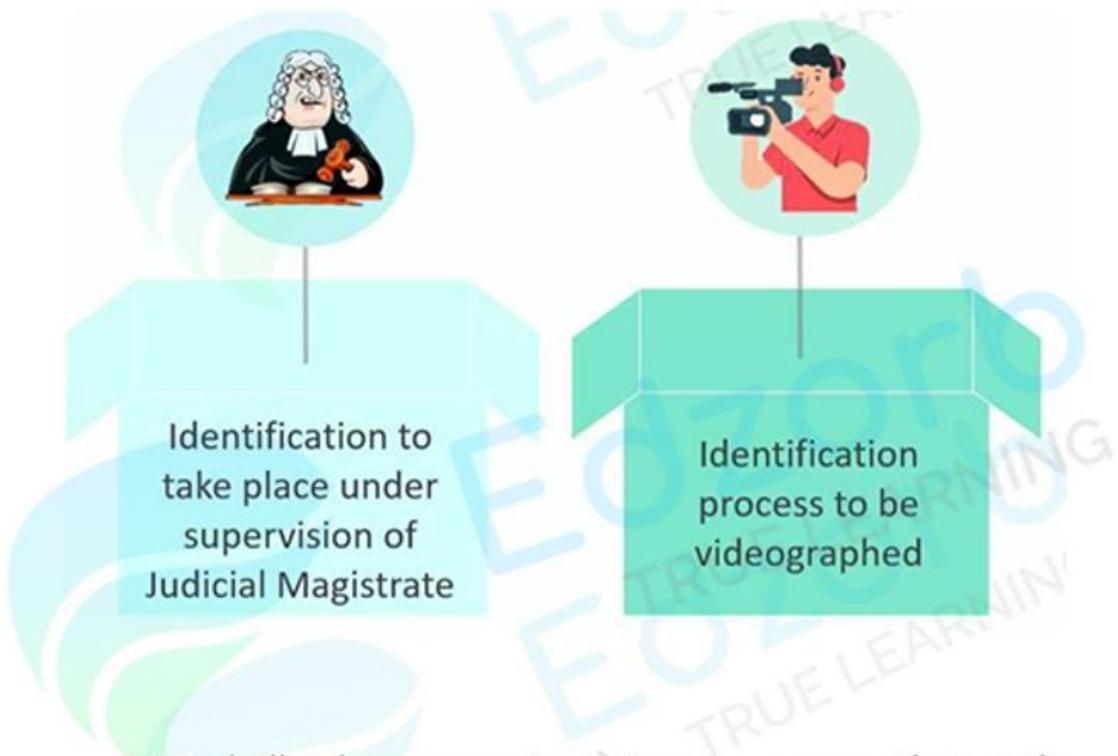
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- The Court, having jurisdiction may, **on the request of the officer in charge of a police station**, direct the person to subject **himself to identification** by any person as Court may deem fit.



Provided that: Person identifying the person arrested is mentally or physically disabled:

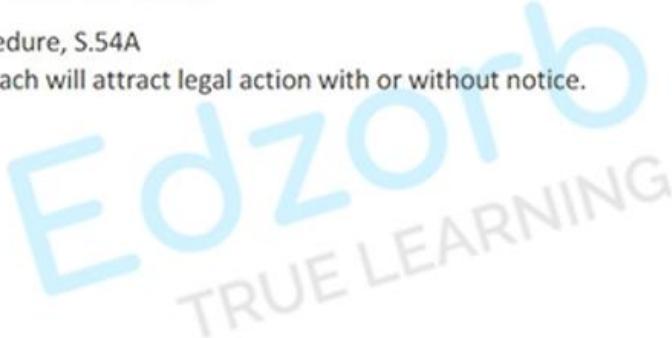




- JM shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with.

Reference: Code of Criminal Procedure, S.54A

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Q.6) In order to arrest a person from within an apartment which the person to be arrested is reasonably believed to have entered, the police officer having the authority to so arrest, may -

- 1) demand a person residing in the apartment to afford free ingress thereto and all reasonable facilities for search by such police officer.*
- 2) Without recourse to (1), break open any outer or inner door of such apartment to effect entrance therein at any stage in any circumstances to prevent escape.*
- 3) Both (1) and (2) are correct*
- 4) Both (1) and (2) are incorrect*

Ans: 1

**Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part 1 – S.47**



Section 47: Search of place entered by person sought to be arrested:

(1) Free ingress and facilities for search:

- If any person acting under arrest warrant, or any police officer having authority to arrest, has reason to believe
- That the person to be arrested has entered into, or is within, any place.
- Any person residing in such place shall, on demand of such person, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

I want to search your house; the dacoit is hiding therein.

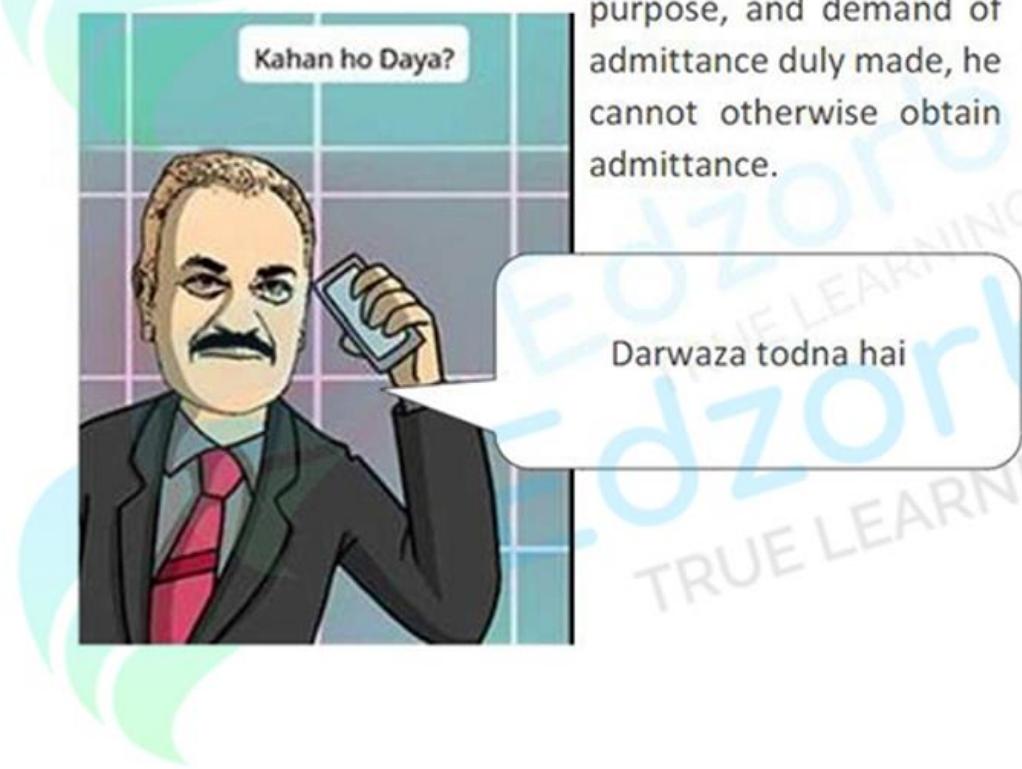
Sure Sir, always there to help PO.



(2) Ingress not obtained u/Ss. (1):

- If ingress to such place cannot be obtained,
- It shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue,
- For a police officer to enter such place and search therein, and
- In order to effect an entrance into such place, **to break open any outer or inner door or window of any house or place,**
- Whether that of the **person to be arrested or of any other person**, if after notification of his authority and

purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.





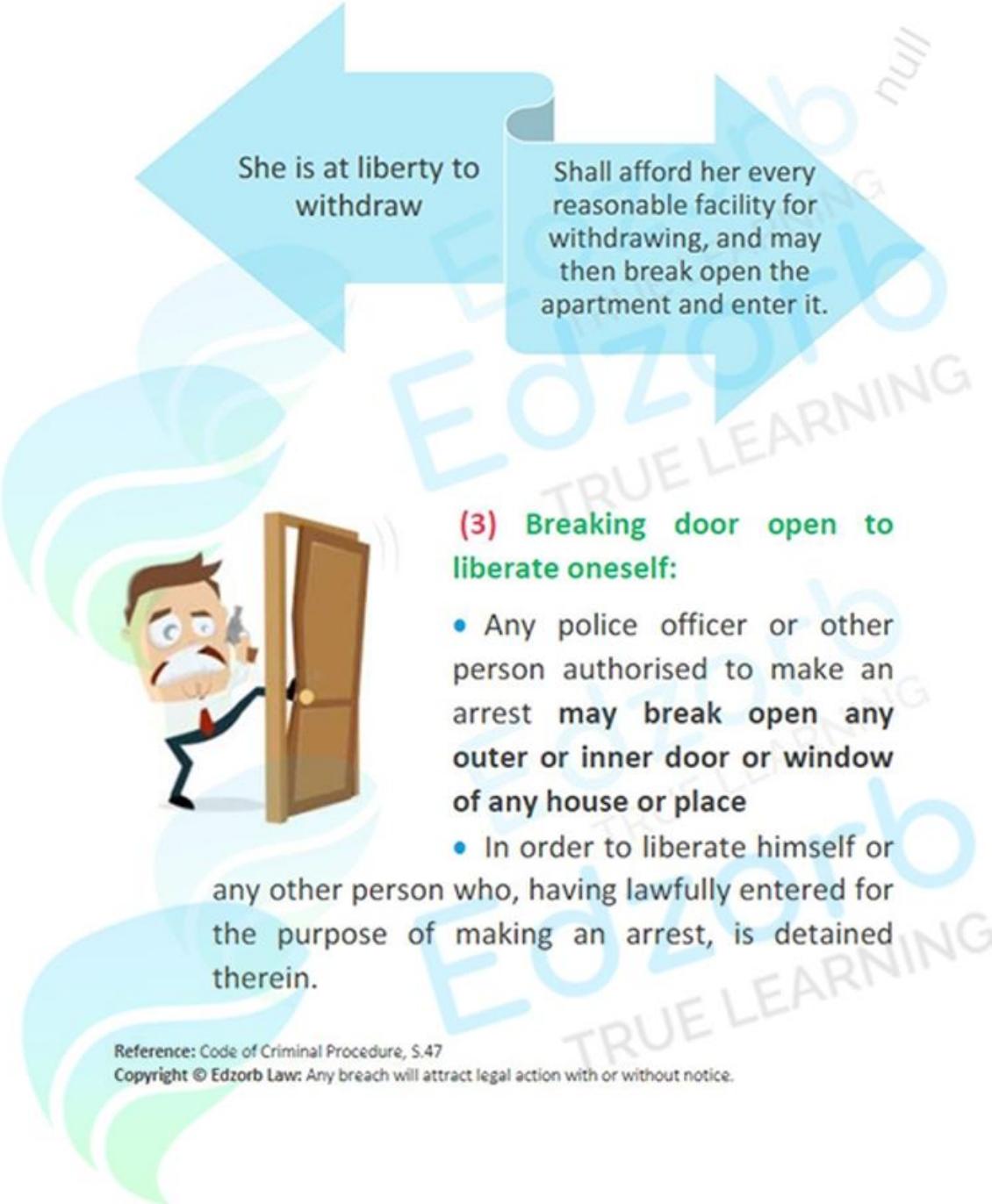
I am here sir...



Provided that:

- If any such place is an apartment in the **actual occupancy of a female** (not being the persons to be arrested) who, according to custom, **does not appear in public**,
- Such person or police officer shall, before entering such apartment, give notice to such female that:





She is at liberty to withdraw

Shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(3) Breaking door open to liberate oneself:

- Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place
- In order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Reference: Code of Criminal Procedure, S.47

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Q.7) A person accused of the offence of driving a motor vehicle on a public way so rashly or negligently as to endanger human life jumps bail and is reasonably believed to be concealing himself so that the warrant of his arrest issued by the court cannot be executed may, after thirty days of issuance and publication in accordance with law of d' proclamation requiring him to appear at the specified place and time, be -

- 1) Pronounced a proclaimed offender/person if he does not appear at the specified place and time.*
- 2) So pronounced as in (1) above if as a result of such rash or negligent\driving death of a human being not amounting to culpable homicide has been caused.*
- 3) So pronounced as in (1) above if as a result of such rash or negligent driving a human being has suffered grievous hurt.*
- 4) All the above statements are incorrect.*

Ans: 4

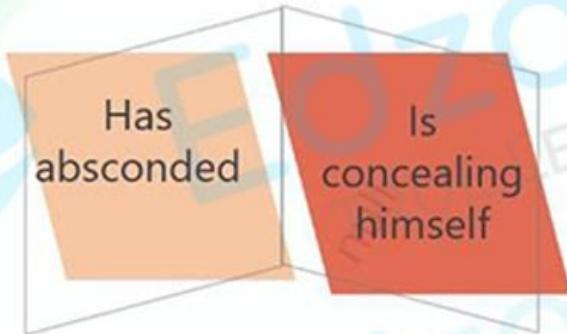
**Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – S.82(4)**



Section 82: Proclamation for person absconding:

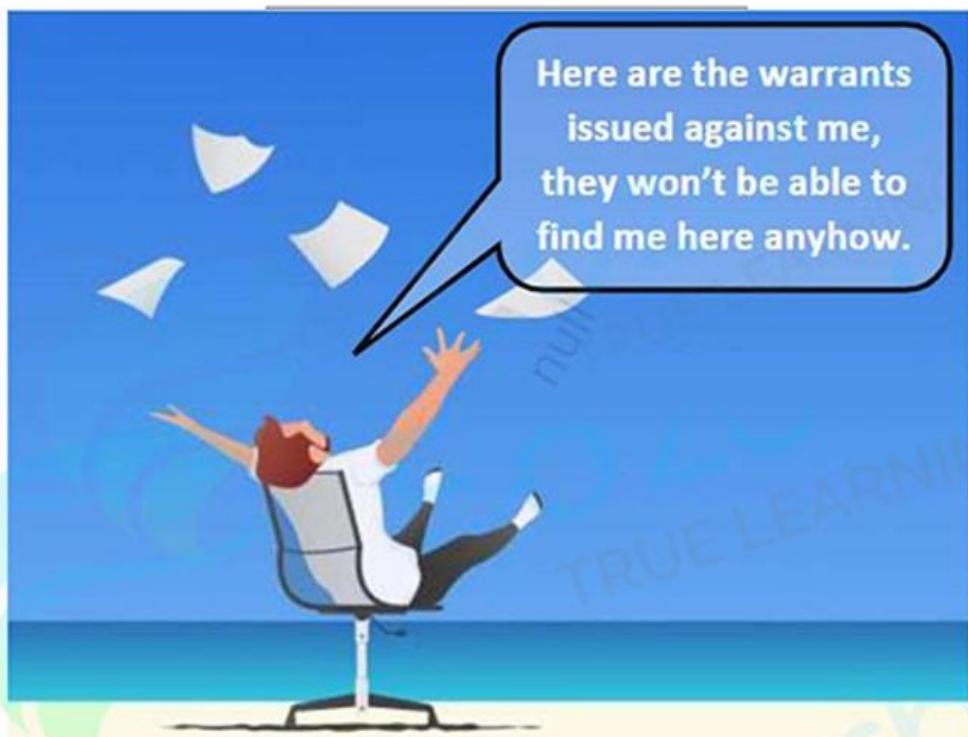
(1) Issuance of Proclamation:

If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it:



So that such warrant cannot be executed.





In such case, the **Court may publish a written proclamation** requiring him to appear at a specified place and at a specified time.





Specified time:

Not to be less than **thirty days** from the date of publishing such proclamation.

30
DAY

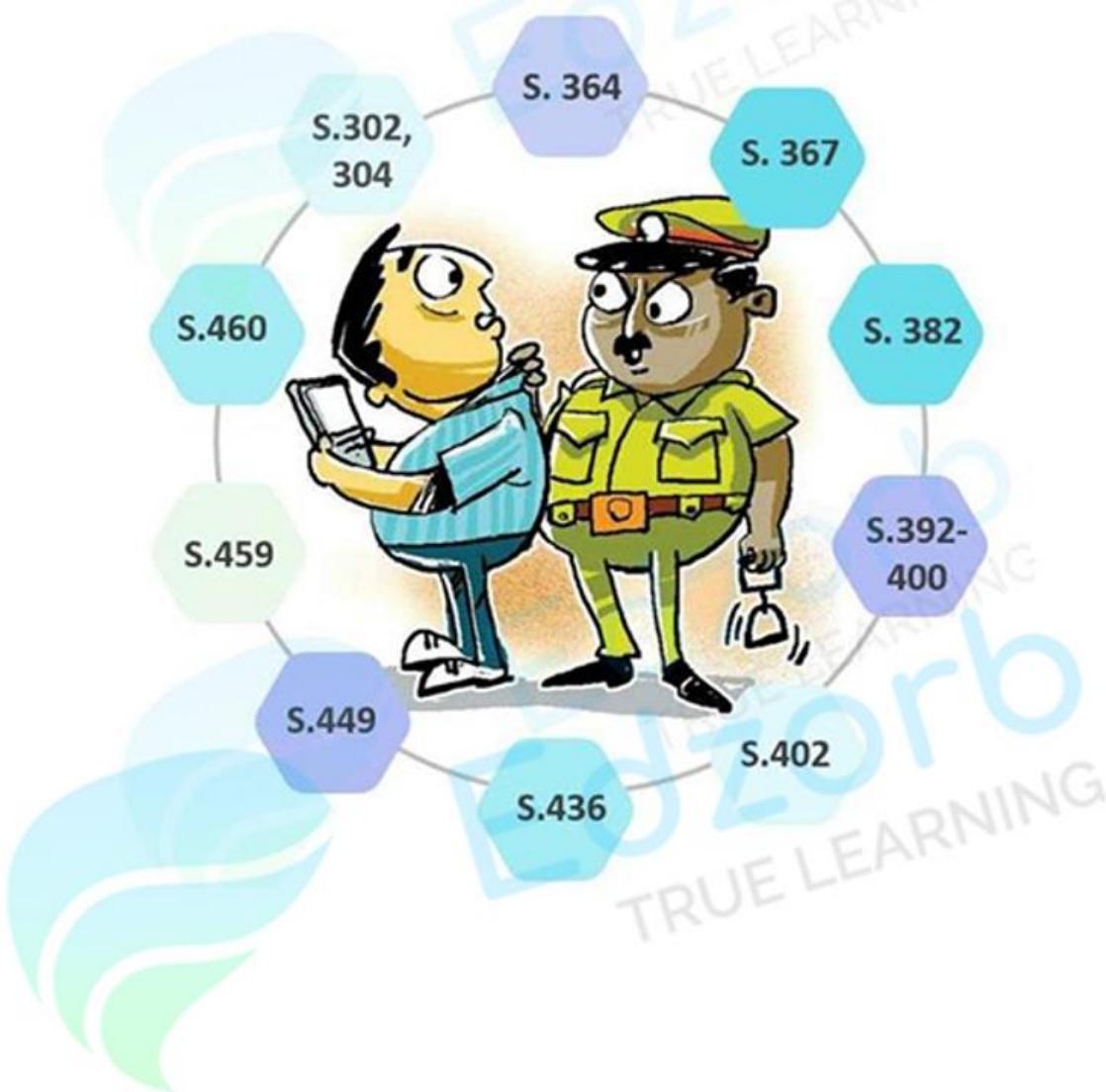


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(4) Proclaimed offender:

Where a proclamation published u/Ss. (1) is in respect of a person accused of an offence punishable under following sections of IPC:



Court may, after making such inquiry as it thinks fit, **pronounce him a proclaimed offender** and make a declaration to that effect.



Did you Know?

Sec. 82(4) & (5) have been inserted by
CrPC (Amendment) Act, 2005.



Reference: Code of Criminal Procedure, S.82

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Q.8) A criminal court issuing a proclamation requiring a person to appear at a specified time and place on basis of reasons to believe that he is absconding or concealing himself so that a warrant of arrest issued against him cannot be executed may simultaneously order the attachment of any property belonging to such person if it is satisfied that the person is about to (i) dispose of the whole or part of his property;

(ii) remove the whole or part of his property from the local jurisdiction of the court.

1) Both conditions (i) and (ii) mentioned above must CO-exist.

2) Either condition (i) or (ii) mentioned above must exist.

3) Neither condition (i) nor (ii) mentioned above need exist.

4) None of the above

Ans: 2

**Source : Edzorb Law premium+2.0 – Simplified Notes –
Criminal Procedure Code – Part 1 - S.83 (a)**



Section 83: Attachment of property of person absconding:

(1) Order of Attachment of Property:

- Issued by: Court issuing a proclamation u/S.82 may, for reasons to be recorded in writing.
- Property can be: Movable or Immovable.
- Property of: The proclaimed person.
- Made: At any time after issue of the proclamation.



Your father's
property seized
under court's order



Provided that:

Order of attachment can be made simultaneously with Proclamation: Where court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued:

Order of attachment simultaneously with proclamation

Is about to dispose of the whole or any part of his property

Is about to remove the whole or any part of his property from the local jurisdiction of the Court



(a) Is **about to dispose of** the whole or any part of his property, or

I must sell before attachment.



(b) Is **about to remove the whole** or any part of his property from the local jurisdiction of the Court.

I must remove my property before it gets attached



Md. Rustam Alam and others Vs State of Jharkhand

Cr. M.P. 2722 of 2019, Jharkhand HC

Held:

- It is mandate of the law that the reasons for issuing attachment order have to be recorded in the order itself.
- Non recording of the reasons will make the order invalid and unsustainable.



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Q.9) "L" the landlord in respect of a one-room house let out by him in favour of "T" was prosecuted on the charge of house trespass after physical assault and causing simple hurt to "T" and has been convicted for the criminal offences, it being also proved to the satisfaction of the Metropolitan Magistrate that by use of such force "T" was dispossessed of the tenanted property. Is it permissible for the trial court to order restoration of possession to "T"?

- 1) Yes, but not more than one month after the date of conviction.*
- 2) Yes, but without prejudice to right or interest of the person in possession as may be established in a civil suit.*
- 3) Both (1) and (2) are correct*
- 4) Both (1) and (2) are incorrect*

Ans: 3



Q.10) A vagabond and homeless boy aged 12 years is found running in the street pushing away a cart full of bananas and upon being questioned by the police officer in-charge of the sub-division is unable to satisfactorily account for the same. There has been no report of theft but the police officer has reasons to suspect that the same is stolen property.

- 1) The police officer may seize the above-said property.*
- 2) The police officer having seized the above-said property may with approval of the Superintendent of Police sell by auction the bananas, if their value is less than five hundred rupees, and report to the magistrate who may place the sale proceeds at the disposal of the State if rightful claimant is not found within six months.*
- 3) Both (1) and (2) are correct*
- 4) Both (1) and (2) are incorrect*

Ans : 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes -
CRPC – Section 102**



Section 102: Power of PO to seize certain property:

(1) Any PO **may seize any property** which may be:

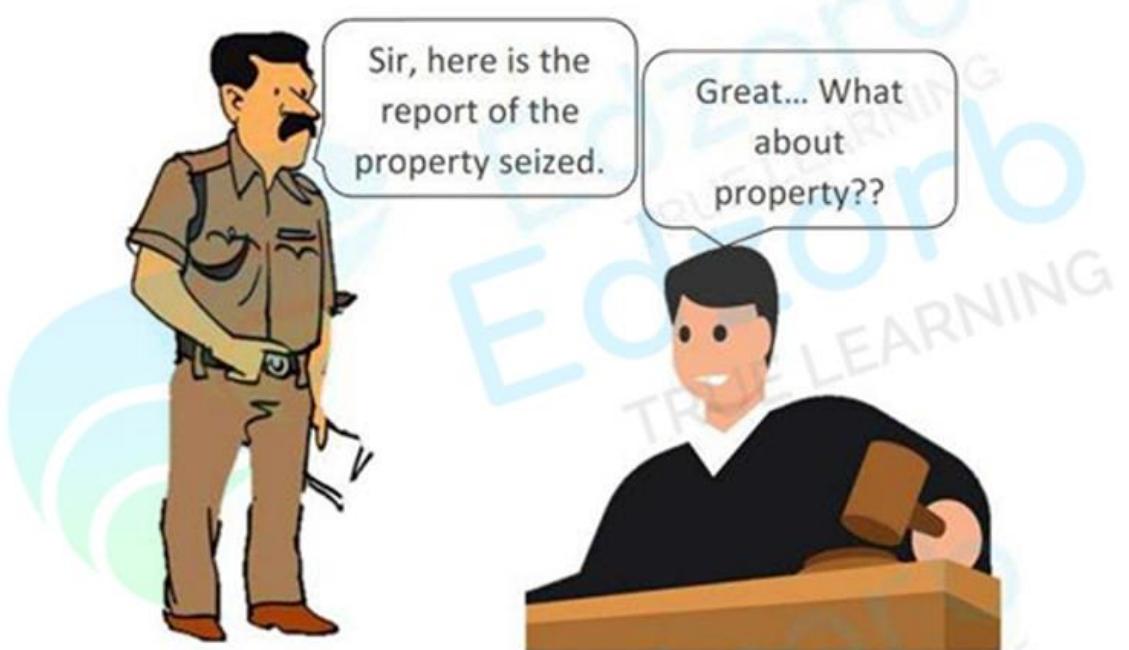
Alleged or
suspected to have
been stolen

Found under
circumstances which
create suspicion of the
commission of any
offence

(2) Such PO, if subordinate to the officer in charge of a PS,
shall forthwith report the seizure to that officer.



(3) Every PO acting u/Ss. (1) shall **forthwith report the seizure to the Magistrate** having jurisdiction.



The PO may **give custody of property to any person** on his executing a bond undertaking to produce it before the Court when required & to give effect to the further orders of the Court as to the disposal of the same:





where the property seized cannot be conveniently transported to the Court

where there is difficulty in securing proper accommodation for the custody of such property

where continued retention is not required for investigation



Provided that: **Where the property seized u/Ss. (1):**



- It may forthwith be sold by auction under the orders of the Supt. of Police and
- The provisions of **S.457 & 458** shall apply to the net proceeds of such sale.



Nevada Properties Vs State of Maharashtra (2019)

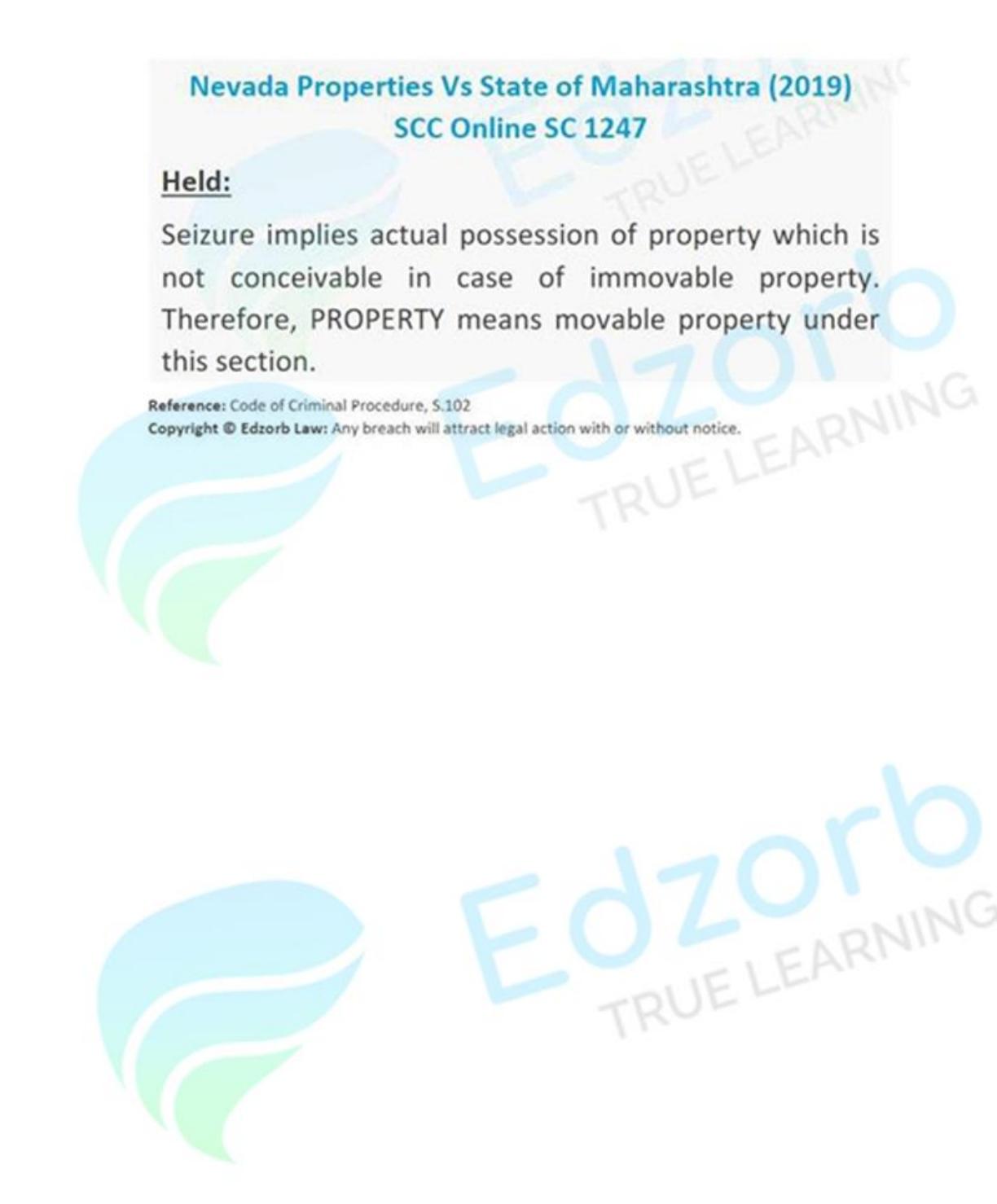
SCC Online SC 1247

Held:

Seizure implies actual possession of property which is not conceivable in case of immovable property. Therefore, PROPERTY means movable property under this section.

Reference: Code of Criminal Procedure, S.102

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Q.11) An order to pay monthly allowance for maintenance under Section 125 of the Code in favour a married woman and against her husband may be cancelled if -

- 1) She has obtained divorce and thereafter remarried**
- 2) She has been divorced by the husband and has received whole of such sum which under the customary or personal law was payable by the husband on such divorce.**
- 3) She has obtained divorce from the husband surrendering her rights to maintenance after divorce**
- 4) All of the above**

Ans: 4

Source: Edzorb Law Qbank – CRPC– Unit II – Q. 16

16.

MCQ Single Correct Question

An order for maintenance or interim allowance can be cancelled under the circumstances stated under:

- a) Section 125 (5) of Cr. P.C
- b) Section 127 2) of Cr. P.C.
- c) Section 127 3) of Cr. P.C
- d) None of these



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Explanation

Q.16) (A)

Section 125(5) CrPC : Cancellation of an order for maintenance or an interim allowance.

Magistrate shall cancel the order if it is proven that wife was awarded maintenance is :

- living in adultery, or
- refuses to live with her husband without any sufficient cause, or
- that they are living separately by mutual consent.

Section 127 - ALLOWANCE OF MAINTENANCE

Section 127 (2) Magistrate can cancel or vary the order of maintenance by a Civil Court.

Section 127 (3) Magistrate can cancel the order:
• if wife has remarried, or
• has received the sum under personal laws, or
• has surrendered her rights to claim maintenance after divorce.

Read more:

<https://www.pathlegal.in/Landmark-Judgment-on-Cancellation-of-Maintenance--blog-2204893>

Reference: The R.V. Kelkar's Criminal Procedure, 5th Ed., 2013, Page No. 804 - 807.
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Q.12) An inquiry into the cause of death must be held, in a case where the death has occurred before the person after arrest could be produced before a Magistrate, by-

- 1) District Magistrate only**
- 2) Judicial Magistrate in addition to inquiry by the police**
- 3) Nearest Executive Magistrate**
- 4) None of the above**

Ans : 2

Source

Edzorb Law Qbank – CRPC– Unit VIII – Q. 17

17.

MCQ Single Correct Question

Under which section of the Cr. PC, a Magistrate has the power to enquire into the cause of death?

- a) Section 176
- b) Section 179
- c) Section 276
- d) Section 76



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Explanation

(A)

Section 176 CrPC - Inquiry by Magistrate into cause of death.

Section 176(1A) CrPC - Where –

- a) any person dies or disappears, or
- b) rape is alleged to have been committed on any woman, while being in custody of the police

An inquiry, in addition to the inquiry or investigation held by the police, shall be held by the **Judicial Magistrate** or the **Metropolitan Magistrate**, as the case may be, within whose local jurisdiction the offence has been committed.

Section 76

Person arrested to be brought before Court without delay.

Section 179

Offence triable where act is done or consequence ensues.

Section 276

Record in trial before Court of Session.

Read more:

<https://lawstreet.co/judiciary/sc-section176-supremecourt/>

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 197.

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Q.13) "A" and four of his accomplices who absconded are alleged to have kidnapped "G" from New Delhi taking and confining her in several places at Gurugram in Haryana from where ransom calls are made and then taken to Uttar Pradesh. After a week, her dead body bearing multiple ante-mortem stab wounds is found at a secluded spot in Kanpur. Cases are registered by police in New Delhi Gurugram and Kanpur. A is arrested by Kanpur Police and interrogated leading to recovery of weapon of offence upon his disclosure. The personal articles of "G" are recovered from the place of her confinement in Gurugram. The evidence is shared by the police in each State with their counterparts in other two States. Reports of investigation on such basis under Section 173 of the Code are filed by police seeking trial of "A" on charge for the offences of kidnapping for ransom and murder in Kanpur, Gurugram and New Delhi; in that order cognizance on each such report having been taken by the jurisdictional magistrate summoning "A" as accused.

- 1) The High court of Judicature at Allahabad shall decide as to court at which place will inquire into or try the offences.*
- 2) The High Court of Punjab and Haryana shall decide as to Court at which place will inquire into or try the offences.*



3) The High court of Delhi shall decide as to court at which place will inquire into or try the offences

4) only the court at New Delhi can inquire into or the offences since that is the place from where the kidnapping took place.

Ans : 1

Source: Edzorb Law Qbank Concepts – CRPC– Unit X – Q. 6, 7, 8, & 9

6.



MCQ Single Correct Question

Under Cr. P.C. where two or more courts have taken cognizance of the same offence and question arises as to which of them ought to try that offence, the question shall be decided

- (i) by the Supreme Court
- (ii) if the Courts are subordinate to the same High Court by that High Court
- (iii) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced

Choose the correct answer:

- a Only (i) is correct
- b (ii) and (iii) are correct
- c (i), (ii) and (iii) all are correct
- d (i) and (iii) are correct



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Section 186 of CrPC - High Court to decide, in case of doubt, district where inquiry or trial shall take place.

Where **two or more** Courts have taken cognizance of the **same offence**, following court shall try -

If Courts are subordinate to the **same High Court**:

- by that **High Court**.

If Courts are **not subordinate to the same High Court**:

- by the **High Court** within the local limits of whose appellate criminal jurisdiction the **proceedings were first commenced**.

Charu Chandra Majumdar Vs Emperor

37 Ind Cas 145

Section 186 (a) is **not** restricted to cases to which there is a doubt as to whether one Court or another has jurisdiction, but is applicable to a case in which the doubt is on the point whether the choice between two Courts both of which have jurisdiction, should be decided on the ground of '**convenience**' and '**expediency**'.

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

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Q.14) A complaint is preferred by an Executive Magistrate alleging that "A" working as an Oath Commissioner, summoned as a witness to produce the record of affidavits attested by him in an inquiry into dispute as to possession of an immoveable property, intentionally failed to appear or produce the record. "A" is summoned as accused and after trial is held guilty. At the Stage Of appeal, -

- 1) The offence may be lawfully compounded.*
- 2) The complaint may be lawfully withdrawn by the District Magistrate to whom the complainant is administratively subordinate.*
- 3) Both of the above*
- 4) None of the above*

Ans: 4

Source: Edzorb Law Premium+ 2.0 – CRPC– Part IV –
Section 195(2)

Source II: Edzorb Law Premium+ 2.0 – CRPC– Part VI –
Section 320(5)

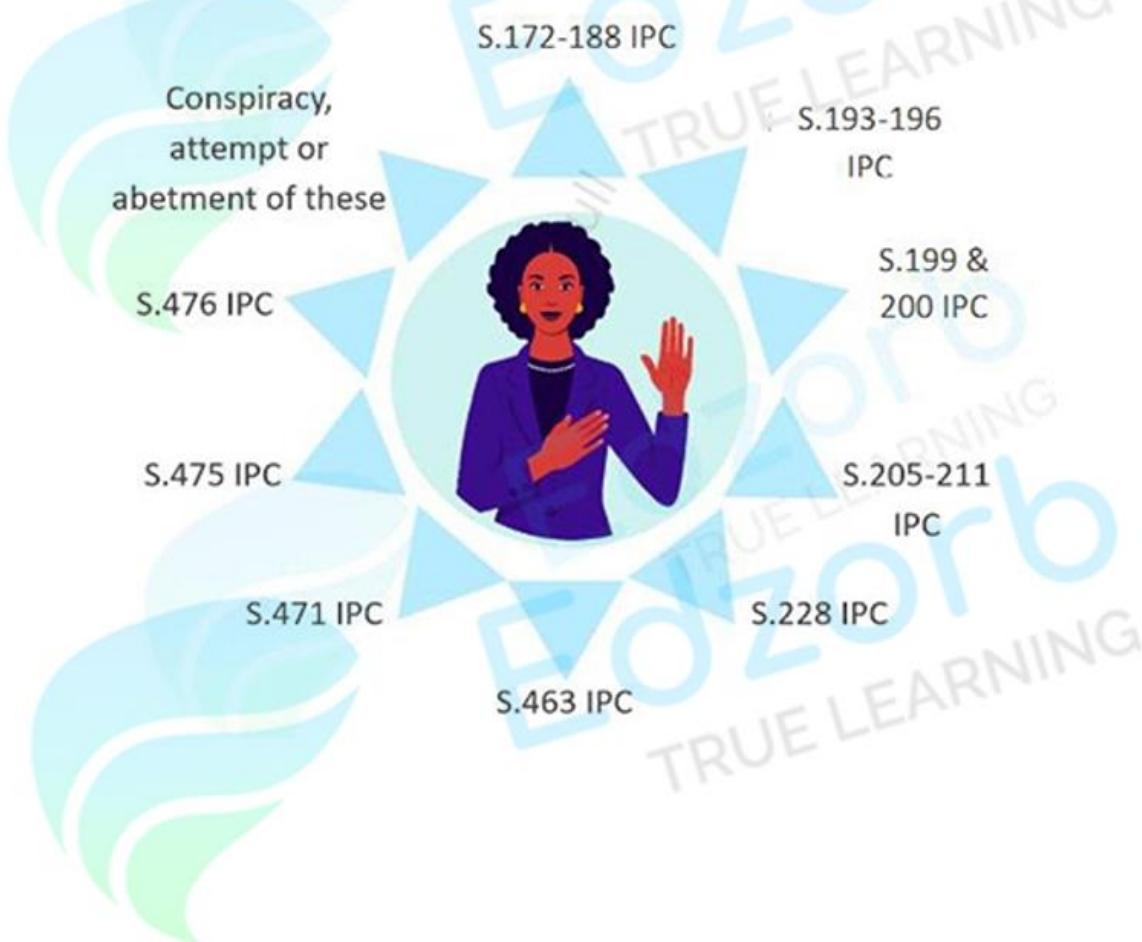


Section 195:

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:



Exception:

Offences	Complaint in writing of
172-188 (both inclusive)	<ul style="list-style-type: none">• Public servant concerned or• Another public servant to whom he is administratively subordinate
Other offences	<ul style="list-style-type: none">• 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

Don't tell false facts, I'll deal with you u/S.195



(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.

Reference: Code of Criminal Procedure, S.195

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Section 320: Compounding of offences:

Compoundable and Non-Compoundable Offences:

Compoundable offences: These are those offences where, the complainant enters into a compromise, and agrees to have the charges dropped against the accused.



Yaaasss.... I got all
the money. Muma
will be so proud of



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(5) In following cases, no composition shall be allowed without the leave of the court:

Accused committed for trial	Accused convicted and appeal pending
Leave by court to which trial committed	Leave by court before which appeal is pending

Reference: Code of Criminal Procedure, S.320

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Q.15) No court can take cognizance of the offence of Adultery except on the complaint made by -

- 1) The Wife only**
- 2) The Husband only**
- 3) The Wife or a person responsible for her care in his absence**
- 4) The Husband or a person responsible for her care in his absence**

Ans: 4

Source: Edzorb Law Qbank – CRPC– Unit XI – Q. 2

2.



MCQ Single Correct Question

'A' who is already married contract second marriage with 'B' without intimating her about previous marriage and dwells with her. 'B' upon getting knowledge of first marriage, lodged a report in the police. The police after completing the investigation files a challan under Section 493, 494 and 495 of IPC in the Court. The Magistrate has an option

- (a) To take cognizance of above mention offences and proceed
- (b) To take cognizance of Section 493 and 495 IPC and proceed
- (c) To refuse from taking cognizance considering the bar of Section 198 of Cr. P.C.
- (d) To take cognizance of Section 494 of IPC



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(A)

Section 198 (2) CrPC:

- If bigamy is committed by wife, only the **husband of the woman** shall be deemed to be **aggrieved** by any offence punishable under **Section 497 or 498** of the IPC.
- In the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf'.

Raxaben Vs State of Gujarat

1992 CrLJ 2946 (Guj)

In a case of bigamy against the wife, complaint was filed by the **attorney holder of the husband**.

The Magistrate was **not entitled to take cognizance** of such complaint as it was **husband**, who is an **aggrieved party**.

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

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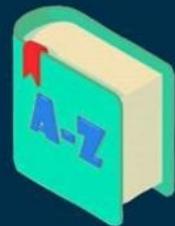
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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: - 10

- a) उच्च न्यायालयों का अधीकार ऐसे भी दीवानी और कौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संसद या व्यक्ति या कंपनी द्वारा बिना अनुमति लिये उसके कंपनी के डाटा को कॉपी करना या उसे साझा करना डाटा योरी अपराध के तहत माना जाता है।
- c) दरअसल कोई की अवमानना की समूही व्यवस्था न सिर्फ जनतंत्र, चलिक नायिक प्रणाली के भी प्राकृतिक नियमों को सरलीकृत किये जाने की मांग करती रिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्राप्त अंतर्गत है, उनकी अधीन उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्व न्यायालिका और एक ही मौलिक विधयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंटी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंटी-प्रत्यक्षीकरण, परमदेवता, प्रातिवेद, अधिकार-पूछा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में छाँकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारबाहों और वास्तविक कारबाहों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को ग्रात एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपत्तिक बांड जमा कर रिहाई ग्रात की जाती है।

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1

Incorrectly
Marked

Q. 3

4/10

- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *अन्तरिक्ष*
- (b) Without seeking the permission of an appointed person of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.
- (c) Actually the proper system of contempt of court not only seeks to suspend democracy, rather but also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- & is involved can be appealed before the High Court.



(c) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A2ZT)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (SC2115) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

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~~of real prisons.~~ huge

- (i) Bail is such a ~~restored~~ right for * any accused
- (ii) Bail, is such a legal system available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

Q. 5

The question was about summary meeting and not translation.

~~This~~ ~~Diwali~~, while judicial ~~the~~ decisions talked about restriction ~~on~~ crackers and also the government ~~had~~ declared to put ~~question~~ ~~question~~ ~~answering~~ ~~answering~~ crackers public mocked all ~~tree~~ factors and burnt crackers ~~before~~ the whole night. This is the lowestmost step of decency and the man standing on this step, environment, his own health or the convenience or

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Q.16) Upon perusal of a complaint alleging offence of cheating and dishonestly inducing delivery of property during the course of business transaction between two firms, the jurisdictional Magistrate may

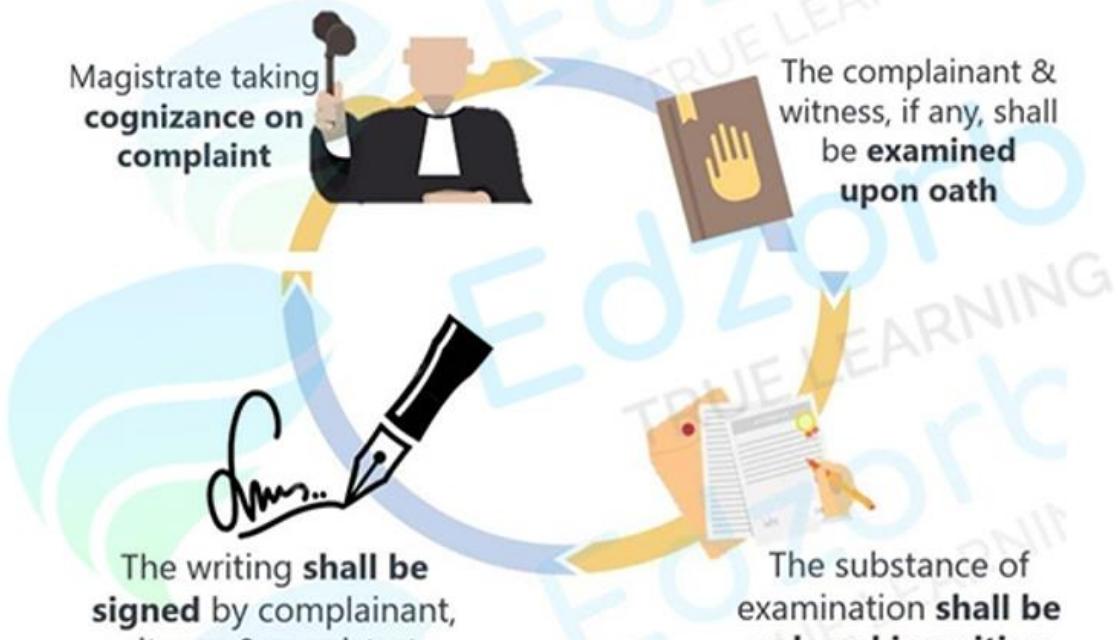
- 1) Take cognizance and examine upon oath the complainant and the witnesses who are the present*
- 2) Examine upon oath the complainant and the witnesses who are present and then consider if cognizance be taken or not.*
- 3) Decline to take cognizance if the offence alleged is triable exclusively by the court of Sessions*
- 4) Issue summons to the accused if *prima facie* satisfied on basis of affidavit of the complainant and then examine the complainant and his witnesses in the presence of the accused.*

Ans: 1

Source: Edzorb Law Premium+ – Simplified Notes - **CRPC** –
Part IV – S. 200



Section 200: Examination of complainant:



Cases where complainant and the witnesses need not be examined:



When the complaint is made in writing:

(a) Complainant is a Public Servant:

If a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or





(b) Making over to another magistrate:

If the Magistrate **makes over the case** for inquiry or trial to another Magistrate u/**s.192**:

Provided further that:



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If the Magistrate makes over the case to another Magistrate u/s. 192 after examining the complainant and the witnesses, **the latter Magistrate need not re-examine them.**



null

**Durvasa Vs Chandrakala
1994 CriLJ 3765**

Held:

- If after examining the complainant on oath and after finding prima facie case against the accused, process is issued to the accused, then simply because the witnesses' if any' were not examined by the **Magistrate** would not vitiate the proceedings u/s 200.
- It has been held that an **accused cannot get a Magistrate's order** issuing process set aside, on the ground that the Magistrate's examination of the complainant and his witnesses was improper.

Reference: Code of Criminal Procedure, S.200

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Q.17) "A" is charged with the offence of voluntarily causing grievous hurt by use of dangerous weapon (Section 326 IPC). The prosecution fails to prove that there was any dangerous weapon used. The accused shows by defenses evidence that he had acted on grave and sudden provocation. He

- 1) May be held guilty for offence of voluntarily causing grievous hurt on provocation (Section 335 IPC) even though no charge for the said Offence has been framed.*
- 2) Must be acquitted since no charge for any other Offence has been framed.*
- 3) Both (1) and (2)*
- 4) None of the above*

Ans: 1

Source: Edzorb Law Premium+ –Simplified Notes - **CRPC– Part IV – S. 222**

Section 222:

When offence proved included in offence charged:

1. Particulars making minor offence proved





2. Facts proved reduce offence to minor offence
3. Attempt of offence proved

(1) Convicted for minor offences:



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(2) Facts proved reduce the offence to minor offence:

- Person is charged with an offence
- But facts are proved which reduce it to minor offence,
- He may be convicted of the minor offence, although he is not charged with it.





He was charged with Grievous hurt
but facts proved that it was on
grave & sudden provocation

So, we will convict
him u/S.335 & not
u/S.325

Here, person can be convicted u/S.335 though he
was not charged with it.



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(3) Attempt of an offence:

- Person is charged with an offence,
- may be convicted of an attempt to commit such offence, although the attempt is not separately charged.



Accused is
convicted for
attempt to murder

But he was charged with
murder, My Lord





This is what happens
when you bunk classes
in law school!

Read S.222 (3) CrPC

- (4) Where the conditions requisite for the initiation of proceedings in respect of that **minor offence have not been satisfied conviction cannot be done.**

No conviction till
I sanction it.



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Remember!!

Point to remember:

S.222 deals with **major offence (charge) to minor offence (punishment) is possible,**

But minor offence (charge) to major offence (punishment) is not possible.

Section 221 is based **on doubtful offences** rather than minor to major or major to minor.

Reference: Code of Criminal Procedure, S.222

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Q.18) During the trial of a case involving accusations of medical negligence having resulted in death of a human being, after having recorded the evidence of the complainant and some other witnesses, the criminal court is of the view that the Offence should have been tried in accordance with procedure for trial of a warrant-case.

- 1) The Court may convert the case into warrant-case and continue recording of remaining evidence.*
- 2) The Court cannot convert the case into warrant-case since trial has begun and cannot be stopped.*
- 3) The Court cannot convert the case into warrant-case since it would lead to case being reheard.*
- 4) The Court may convert the case into warrant-case but must first frame a formal charge and after recording plea of the accused take evidence for prosecution recalling the witnesses earlier examined.*

Ans: 4

Source: Edzorb Law Premium+ –Simplified Notes - **CRPC**–
Part V – S. 259

Section 259: Power of Court to convert summons-cases into warrant-cases:





- These cases relate to an offence punishable with **imprisonment exceeding six months.**



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DIFFERENCE BETWEEN SUMMONS CASE AND WARRANTS CASE

BASIS	SUMMONS CASES	WARRANTS CASES
Provision	Section 2(w) & Chapter XX	Section 2(x) & Chapter XIX in certain cases
Gravity	Less serious	More serious offences
Kind of Procedure for trial	There is only one procedure prescribed for trial of summons cases	There are two types of procedure for trial of warrant cases by Magistrates namely: (Sections 251-259).
		(1) Warrant Cases instituted on police report and (2) Warrant Cases instituted otherwise than on police report
Framing of Charge	Framing of charge is not necessary	Framing of charge is necessary



Issue of process	Rule is that in In warrant cases summons cases either warrant or summons shall be issued.	summons may be issued.
Conversion Section 259	<p>Trial of Summons</p> <p>Cases can be converted into trial of warrant cases if two conditions are</p> <ul style="list-style-type: none"> (1) Offence is punishable 	<p>Trial of Warrant</p> <p>Cases cannot be Converted into Summons cases.</p>
Acquittal/ Discharge	<p>(2) It is necessary in the interest of justice.</p> <p>In case of non-appearance of complainant, Magistrate may acquit the accused [Section 256]</p>	<p>In case of non-appearance of complainant, Magistrate may discharge the accused in some case</p>



null

before framing of
charge [Section 249]

Reference: Code of Criminal Procedure, s.259

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Q.19) "Under the provisions for Plea-bargaining in the Code, in a case instituted otherwise than on a police report, the mutually satisfactory disposition is a matter exclusively between the complainant on one hand and the accused on the other."

- 1) The above statement is incorrect since victim is entitled to be called and participate in the meeting convened for the purpose.**
- 2) The above statement is correct since the Complainant has the prerogative to withdraw the case.**
- 3) The above statement is correct since the procedure is in the discretion of the Court.**
- 4) The above statement is correct since complainant always represents the interest of the victim.**

Ans:1

**Source: Edzorb Law Premium+ –Simplified Notes - CRPC–
Part V – S. 265 C**

Section 265C: Guidelines for mutually satisfactory disposition:

- Notice to be issued for mutually satisfactory disposition:**



Case instituted upon Police Report	<ul style="list-style-type: none"> • Public Prosecutor, • Police officer who has investigated the case, • Accused and • Victim of the case
Case instituted otherwise than upon Police Report	<ul style="list-style-type: none"> • Accused and • Victim of the case

Provided that:

- Court must ensure that the entire process is completed voluntarily.
 - If accused desires, he can be accompanied by the pleader in meeting.
 - If victim desires in case of cases instituted otherwise than on Police report, he can also be accompanied by the pleader in the meeting.

Reference: Code of Criminal Procedure, s.265C

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Q.20) Where upon an application of the accused for plea-bargaining, a satisfactory disposition of the case has been worked out in accordance with law, the Court:

- 1) Must award compensation whether or not agreed upon by the parties.**
- 2) Cannot award any punishment since that would be against the spirit of amicable settlement and harmony,**
- 3) Both (1) and (2) are correct**
- 4) Both (1) and (2) are incorrect**

Ans: 4

**Source: Edzorb Law Premium+ –Simplified Notes - CRPC–
Part V – S. 265 E**

Case disposed



Section 265E: Disposal of the case:

Where a satisfactory disposition has been worked out u/S.265D,

The Court shall dispose of the case in the following manner, namely:



The **Court shall:**



- Award the compensation to the victim in accordance with the disposition u/S.265D and

- **Hear the parties:**

- On the quantum of the punishment,
- Releasing of the accused u/S. 360 or
- For dealing with the accused under the provisions of the **Probation of Offenders Act, 1958** or any other law for the time being in force and follow the procedure specified in the succeeding clauses.





(b) After hearing the parties u/c.l.(a), if the Court is of the view that:

- Section 360 or
- The provisions of the Probation of Offenders Act, 1958 (20 of 1958) or
- Any other law for the time being in force are attracted in the case of the

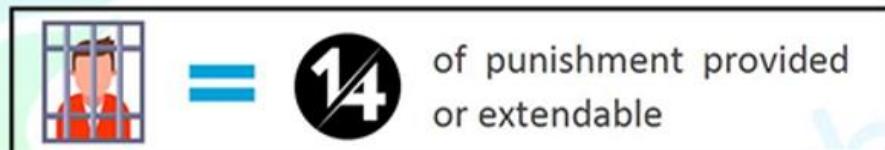
accused, it may **release the accused on probation** or provide the benefit of any such law.



(c) After hearing the parties under **clause (b)**, if the Court finds that **minimum punishment** has been provided, the court may sentence:



(d) In case after hearing the parties under **clause (b)**, case not covered under **clause (b)** or **clause (c)**, then, the court may sentence:



Reference: Code of Criminal Procedure, s.265E

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Q.21) In a trial on the charge of attempt to rape, at the stage of recording of the evidence of the sixteen-year-old prosecutrix, the accused insists on being present and be allowed to himself confront by showing to her some video-footage on his mobile phone.

- 1) The request of the accused cannot be declined since the charge is only of an attempt to rape.*
- 2) The request of the accused cannot be declined since the prosecutrix is a girl child and not a woman.*
- 3) The request of the accused may be declined though Court must adopt appropriate measures to ensure there is no direct confrontation between the accused and the prosecutrix and the right of cross-examination is effectively exercised.*
- 4) The request of the accused may be declined since the video-footage was not disclosed at any earlier stage.*

Ans: 3

Source: Edzorb Law Premium+ –Simplified Notes – POCO
– S. 36



Section 36

Child not to see accused at the time of testifying.

36.1

- The Special Court shall ensure that:

Child not exposed
to accused while
recording evidence

At the same time,
accused must be able to
hear the statement of
child & communicate
with his advocate



Don't go near child, I
will make sure you hear
his statement though.



36.2:

For the purposes of ss.1, the Special Court may record the statement of a child:

- Through video conferencing or
- by utilizing single visibility mirrors or
- by utilizing curtains or
- any other device



Reference: The Protection of Children from Sexual Offences 2012 .S.36
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Q.22) The evidence of a witness from Kerala' given in Malayalam, in the course of trial of a criminal case in Delhi is taken down in the said language with the help of a translator and a member of staff of the court acquainted with the language. The presiding judge is also from Kerala and knows the language. Referring to this background, he dispenses with the requirement of translation of the deposition in the language of the court to be prepared.

- 1) The order of the presiding judge is correct as it is he who is to appreciate the evidence and decide the case.*
- 2) The order of the presiding judge is correct as it is a matter of his discretion.*
- 3) The order of the presiding judge is incorrect since it is mandatory for such translation to be prepared.*
- 4) The order of the presiding judge is incorrect since there may have been errors made in Malayalam transcript.*

Ans: 3

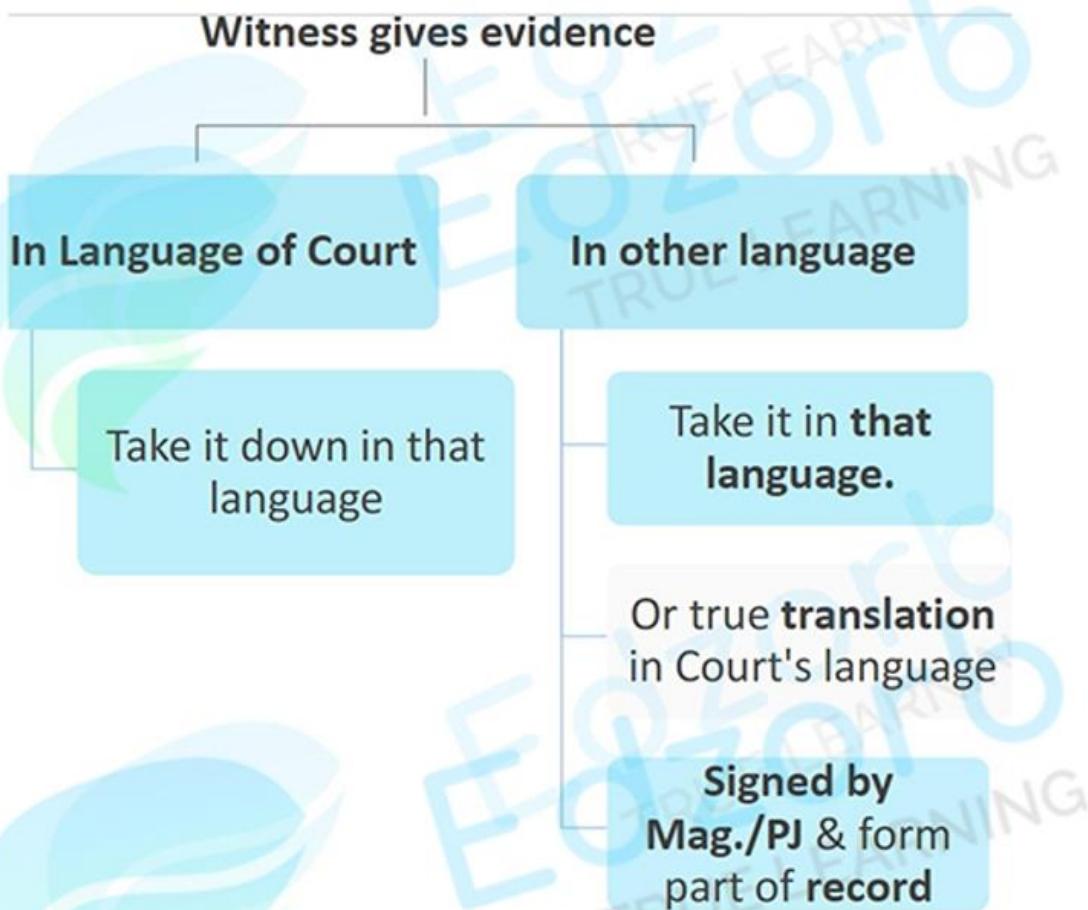
**Source: Edzorb Law Premium+ –Simplified Notes - CRPC–
Part VI – S. 277**



Section 277

Language of record of evidence:

Where evidence is taken down u/S. 275 or 276:



Under **clause (b)**, where evidence is taken in any other language

- It must be translated in court's language **as soon as practicable**,
- The translated copy shall be **signed** by the presiding Judge, and shall form **part of the record**.



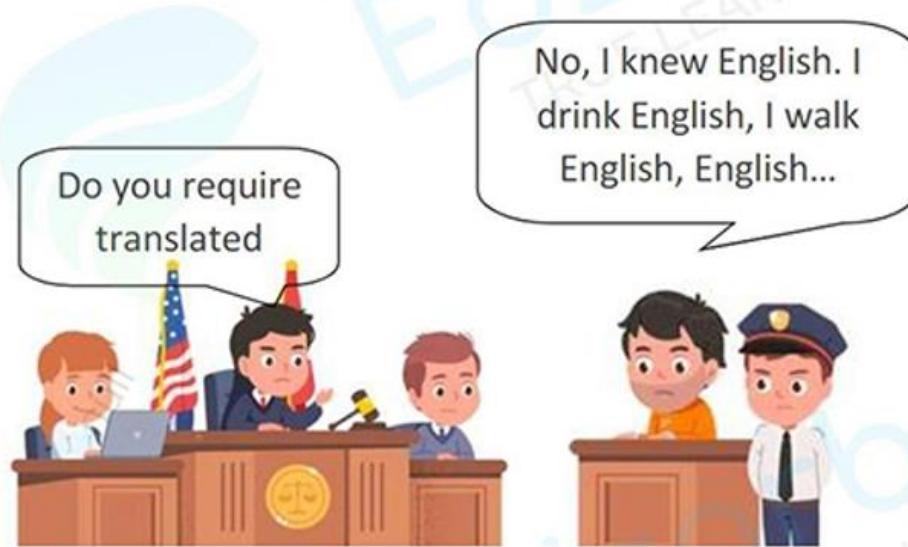
I

- In the present case, evidence given in Punjabi, if taken down in Punjabi. Its translated copy in language of court must be prepared.
- The same shall be signed by the Magistrate and shall form part of record



Provided that:

- When u/cl. (b) **evidence** is **taken down in English**.
- Translation thereof in the Court's language is not required by any of the parties.
- The Court **may dispense** with such translation.



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Bhaurao Shankar Lokhande V. State of Maharashtra
AIR 1965 SC 1564

Held:

- It was held that where the witness arranged under the watchful eye of the Court in the Marathi language,
- The Judge shall arrange the update in the English language, if there should be an **occurrence of uncertainty**, the Marathi form of the witness will be taken to be right.

Reference: Code of Criminal Procedure, S.277

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Q.23) "A" is tried for causing grievous hurt to "V" and convicted. After the completion of the trial, "V" dies as a consequence of the injuries suffered. The State now wants to prosecute "A" on charge of culpable homicide.

- 1) It is not permissible because the State ought to have anticipated the consequence of the acts committed while prosecuting "A" on the lesser charge.*
- 2) It is not permissible because it would amount to double jeopardy.*
- 3) is permissible because the consequence of the acts committed had not happened at the time "A" was convicted.*
- 4) It is permissible because the prerogative is of the State.*

Ans: 3

Source: Edzorb Law Premium+ –Simplified Notes - **CRPC**–
Part VI – S. 300 (3)



Section 300:

Person once convicted or acquitted not to be tried for same offence:

(1) A person who has **once been tried** by a Court of **competent jurisdiction** and **convicted or acquitted** of offence shall, while such **conviction or acquittal** remains in force,

- Not be **liable** to be **tried again** for the **same offence**.



- Ram caused grievous hurt to Shyam.



- Ram was prosecuted and tried for the offence and was convicted.



- Ram cannot be tried for the same offence, i.e., grievous hurt to Shyam.



- Nor on the same facts for any other offence for which a different charge might have been made u/S. 221(1).



- Sheru committed theft and cheating.



- He was charged only with theft; he might have been charged with cheating u/S.211(1).
- As per Section 300, he cannot be tried for cheating again.

2) A person acquitted or convicted of any offence

- He may be afterwards tried for any distinct offence for which a separate charge might have been made against him at the former trial u/S.220(1)
- The consent of the State Government is required for new trial.



(3) A person convicted of any offence constituted by any act:

- Causing consequences which, together with such act, **constituted a different offence from that of which he was convicted**,
- May be afterwards tried for such last-mentioned offence,
- If the consequences had not happened, or were not known to the court to have happened, at the time when he was convicted.



Person was beaten
by the accused on
21.02.2019

Person tried for the
offence of grievous
hurt on 21.05.2019



.22





Person convicted for
grievous hurt on
21.06.2021

Person died due to
grievous hurt on
21.07.2021



Person **can be tried** for the offence of murder and
the same would not be barred by **Section 300**.

Reference: Code of Criminal Procedure, S.300

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Q.24) In a criminal trial, an accused -

- 1) May be examined as a witness in his defence but only on his own request in writing.**
- 2) May be examined as a witness in his defence but only on his own request orally made.**
- 3) May be examined as a witness in his defence and if he does not do so an adverse inference may be drawn against him.**
- 4) May be examined as a witness in his defence if the court so directs him.**

Ans:1

**Source: Edzorb Law Premium+ –Simplified Notes - CRPC–
Part VI – S. 315**

Section 315: Accused person to be competent witness:





His failure to give evi.
shan't be subject to any
comment by any party



He can be called as a
witness only on his
own request in writing

- ✓ S. 98, or
- ✓ S. 107-110 or
- ✓ Ch. IX or
- ✓ Ch. X (Part B-D)

(2) Any person may offer himself as a witness in such proceedings against whom **proceedings are instituted in any Criminal Court.**



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Provided that:

- In proceedings **u/S.108-110**,
- The failure of such person to give evidence shall not:

▪ Be made the subject of any comment

by any of the parties or the Court or

▪ Give rise to any

presumption against him or any other person

proceeded against together with him at the same inquiry.



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Section 313 and Section 315:

Section 313	Section 315
<ul style="list-style-type: none">• Mandatory provision• The court questions the accused.• Statement is not taken on oath.• No questions to accused by any party.	<ul style="list-style-type: none">• Not mandatory provision.• The accused appears himself as defence witness.• Evidence taken on oath.• In this, accused is proper witness; hence, he is subject to cross examination.

Reference: Code of Criminal Procedure, S.315

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Q.25) When, during committal proceedings, a Magistrate after holding an inquiry finds that the accused is of unsound mind and consequently incapable of making any defence

- 1) He shall acquit him forthwith since the finding of unsound mind reflects absence of mens rea**
- 2) He shall postpone further proceedings in the case but may resume it after the person has ceased to be of unsound mind.**
- 3) He shall postpone further proceedings in the case but may not resume it even after the person has ceased to be of unsound mind since that would constitute double jeopardy.**
- 4) He shall commit the case to Sessions.**

Ans: 2

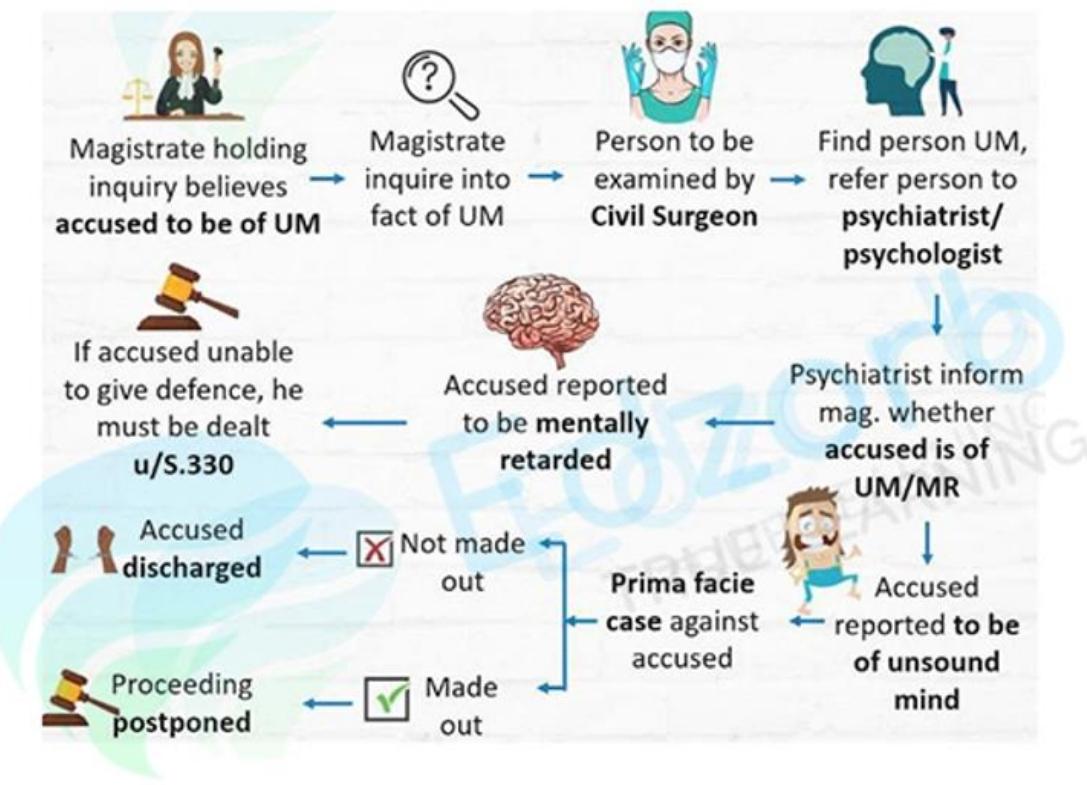
Source: Edzorb Law premium+2.0 – Simplified Notes – CrPC – S. 328



**Chapter XXV
Provisions as to Accused Persons of
Unsound Mind**

Section 328: Procedure in case of accused being lunatic:





(1) Magistrate inquiring the case believes accused to be of unsound mind (UM):



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(2) Pending such examination and inquiry:

- Magistrate may deal with such person in accordance with the provisions of **S.330**.



(3) If person referred in **Ss.1A** is of **unsound mind**:

- The Magistrate shall determine whether the unsoundness renders him incapable of entering defence.



- If accused found incapable, the magistrate shall record to that effect.
- The magistrate shall examine the record of evidence produced by the prosecution and **after hearing the advocate of the accused** but without questioning the accused.



Prima facie case is made out against accused

Case is not made out

Case is made out against accused

Magistrate shall discharge the accused and deal with him in manner provided in S.330

Postpone the proceeding for the time opined by psychiatrist for treatment and order the accused to be dealt u/S.330

Reference: Code of Criminal Procedure, Sec.328

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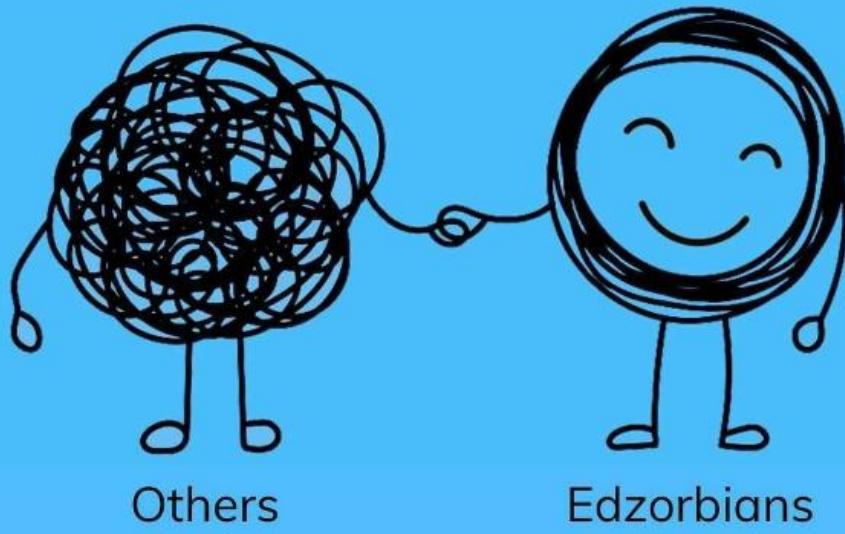
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Q.26) If the criminal court, after trial, having convicted the accused, imposes a sentence of which fine forms a part -

1) It may only direct the fine to be applied in payment of compensation to the person who suffered loss on account of the offence.

2) It may not direct the payment of compensation to the person who suffered loss on account of the offence and only refer him to Legal Services Authority to seek compensation from out of funds of Victim Compensation Scheme.

3) It may direct the fine to be applied in payment of Compensation to the person who suffered loss on account of the offence and also direct payment of further compensation from out of funds of Victim Compensation Scheme to make it adequate.

4) It may direct the fine to be applied in payment of out loss of on funds account of Victim of the Compensation offence and also Scheme recommend to compensation of to further the person compensation who suffered from adequate

Ans: 4

Source: Edzorb Law premium+2.0 – Simplified Notes – CrPC – S. 357





Section 357: Order to pay compensation:

(1) Fine forms part of sentence:

When a Court imposes a sentence of fine or a sentence of which fine forms a part,

Court may, when passing judgment, order the whole or any part of the **fine recovered to be applied:**

Expenses for prosecution

Person u/FAA

Comp. for loss/
Injury caused by
offence

Comp. to
purchaser of
stolen property





- **Expenses for prosecution:** To be paid in defraying the expenses properly incurred in the prosecution.



- **Person u/Fatal Accidents Act, 1855:**

- Any person is convicted of any offence for causing death of person or of having abetted such offence

- In such cases, in paying compensation to the persons who are **entitled to recover damages u/FAA.**



- **Compensation for Loss/Injury caused by offence:**

In the payment of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, **recoverable by person in a Civil Court;**





- Buyer of stolen property (SP):

When any person is convicted of any offence which includes

Voluntarily assisted in disposing SP

Theft

Dishonestly receiving/ retaining SP

Criminal Misappropriation

Cheating

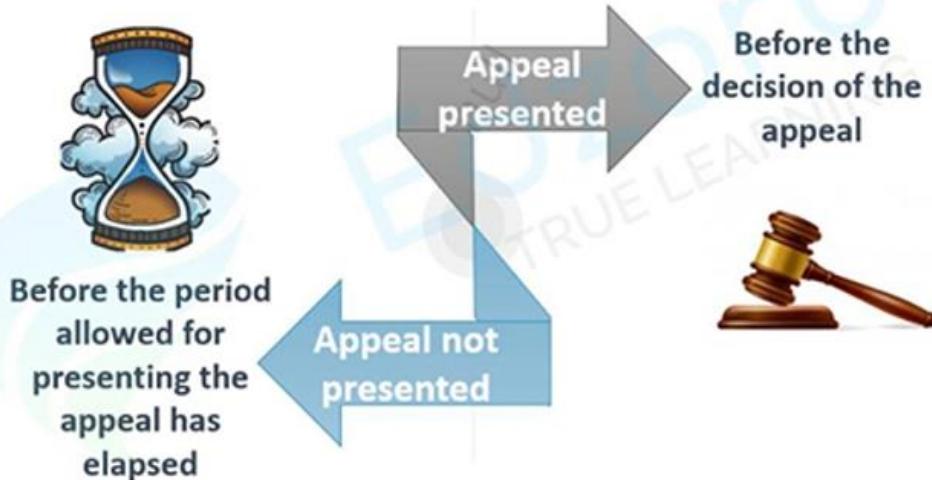
Criminal Breach of Trust

- In compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) Case subject to appeal:



No such payment shall be made:



(3) Fine does not form part of judgment:

- In such cases, the Court may, when passing judgment, order the accused person to pay compensation:
 - **Amount:** As specified in order
 - **To be paid:** To the person who has suffered any loss or injury by reason of the act for which the accused is sentenced.



Pay comp. of
Rs.5,00,000/-



(4) Order can be passed by:



HC or CoS- in its
revisional power

Appellate
Court

(5) Compensation in subsequent civil suit in same matter:

- The Court shall take into account any sum **paid or recovered as compensation** under this section.

Ahammedkutty Vs Abdulkoya

(2009) 6 SCC 660

Held:

- In default to pay compensation the accused shall suffer **simple imprisonment**.
- Such an order could be issued under Section 357(1) inasmuch as it alone empowers the court to order fine.
- If the compensation ordered in terms of **Section 357(3)** is **not paid**, it could be ordered to be paid under **Section 421**

Reference: Code of Criminal Procedure, Sec.357

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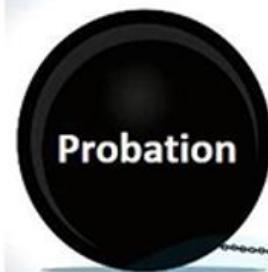
Q.27) A criminal court after convicting on charge of assault, proceeds to award the punishment to the accused, a thirty-year-old man, with no previous criminal record, refusing to hear the defence on plea for release on probation of good conduct.

- 1) The approach cannot be questioned since the matter of consequences after conviction is in discretion of the trial court.*
- 2) The approach cannot be questioned since assault is a grave offence.*
- 3) The approach is impermissible since it is incumbent to consider such plea and, if not allowed special reasons must be recorded.*
- 4) None of the above*

Ans: 3

Source: Edzorb Law premium+2.0 – Simplified Notes –
CrPC – S. 360 & 361





Section 360: Order to release on probation of good conduct or after admonition:

(1) When any person:



#Of 21 years of age or above:

- Convicted of an offence punishable with:
 - Fine, or
 - Imprisonment for 7 years or less, and
- No previous conviction

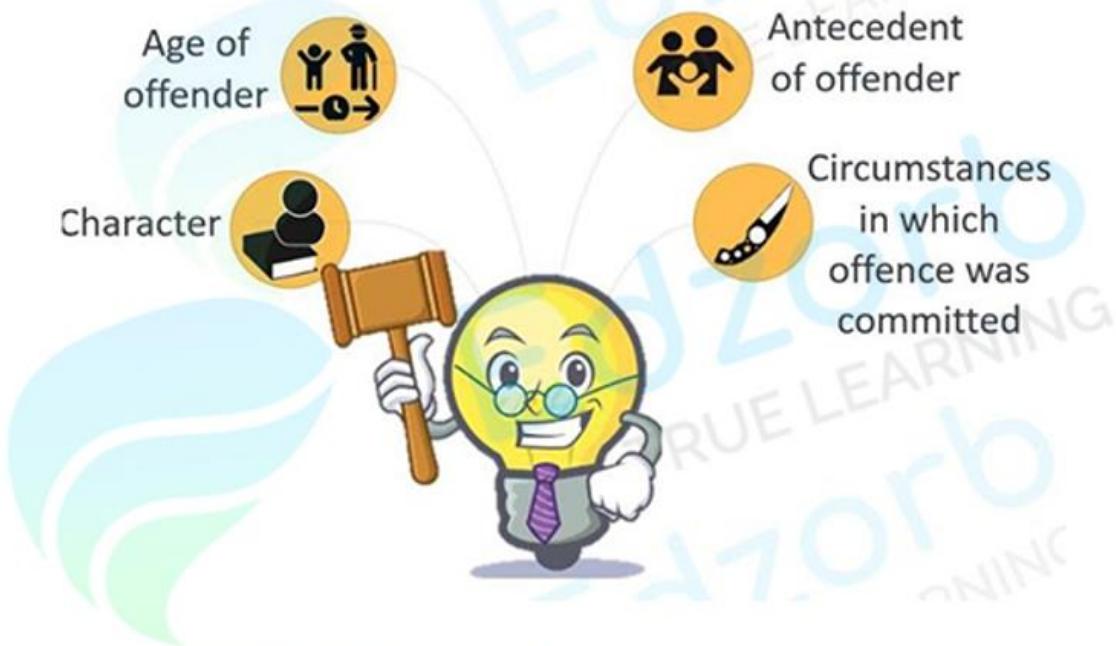


#Under 21 years and woman:

- Convicted of offences not punishable with:
 - Death
 - Imprisonment for life
- No previous conviction



Having regard to the following of the person:



- The court finds it expedient that the offender should be **released on probation of good conduct.**
- The Court may, instead of sentencing him, direct that:

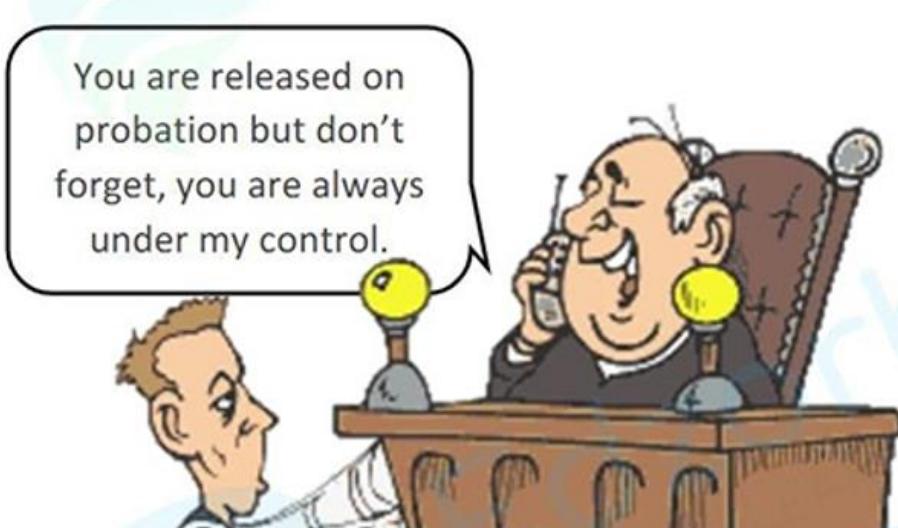
Period: **Not exceeding 3 years**



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- The offender be released on his entering into a bond to **appear and receive sentence** when called upon during such period:
- In the meantime, to keep the **peace and be of good behaviour.**



You are released on probation but don't forget, you are always under my control.

(3) Releasing on admonition:

In any case in which a **person is convicted of**

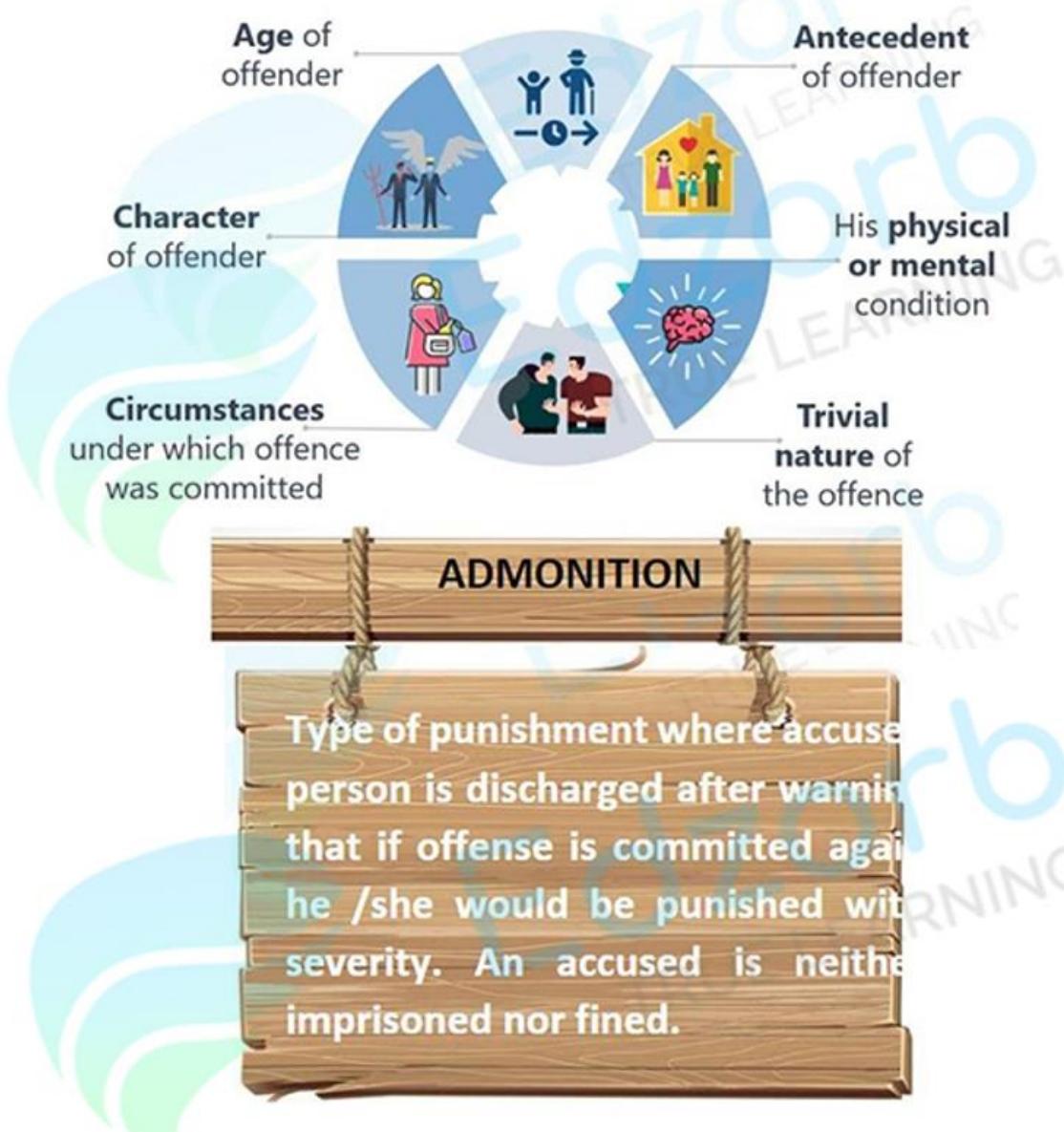




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Having regard to the following, the court may, if it thinks fit, release after due admonition:



(7) The Court, before directing the release of an offender u/ss. (1), shall be satisfied that:

- An offender or his surety (if any) has a fixed place of abode or regular occupation in the place:
 - For which the Court acts or
 - In which the offender is likely to live during the period named for the observance of the conditions.



Reference: Code of Criminal Procedure, Sec..360

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Section 361: Special reasons to be recorded in certain cases:

Could I have dealt with you under following?



The court must record special reason in its judgment if it could have dealt with an accused under following, but has not done so:

Section 360

Probation of Offenders Act

Children Act (youthful offender)

Any other law for the treatment, training or rehabilitation of youth



164

Reference: Code of Criminal Procedure, Sec.361

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Q.28) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment -

- 1) Such imprisonment shall commence at the expiration of the imprisonment to which he was previously sentenced*
- 2) If the court does not expressly otherwise direct, both sentences shall run concurrently.*
- 3) If the subsequent sentence is of imprisonment for life, that will run first.*
- 4) All the above are correct*

Ans: 1

Source: Edzorb Law premium+2.0 – Simplified Notes –
CrPC – S. 427



Section 427:

Sentence on offender already sentenced for another offence:



Sentence undergoing (SU)	Subsequent conviction (SC)	Effect
<ul style="list-style-type: none"> • Imprisonment for term 	<ul style="list-style-type: none"> • Imprisonment or • Life Imprisonment 	<ul style="list-style-type: none"> • SC commence at expiration of SU unless court directs that SC shall run concurrently with SU.
<ul style="list-style-type: none"> • Imprisonment for life 	<ul style="list-style-type: none"> • Imprisonment or • Life Imprisonment 	<ul style="list-style-type: none"> • SC shall run concurrently with SU
<ul style="list-style-type: none"> • Imprisonment by an order u/S.122 in default of 	<ul style="list-style-type: none"> • Imprisonment for an offence committed prior to the 	<ul style="list-style-type: none"> • SC shall commence immediately.



furnishing
security

making of such
order

Cr.A. No. 526/2021



Sunil Kumar v. State of UP



Decision must contain whether sentences run
concurrently or consecutively



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S.31 of CrPC

The omission to state whether the sentences awarded to the accused would run concurrently or consecutively operates against the accused because, unless stated so by the Court, multiple sentences run consecutively.

Bench: Dinesh Maheshwari, J. &
Aniruddha Bose, J.



Mani Vs State of Kerala

1983 Cri Lj 1262

Held:

- The exercise of the discretion should depend on the facts of each case, the **nature or character of the offences** committed, the prior criminal record of the offender, his age, and sex, etc.



Mulaim Singh Vs State

1974 Cri LJ 1397

Held:

- There is **no clear restriction in code** itself that a direction for making the sentence to run concurrently cannot be given in exercise of inherent powers, and it would be competent for the high court to give such a direction u/s 482.
- Where it would serve any of **three purposes** mentioned:
 - To give effect to any order under the code or
 - To prevent the abuse of the process of the court or

Reference: Code of Criminal Procedure, S.427

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Q.29) "A" is charged with murder of Ajay on 21.01.2021. In fact, the name of victim was Ajoy and offence was committed on 20.01.2021. The evidence adduced by prosecution correctly mentioned the name of the victim and the date of offence and he cross-examined the witnesses accordingly. The trial ends in conviction.

- 1) The trial is vitiated because of the error in charge.*
- 2) The trial is vitiated because it is a material irregularity.*
- 3) The error is inconsequential as accused was not thereby misled.*
- 4) None of the above*

Ans: 3

Source: Edzorb Law premium+2.0 – Simplified Notes – CrPC – S. 215

Section 215:

Effect of errors:

Following errors **are not regarded as material** at any stage of the case:

- An **error** in stating the offence or its particulars
- An **omission** in stating the offence or particulars





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An error in
Charge or
particulars

An omission in
charge or
particulars

Or failure
of justice

Not material



S. 464 also provides for the effect of omission to frame or absence of or error in charge in opinion of Court of Appeal, Confirmation or Revision or failure of justice.



S.215

This is applicable before
Court of Trial.

S.464

This is applicable before
Court of
• appeal,



	<ul style="list-style-type: none"> • confirmation or • revision
<p>It is narrower. Error in stating or omission. Such error may be related to offence or particular of offence.</p>	<p>It is wider. It is related to</p> <ul style="list-style-type: none"> • no charge was framed or • any error, omission or irregularity in the charge • Including any misjoinder of charges.
<p>Two conditions must be Fulfilled. These are:</p> <ul style="list-style-type: none"> • Mislead • Failure of justice 	<p>Only one condition is sufficient. This is</p> <ul style="list-style-type: none"> • Failure of justice

Reference: Code of Criminal Procedure, S.215

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Q.30) The rules framed by the Central Government in exercise of the powers conferred by the Army Act, 1950 permit Court-martial of an Army personnel for an offence committed against a civilian, while on leave of absence from his unit, in a civil area. If such an Army personnel is arrested and brought before the Metropolitan Magistrate and his prosecution is sought by the State on the basis of Charge sheet filed by the State police but the Commanding Officer of the unit to which the accused belongs moves an application in writing seeking transfer of the case and the accused for purpose of trial by a Court-martial.

- 1) It is lawful for the Metropolitan Magistrate to deliver the custody of the individual to the Commanding Officer but decline to make over the case for Court-martial.*
- 2) It is lawful for the Metropolitan Magistrate to make over the case for Court-martial but decline to deliver the custody of the individual to the Commanding Officer.*
- 3) It is lawful for the Metropolitan Magistrate to deliver the custody of the individual to the Commanding officer and make over the case for Court-martial.*
- 4) None of the above*

Ans: 3



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CONSTITUTION

1. Discuss the rights granted to convicted person under the Constitution. Elaborate the findings of the court in Selvi vs Union of India and the development of the issue in the later cases.

- 8 Marks

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SAMPLE**

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Shall not be compelled to witness against

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→ What does
"compel" mean
here?

be a

"Person accused of" means that a formal accusation has been made against such person which might result in his conviction.

The case of Kathi Kalu v. State of Bihar SC

"No person can be compelled or forced to give evidence against himself."

Selvi v. State UOI, 2010 SC

→ Facts?
Issue?

Mention
them at
least in

In this case the petitioner has challenged a line, the narco analysis, brain finger mapping and polygraph test which are being conducted against the consent of the person accused of an offence. The Supreme Court held the following guidelines-



→ discuss the facts properly.
→ What is Narco analysis and the other tests etc.

- (1) No person shall be examined or compelled to give evidence against his consent.
- (2) If an accused person consents to give evidence he shall be explained to the consequences of such test and his lawyer shall be present.
- (3) The consent of person shall be recorded by the judicial magistrate.
- (4) On the hearing before the judicial magistrate Lawyer of accused shall be present.

Thus, even if the accused has consented to such tests, he shall be heard properly by the judicial magistrate to ensure that he has not been forced to give evidence.

→ Review



• “any S. 300 CrPC here.” (ii)

→ Confession under the Evidence Act

- (2) Art 20(2) — The protection against double jeopardy—
It reads as —
“No person shall be ~~convicted~~ ~~or~~ prosecuted and
for the same offence twice.” Punished

It is based on the maxim — “Nemo debet vis vexari”. → What does it mean?

The Code of criminal procedure 1973 s/ 300 also deals with this principle of double jeopardy.

essentials — (1) Accused must be convicted on the same offence for which he has been prosecuted before.

(2) Proceeding was conducted before the judicial magistrate or court in judicial proceeding.

→ Pinpoint the difference b/w S. 300 CrPC & Art. 20(2)



→ S. 300 IPC is for the convicts & the acquits as ex-post facto laws → well.

(3) The protection against ~~any~~ ^{ex-post facto} terrorism laws →

Art. 20(1) reads as -

convicted

"No person shall be arrested except for the violation of law in force at the time of commission of act or omission nor shall be subjected to greater punishment than at the time of commission of act of omission."

The Indian Constitution protects only from two types of ex post facto laws -

- (1) The law which was not in force at the time of commission of offence.
- (2) The punishment which was enhanced after the punishment of offence.

→ What if the punishment is reduced?



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(6)

There is one more ex post facto law which is not covered under Art 20(1), that is "A procedure which has been changed after the commission of offence".

'offence' has the same meaning as defined in Sec. 26 of General Clauses Act.[?]

What is that meaning? This is not self-explanatory.

Provide a well-rounded conclusion.

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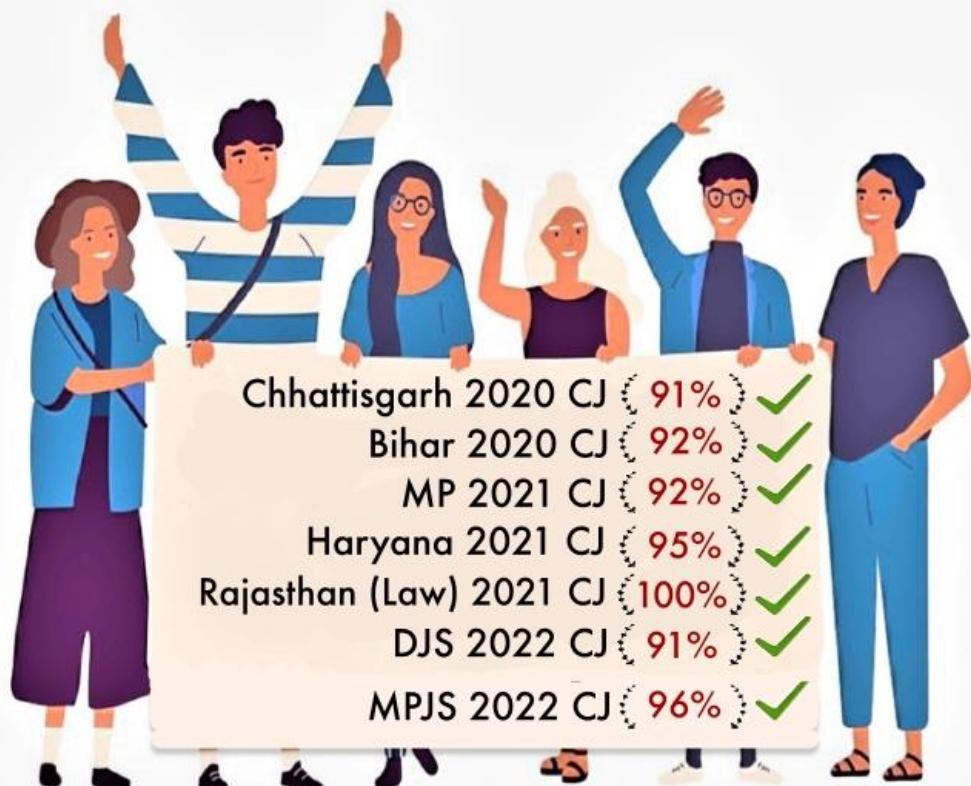


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Section - 2 POCSO



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Q.31) 'A', who was previously convicted for the offence of rape, with sexual intent touches the vagina of 'B' aged 17 years. Under the Protection of children from Sexual Offences Act, 2012 'A' has committed the offence of:

- 1) Sexual Assault**
- 2) Aggravated Sexual Assault**
- 3) Aggravated Penetrative Sexual Assault**
- 4) Penetrative Sexual Assault**

Ans: 2

**Source: Edzorb Law premium+2.0 – Simplified Notes –
POCSO – S. 9**

Section 9:

Aggravated sexual assault

a)

Any police officer commits



sexual assault to
a child



- Within the **limits or premises** of police station where **he is appointed**
- In the **course of his duties or otherwise;**
- In the **premises of any station house**
or
- Where he **is known as, or identified as, a police officer**

b)

Member of the armed forces or security forces commits



Sexual assault on a child



- Within the **limits of area where he is deployed**
- In the **course of his duties or otherwise**
- In any **areas under the command of the forces or armed forces**
or
- Where he **is known as, or identified as a member of the security or armed forces**

c) Whoever being a **Public Servant** commits sexual assault on a child



d)



Jail,
Remand Home,
Protection Home
Observation Home

Management Or Staff Of

- Or Other Place Of **Custody Or Care And Protection**
- Established by or under any **law**

Commits **Sexual Assault** on a **child being inmate** in such place



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(e & f)

Management or Staff of

(e)

Hospital Govt. or Private



(f)

Educational or Religious
Institution



Commits **sexual assault** on child in
that Hospital or Institution



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g) Whoever commits **gang sexual assault on a child**

When a child is subjected to sexual assault by one or more persons

A group in furtherance of their common intention, each of such persons

Shall be deemed to have committed gang penentative sexual assault

Each of such person shall be liable

For that act in the same manner as if were done by him alone



Whoever commits **Sexual Assault** on a child

h) **Using:**

- Deadly weapons,
- Fire,
- Heated substance or
- Corrosive substance

i) **Causing:**

- **Grievous hurt** or
- **Bodily harm** And injury
or
- Injury to the **sexual organs** of the child

j) Whoever commits **Sexual Assault** on a child, which

i)

Physically **incapacitates** the child

Causes the child to become **mentally ill** as defined under **cl. (b) of S. 2** of the Mental Health Act, 1987



Causes **impairment** of any kind so as to render the child **unable** to perform **regular tasks, temporarily or permanently**



(ii) Inflicts the child with:

1 Human Immunodeficiency Virus

2 Any other life threatening disease

3 Infection which may either temporarily or permanently

4 Impair the child by rendering him physically incapacitated

5 Or mentally ill to perform regular tasks



Whoever commits Sexual Assault on

the child

k)

Taking **advantage** of a child's mental or physical disability

l)

More than **once** or **repeatedly**

m)

Below **twelve years**

(n) Whoever commits Sexual Assault on such child, being a relative of the child

- Through **blood** or **adoption** or marriage or
- **Guardianship** or in **foster care** or
- Having a **domestic relationship** with a parent of the child or
- Who is **living** in the **same** or **shared household** with the child



Whoever being

o)

- In the ownership
- Management
- Staff

↓
Of any Institution

↓
Providing services
to the child

p)

In a position of trust or
authority

- In an **institution**
or **home** of the
child
- **Any where else**

Commits **sexual assault** on
the child



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- Whoever commits Sexual Assault on child

q)

Knowing the child is pregnant

r)

And attempts to murder the child

s)

In the course of [communal or sectarian violence or during any natural calamity or in similar situations]



t)

- Who has been previously convicted under this act or
- Any sexual offence punishable under any other law

u)

And makes the child to
Strip or parade naked in public

v)

With the intent that
such child attains
early sexual maturity

1

Whoever persuades, induces,
entices or coerces a child to get
administered or

2

Administers or directs anyone
to administer, help in getting
administered any drug or
hormone

3

Or any chemical substance, to a child
is said to commit Aggravated Sexual
Assault



Reference: THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES 2012, s.9

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Q.32) 'A' with sexual intent makes 'B', a boy of 12 years remove his underwear to exhibit his private parts so that 'A' can see the same. Under the Protection of Children from sexual Offences Act,

- 1) Sexual Assault*
- 2) Aggravated Sexual Assault*
- 3) Sexual Harassment*
- 4) Using of child for pornographic purposes*

Ans: 3

**Source: Edzorb Law premium+2.0 – Simplified Notes –
POCSO – S. 11**

E.—Sexual Harassment and Punishment therefor

Section 11

Sexual harassment

A person is said to **commit sexual harassment** upon a child when such person with **sexual intent**:





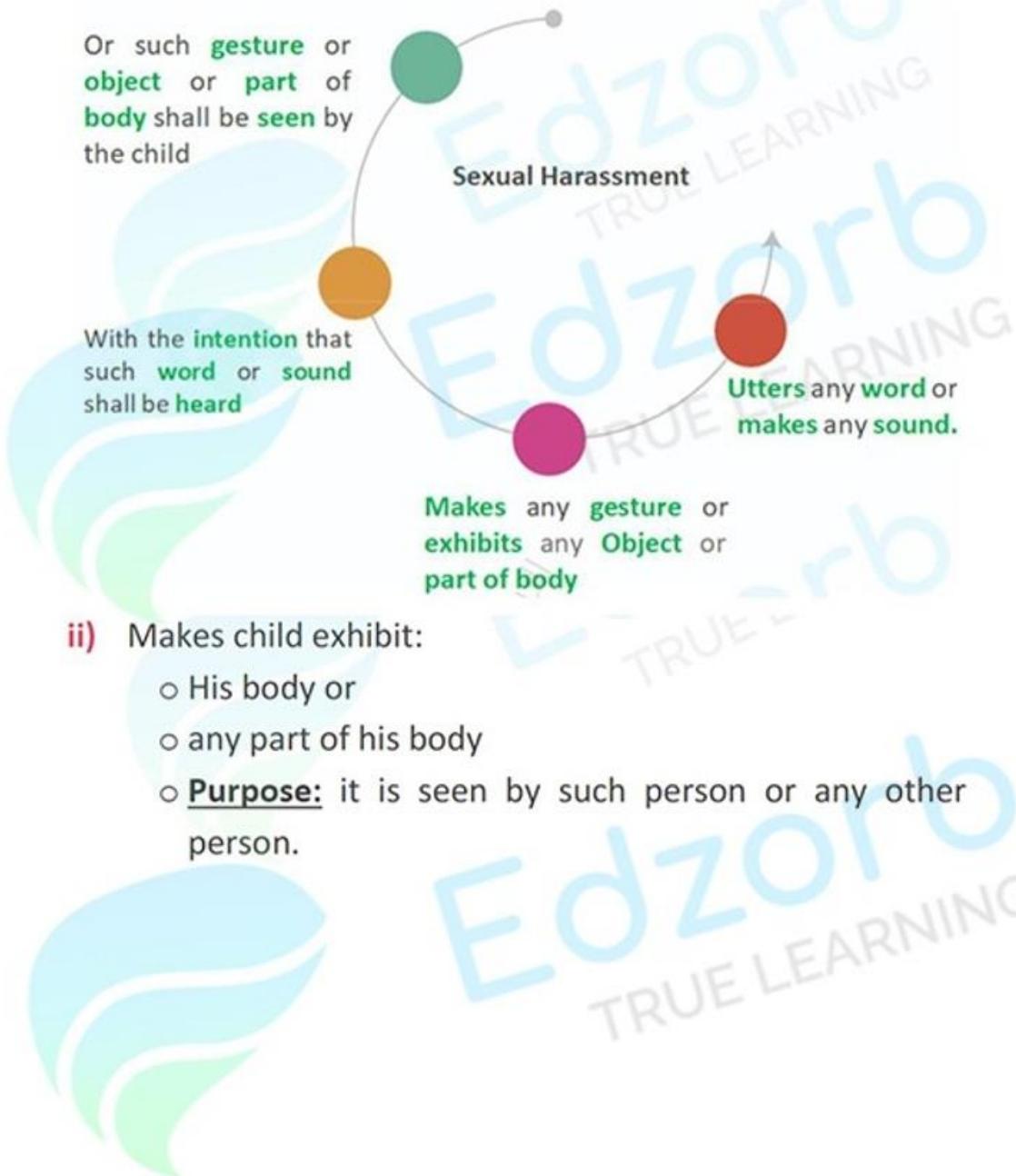
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i) Make sexual gestures:



ii) Makes child exhibit:

- His body or
- any part of his body
- **Purpose:** it is seen by such person or any other person.





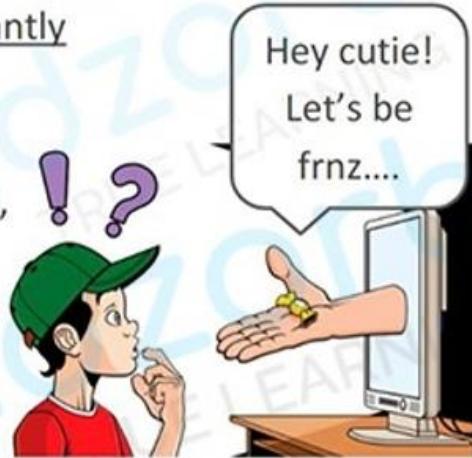
- iii) Show object or media for pornographic purpose.



iv) Contacts child repeatedly:

• Follows, watches or contact:

- Repeatedly or constantly
- Mode:
 - Either directly or
 - Through electronic, digital or
 - Any **other means.**



(v) Threatens child:

- To use, in any form of media, a real or fabricated depiction
- Through electronic, film or digital or any other mode,
- Of any part of the body of the child or
- The involvement of the child in a sexual act.



(vi) Entices child:

- For **pornographic purposes, or**
- Gives gratification therefor.



Explanation:

- Question involving “sexual intent” is question of fact.

Reference: The Protection of Children from Sexual Offences 2012, S.11

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Q.33) Under the Protection of Children from Sexual Offences Act, 2012, in case the parent of the child victim or any other person in whom the child victim reposes trust or confidence be present for the medical examination of the child victim, the medical examination has to be conducted in the presence of a woman nominated by the:

- 1) Investigating Officer*
- 2) Special Court*
- 3) Head of the medical institution*
- 4) Juvenile Justice Board*

Ans: 3

**Source: Edzorb Law premium+2.0 – Simplified Notes –
POCSO – S. 27**

Section 27

Medical examination of a child.

Notwithstanding that a **FIR or complaint** has **not been** registered for the offences under this Act



The medical examination of a child with whom any offence has been committed under this Act, shall be conducted



- In Accordance with **S.164-A** of the **CrPC**.



- By a **woman doctor**, in case the victim is a girl child



- In the presence of the **parent of the child**, or
- Any other person in whom the child reposes **trust or confidence**



- In the presence of a woman nominated by the Head of the medical institution
- In case the parent of the child or other person referred to in Ss.3 cannot be present, for any reason

Reference: The Protection of Children from Sexual Offences 2012, S.27
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Q.34) The Special Court after taking cognizance of the offence under the Protection of Children from Sexual Offences Act, 2012 has to record the evidence of a child victim within:

- 1) 60 days
- 2) 30 days
- 3) 90 days
- 4) 1 year

Ans : 2

*Source : Edzorb Law premium+2.0 – Simplified Notes –
POCSO – Section 35(1)*



Section 35

Period for recording of evidence of child and disposal of case.

35.1

- The evidence of the child shall be recorded: Within 30 days taking cognizance of the offence
 - If recording delayed:
Reasons to be recorded.



35.2

The Special Court shall:

- Complete the trial: Within 1 Year from the date of taking cognizance of the offence.



Reference: The Protection of Children from Sexual Offences 2012 S.35
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Q.35) Under Section 14 of the Protection of Children from Sexual Offences Act, 2012, whoever uses a child for pornographic purposes shall be punished with imprisonment for a term which shall not be less than:

- 1) 5 years
- 2) 3 years
- 3) 7 years
- 4) 2 years

Ans : 1

Source - Edzorb Law premium+2.0 – DJS Prelims Crash Course – Simplified Notes – POCSO – Section 14(1)



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Section 14.

Punishment for using child for pornographic purposes

Whoever uses a child or children for pornographic purposes

(1) Punishment for using child for pornographic purposes:

- **Imprisonment:** Not less than 5 years and
- Fine

This time I will make sure, you be in jail for complete 7 yrs



- Punishment in case of **Second or subsequent conviction:**
 - **Imprisonment:** Not less than 7 years, and
 - Fine



(2)

Person using the child or children for pornographic purposes commits an offence

Referred u/s	Punishment In addition to as provided U/Ss.1
3	As given U/S 4
5	Directly by participating in pornography acts As given U/S .6
7	As given U/S 8
9	As given U/S.10

Reference: The Protection of Children from Sexual Offences 2012, S.14

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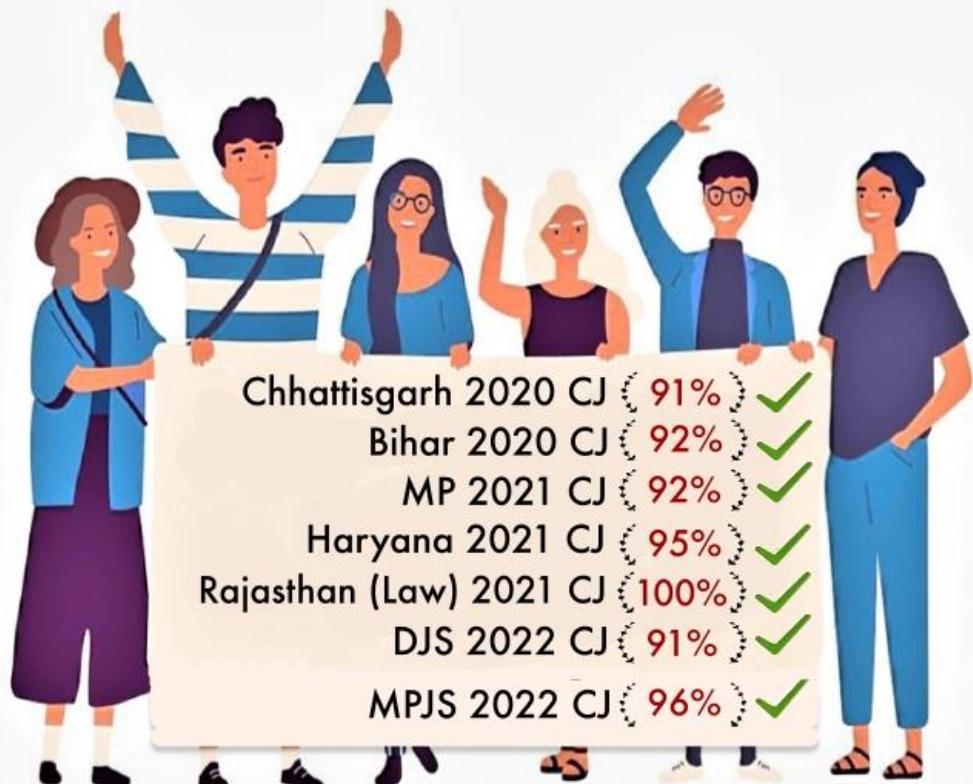


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Section - 3 Contract



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Q.36) Section 75 of Indian Contract Act is applicable on-

- 1) Initially voidable contracts*
- 2) Subsequently voidable contract*
- 3) None*
- 4) Both*

Ans: 2

**Source: Edzorb Law premium+2.0 – Simplified Notes –
Indian Contract Act – S. 75**

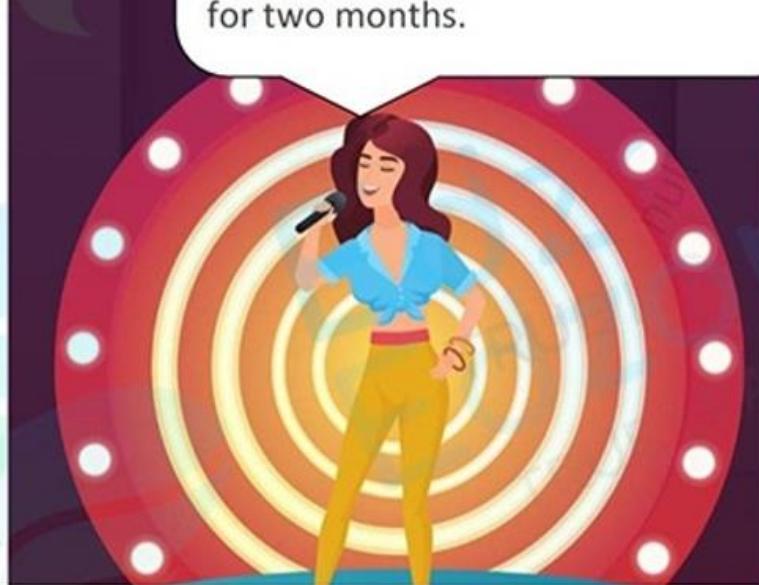
Section 75:

Party rightfully rescinding contract, entitled to compensation:

- If a party **rightly rescinds a contract**,
- It may **claim compensation for any loss or damage caused by non- performance.**



The contract is good. I have to sing in your theatre for two nights every week for which you would pay me Rs.500 for each night performance for two months.



On the Sixth day....



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- On the sixth night, Riya wilfully absents herself from the theatre, and
- Owner of the theatre, in consequence, rescinds the contract.
- The owner is entitled to claim compensation for the damage which he has sustained through the non-fulfilment of the contract.

Reference: The Indian Contract Act, 1872, Central Law Agency, Digitot Edition,

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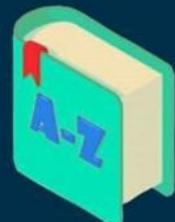
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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: - 10

- a) उच्च न्यायालयों का अधीकार ऐसे भी दीवानी और कौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंपनी द्वारा बिना अनुमति लिये उसके कंपनी के डाटा को कॉपी करना या उसे साझा करना डाटा चोरी अपराध के तहत माना जाता है।
- c) दरअसल कोई की अवमानना की समूही व्यवस्था न सिर्फ जनतंत्र, चलिक नायिक प्रणाली के भी प्राकृतिक नियमों को सरलीकृत किये जाने की मांग करती रिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्राप्त अंतर्गत है, उनकी अपीन उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यश्यापि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्व न्यायालिका और एक ही मौलिक विषयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंटी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंटी-प्रत्यक्षीकरण, परमादेश, प्रालिकेश, अधिकार-पूँछ, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में छाँकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारबाहों और वास्तविक कारबाहों में अत्यधिक अन्तर है।
- i) जगमनत, किसी आरोपी को ग्रात एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपत्तिक बांड जमा कर रिहाई ग्रात की जाती है।

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Incorrectly
Marked

Q. 3

4/10

- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *अन्तरिक्ष*
- (b) Without seeking the permission of an appointed person of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.
- (c) Actually the proper system of contempt of court not only seeks to suspend democracy, rather but also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- can be appealed before the High Court.



(c) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A2ZT)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (SC2115) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

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~~of real prisons.~~ huge

- (i) Bail is such a ~~restored~~ right for * any accused
- (ii) Bail, is such a legal system available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

Q. 5

~~This~~ ~~Divatti~~, while judicial ~~the~~ decisions talked about restriction ~~on~~ crackers and also the government ~~had~~ also declared to put ~~question~~ ~~question~~ ~~answering~~ ~~on~~ them; the public mocked all three factors and burnt crackers ~~before~~ the whole night. This is the lowestmost step of decency and the man standing on this step, environment, his own health or the convenience or

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Q.37) An executed consideration is—

- 1) Reciprocal promises*
- 2) An act done in response to a positive promise*
- 3) An act done in expectation of a proposal*
- 4) None of these*

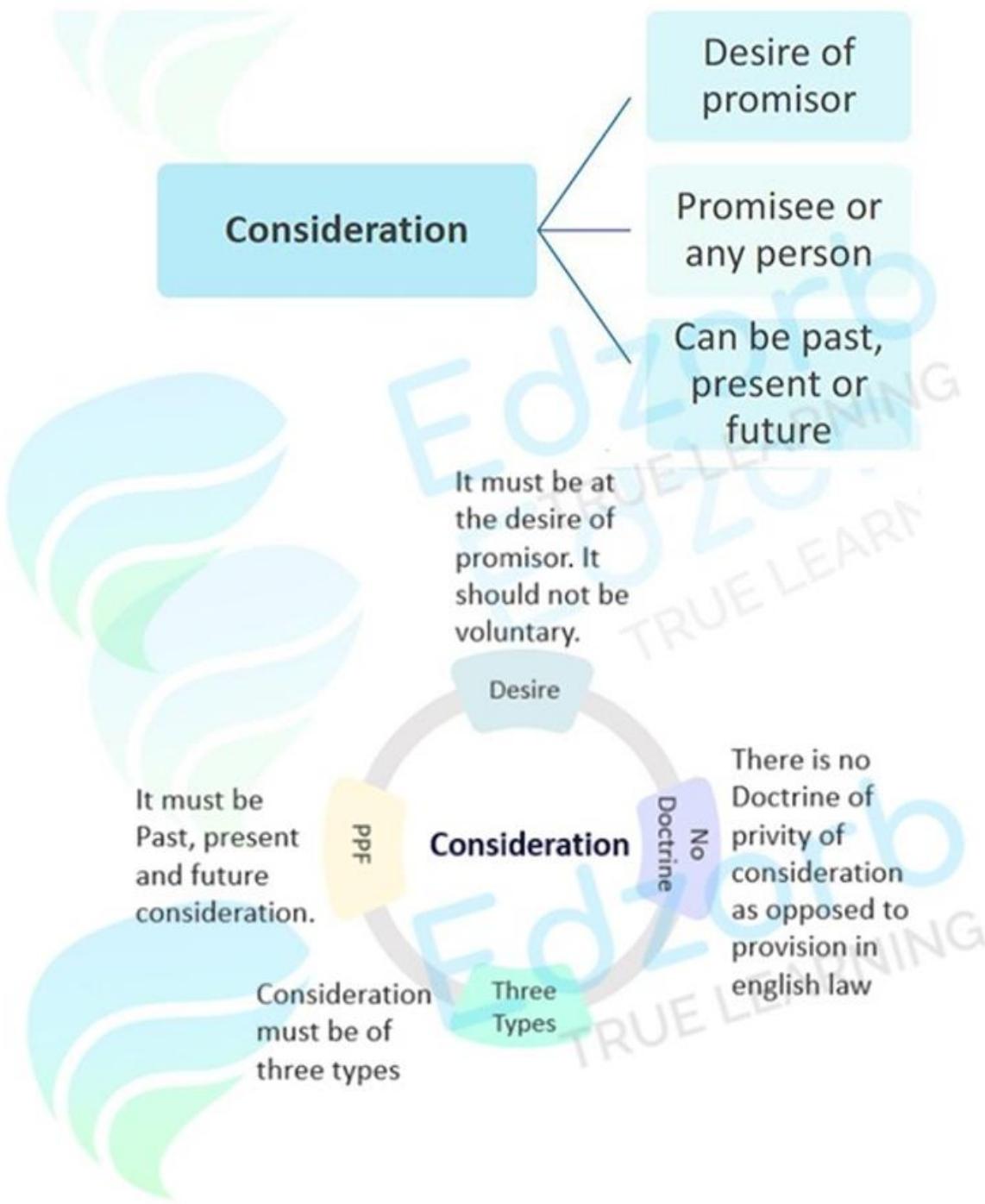
Ans: 2

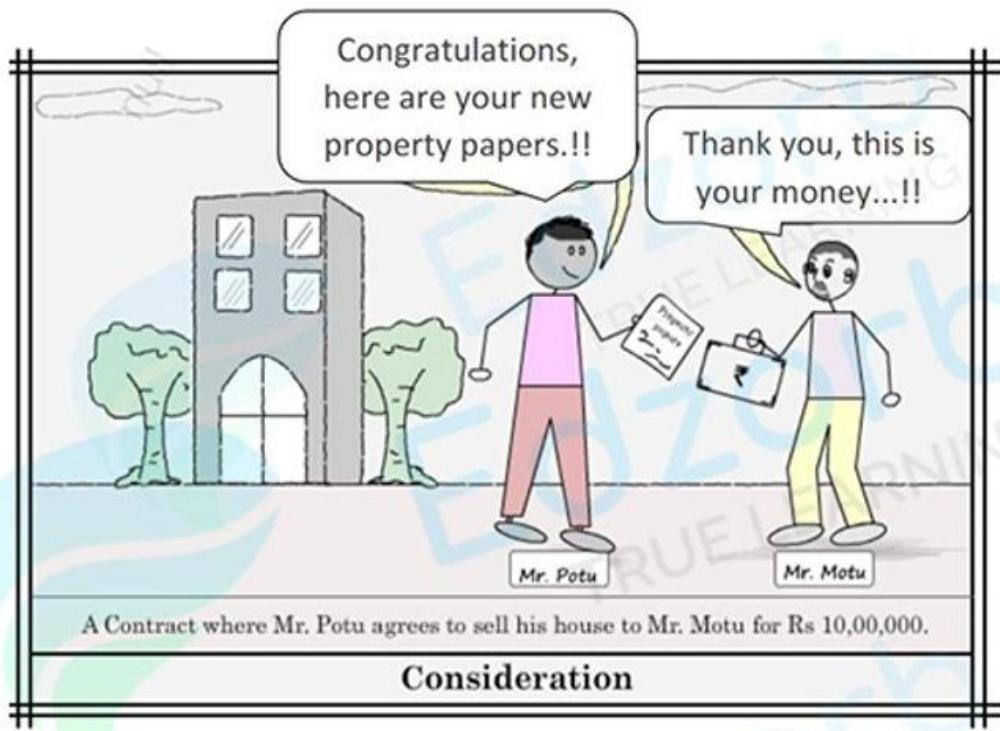
**Source: Edzorb Law premium+2.0 – Simplified Notes –
Indian Contract Act – S. 2 (d)**

Consideration- Sec.2(d)

- When at the **desire of the promisor**,
- The promisee or any other person,
- Has **done or abstained from doing**, or does or abstains from doing or promises to do or to abstain from doing something,
- Such **act or abstinence or promise** is called consideration for promise.







Durga Prasad Vs Baldeo (1880) 3 All 221

Facts- The defendant occupied the shop in consideration of the plaintiff having spent money promised to pay him a commission sold through their agency.

Held- If act is done at the desire of the promisor, then it will furnish a good consideration.

- If the act is not done at the desire of the promisor, then consideration will **not be considered to be a consideration.**



Q.38) The principle relating to 'Responsibility of Finder of Goods' has been laid down under

- 1) Section 70
- 2) Section 71
- 3) Section 72
- 4) Section 73

Ans: 2

Source: Edzorb Law premium+2.0 – Simplified Notes – Indian Contract Act – S. 71

Section 71:

Responsibility of finder of goods:

- Person **who finds goods belonging to another**, and
- Takes them **into his custody**,
- Has the **same responsibility as a bailee**.





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Whose purse is this? It's better I put in the drawer. Oh! my shift is over. I have to be somewhere else.



- Priya left the purse at the counter assuming Ria would come back for it.
- But Ria's Assistant without informing Ria kept the purse in drawer.
- Ria is liable for compensation since she did not take care of the purse which any prudent person would have done.

Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition,

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Q.39) The nature of a wagering agreement was explained in the case of.

- 1) *Mohori Bibee v. Dharmadas Ghosh*
- 2) *Derry v. Peak*
- 3) *Carlill v. Carbolic Smoke Ball Co.*
- 4) *Hyde vs. Wrench*

Ans: 3

Source: Edzorb Law premium+2.0 – Simplified Notes – Indian Contract Act – Pg. No.64-68

Source: Edzorb Law premium+2.0 –Case Law Flashcards – Part II –Contract Act 1





**Carlill
v.
Carbohc Smoke Ball
Company Ltd.
(1893) 1 QB 256 (CA)**

General offer is continuing in nature and it is open for acceptance to any number of persons until it is retracted.



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Q.40) _____ of the Indian Contract Act' 1872 prescribes that the acceptance, must be made in a reasonable manner. If the proposer has prescribed a manner of acceptance, the acceptance must be made in that manner. If not so made, there is a contract only if the proposer 'accepts the acceptance'.

- 1) Section 7(2)
- 2) Section 7(3)
- 3) Section 7(4)
- 4) None of these

Ans: 1

Source: Edzorb Law premium+2.0 – Simplified Notes – Indian Contract Act – S. 7

Section 7:

Acceptance must be Absolute:

- To convert a **proposal** into a **promise**, the acceptance
 - Must be **absolute and unconditional**





- There is no contract, as there was conditional acceptance by Raj.
- Must be given by a person to whom offer was made
 - Sneha sold her business to Renu without disclosing the outstanding dues.



Thank you Sneha,
for selling the
store



As Sneha already had a
running account with
Rekha, let me order
for supply of goods.

Sorry Renu I can't supply
you the goods. First clear
the outstanding dues by
Sneha





- Renu refused to pay the price to Rekha.
- It is because there is no contract between Renu and Rekha.
- Renu never made an offer to Rekha and she is not liable to pay the price.

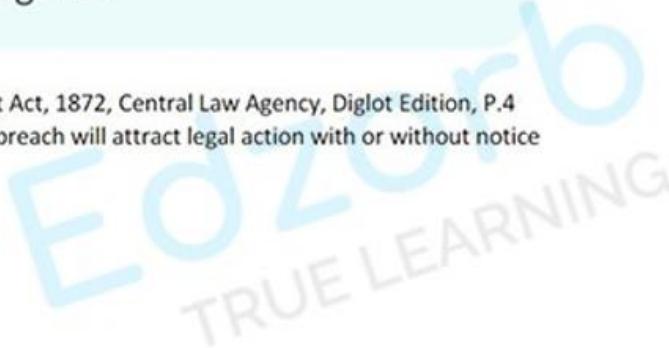
- Must be made in some usual and reasonable manner.

'I would like to buy 1000 flowers for Rs.5000. mail your acceptance through telegram.'



- Rita writes a letter accepting the offer.
- Amrita may insist on a telegram from Rita.
- However, if Amrita does not insist, the Acceptance is good.

Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition, P.4
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Q.41) _____ describes a voidable contract as one which is enforceable by the law at the option of the parties, but not at the option of the others.

- 1) Section 2 (g) of the Indian contract Act, 1872*
- 2) Section 2 (h) of the Indian Contract Act, 1872*
- 3) Section 2 (i) of the Indian Contract Act, 1872*
- 4) None of these*

Ans: 3

Source: Edzorb Law premium+2.0 – Simplified Notes – Indian Contract Act – S. 2(i)

Voidable Contract- Sec.2(i)

- An agreement which is **enforceable by law**,
- At the option of **one or more parties**,
- But **not at the option** of the other or others,
- Is a **voidable contract**.





- In this case the contract to obtain the property from the person **selling it by fraud** is **voidable** at the option of the person to whom the property belongs.





- The contract which **starts as a valid**,
- But at a later period of time there is an option for one of the parties to **rescind it or go to court to get it cancelled**,
- In this case **voidable contract becomes void**.



Q.42) When there is duty to speak, keeping silence is:

- 1) Fraud
- 2) Undue influence
- 3) Coercion
- 4) None of these

Ans: 1

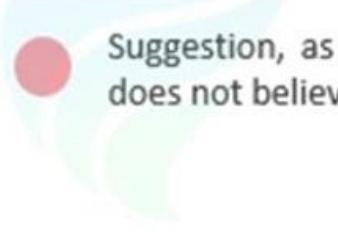
**Source: Edzorb Law premium+2.0 – Simplified Notes –
Indian Contract Act – S. 17**

Section 17:

Fraud:

- Any of the act committed by a party to a contract,
- Or with his **connivance**, or by his **agent**,
- With **intent to deceive** another party thereto of his agent,
- Or to **induce him** to enter into the contract.





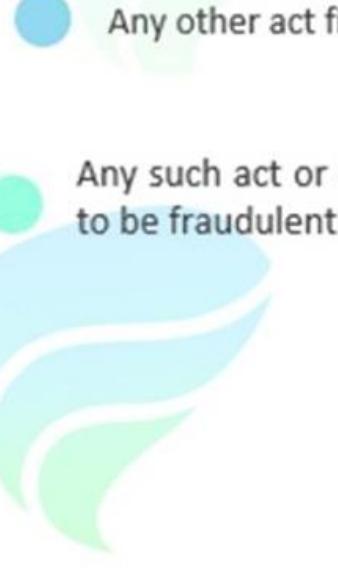
- Suggestion, as a fact which is not true, by one who does not believe it to be true



- Active concealment of a fact by one having knowledge or belief of the fact



- A promise made without any intention of performing it



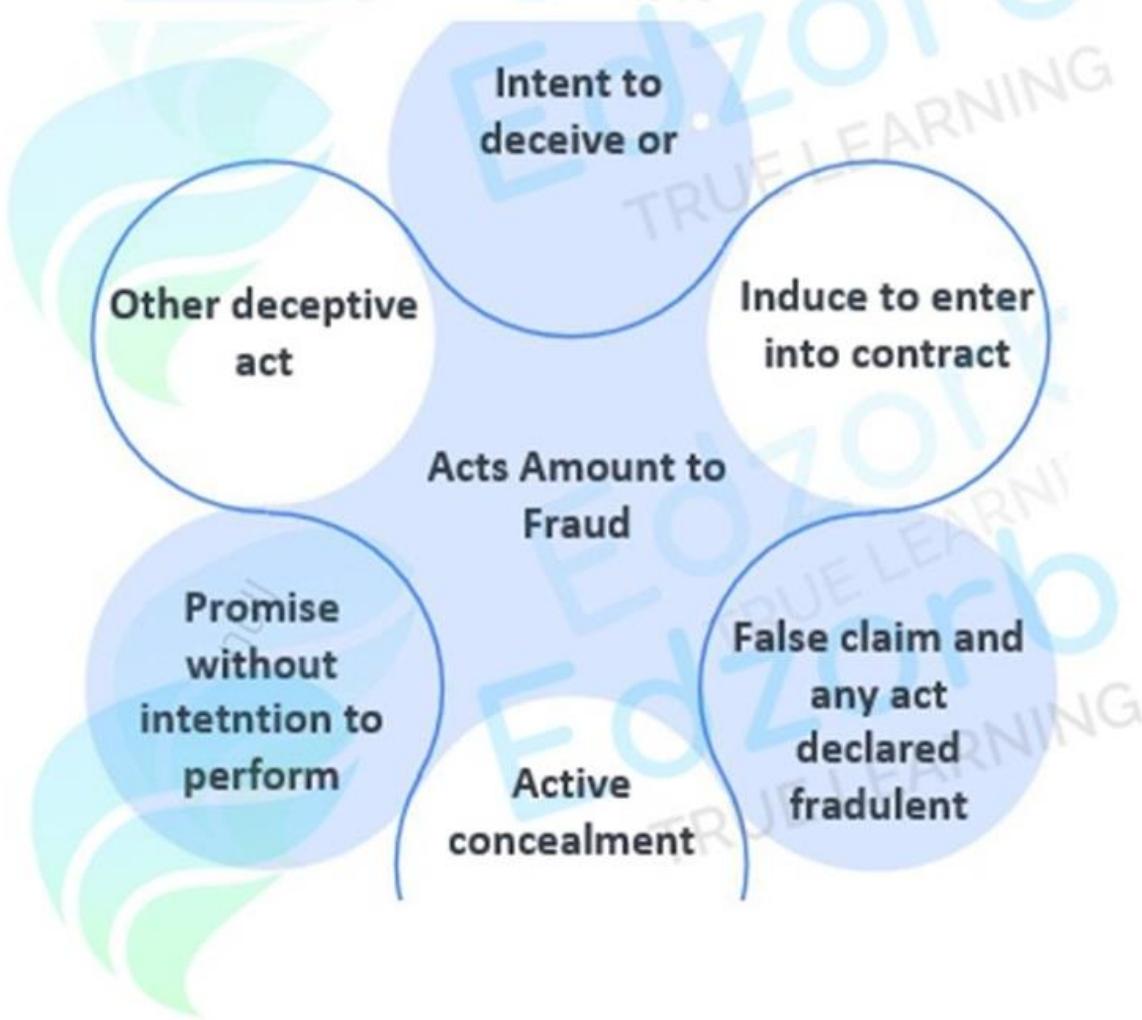
- Any other act fitted to deceive



- Any such act or omission as the law specially declares to be fraudulent



Active Concealment	Passive Concealment
<ul style="list-style-type: none"> A party takes positive steps to prevent the information from reaching the other party. 	<ul style="list-style-type: none"> Mere silence as to material facts.



Passive concealment



- Raj says nothing to Ram about the horse's unsoundness.
- This is not fraud.



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Active concealment

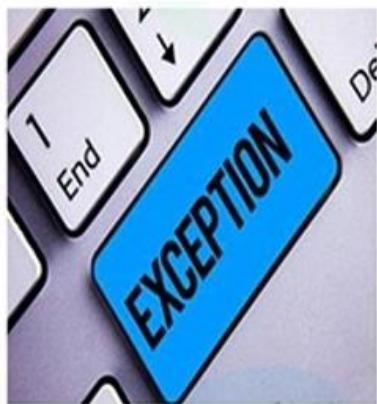


Be careful Beta! The horse is unsound.



- Rekha is Ram's daughter. Here the relation between Ram and Rekha would make it bound to tell her if the horse is unsound.
- **Mere silence** as to facts likely to affect the willingness of a person to enter into a contract **is not fraud**,
- Unless the circumstances of the case are such that, it is the **duty of the person** keeping **silence to speak**, or
- Unless **his silence** is, in itself, **equivalent to speech**.





- When the **person keeping silence** is under duty to speak.
- If a **statement is true** when made, but **subsequently becomes false by change in circumstances**, then there is duty to disclose the change.

Krishan Vs Kurukshetra University

(1976) 1 SCC 311

Fact- Candidate had full knowledge of the fact that he was short of attendance.

- He did not mention it in his examination form.

Held- This is not fraud as it is the duty of university to scrutinize forms which they have failed to do so.

Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition, P.7

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Q.43) A promise to pay a time barred debt is enforceable, if some conditions are fulfilled. Which of the following conditions is not required?

- 1) It must be signed by the promisor
- 2) It must be definite and express
- 3) It must be in writing
- 4) It must be registered

Ans: 4

Source: Q Bank Concepts – Indian Contract Act – Unit II – Q. 6

6.



MCQ Single Correct Question

Which provision of the ICA mentions time-barred debt?

- a) Section 25 (1)
- b) Section 25 (2)
- c) Section 25(3)
- d) Section 25 (4)

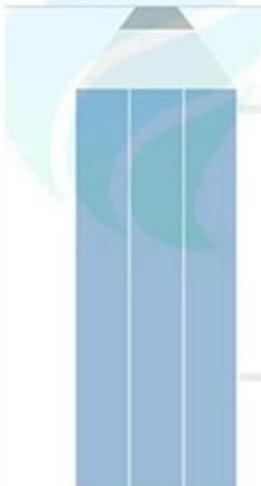


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Section 25(3) of Indian Contract Act, 1872 lays down an exception dealing with a promise to pay a time barred debt.

- As per this provision a promise to pay time barred debt is enforceable when the following conditions are satisfied.



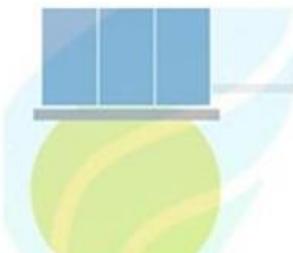
The Promise **must be in writing** and signed by the promisor or by his agent generally or specially authorized in that behalf;

The **promise must be to pay the whole or any part** of the debt;



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The debt must be such of which the creditor might have enforced payment but for the law for the limits of suits.

Did you Know?

- Mere acknowledgement of debt will not be sufficient;
 - To invoke **Section 25(3)**, it is necessary that **there must be an express promise in writing to pay the time-barred debt**.
 - And it should be an express and not implied promise.
-
- Limitation Act is applicable to debt and **after the expiry of the limitation period**, debt will be time barred.



Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition, P.9
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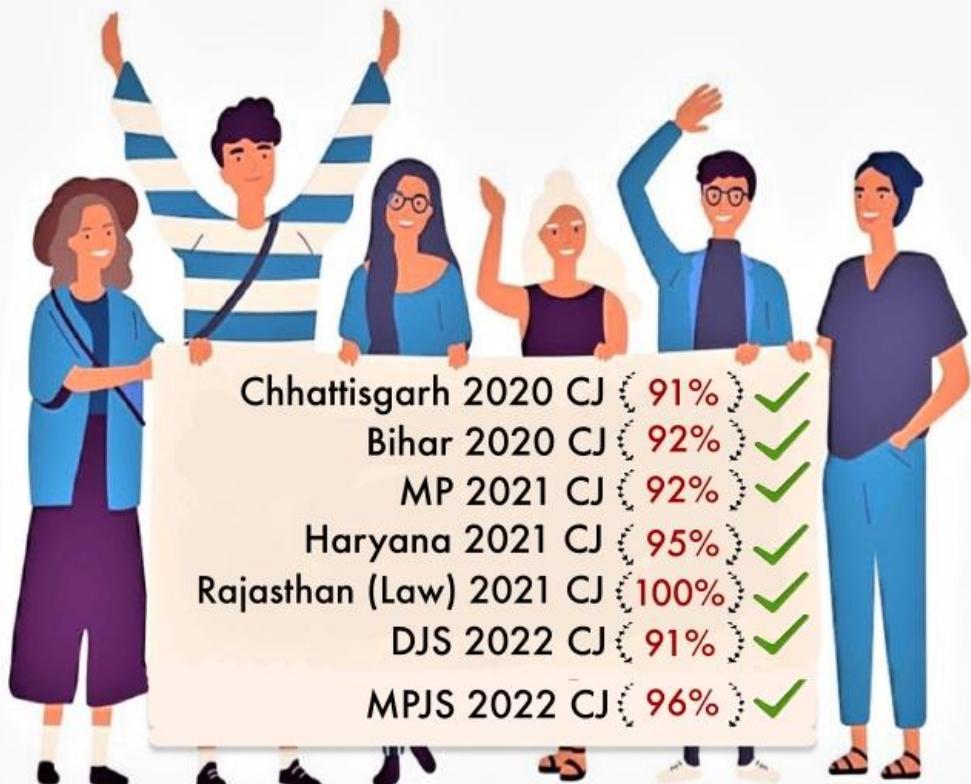


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Section - 4 LLP



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Q.44) "Resident in India", for the specific purpose of being a Designated Partner under the Limited Liability Partnership Act, 2008, requires minimum residency/stay in India for how many days during one immediately preceding year?

- 1) 120
- 2) 160
- 3) 182
- 4) 242

Ans: 1

**Source: Free Initiatives by Edzorb – DJS Simulator Mock 2
- Q. 165**

165



MCQ Single Correct Question

Section 7 of the LLP Act talks about :

- a) Partners
- b) Minimum number of partners
- c) Liabilities of designated partners.
- d) Designated partners.



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Explanation

Section 7 of the Limited Liability Partnership Act, 2008

Designated Partner Defined as -

LLP shall have at least 2 designated partners who are individuals and at least 1 of them shall be a resident in India.

Stayed for a period of not less than **120 days**

"Resident in India"
A person who has stayed in India.

During the immediately preceding one year.



Provided that;

- In case of a LLP, in which **all the partners are bodies corporate** or in which **one or more partners are individuals and bodies corporate**;
- At least **two individuals** who are partners of such limited liability partnership or **nominees of such bodies corporate** shall act as designated partners.



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Q.45) Which of the following is not a circumstance in which a Limited Liability Partnership may be wound up?

- 1) Upon an internal decision Of the LLP where it decide to stop doing business and be wound up*
- 2) When the number of partners is reduced to below two for three consecutive months*
- 3) Upon the limited liability partnership being unable to pay its debts.*
- 4) When the LLP has acted against the interests of the Sovereignty of India.*

Ans: 2

Source 1: Free Initiatives– DJS Simulator Mock Exam 2 – Q.181

181

MCQ Single Correct Question

Circumstances in which limited liability partnership may be wound up by Tribunal has been dealt under:

- a S.62
- b S.63
- c S.64
- d S.65



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Explanation

Section 64 – Limited Liability Partnership Act, 2008

Circumstances in which limited liability partnership may be wound up by Tribunal



- if the LLP decides that LLP be wound up by the Tribunal;
- if, for a period of more than six months, the number of partners of the LLP is reduced below two;
- if the LLP is unable to pay its debts;
- if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
- if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or
- if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.

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Q.46) Which of the following circumstances is not One where a partner of an LLP will cease to be a partner?

- 1) On dissolution of the LLP*
- 2) If he is declared to be of unsound mind by a competent court*
- 3) If he has applied to be adjudged as an insolvent*
- 4) If he has been convicted for an offence by a competent court*

Ans: 4

Source

**Edzorb Law Qbank – DJS Prelims Crash Course – MCQ
Factory– LLP Act – Q.80**

**Edzorb Law Qbank – DJS Prelims Crash Course – MCQ
Factory– LLP Act – Q.85**



80.

MCQ Single Correct Question

A person shall not be capable of being appointed as a designated partner of a LLP, if he:

- (a) Suspends, or has at any time within the preceding five years suspended payment to his creditor and has not at any time within the preceding five years made, a composition with them
- (b) Has been convicted by a Court for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six month or has been convicted by a Court for an offence involving section 30 of the Act.
- (c) Has at any time within the preceding five years been adjudged insolvent.
- (d) All of the above.

85.

MCQ Single Correct Question

When a person shall cease to be a partner of a limited liability partnership:

- (a) If he is declared to be of unsound mind by a competent court;
- (b) If he has applied to be adjudged as an insolvent or declared as an insolvent
- (c) On his death or dissolution of the limited liability partnership
- (d) All of the above.



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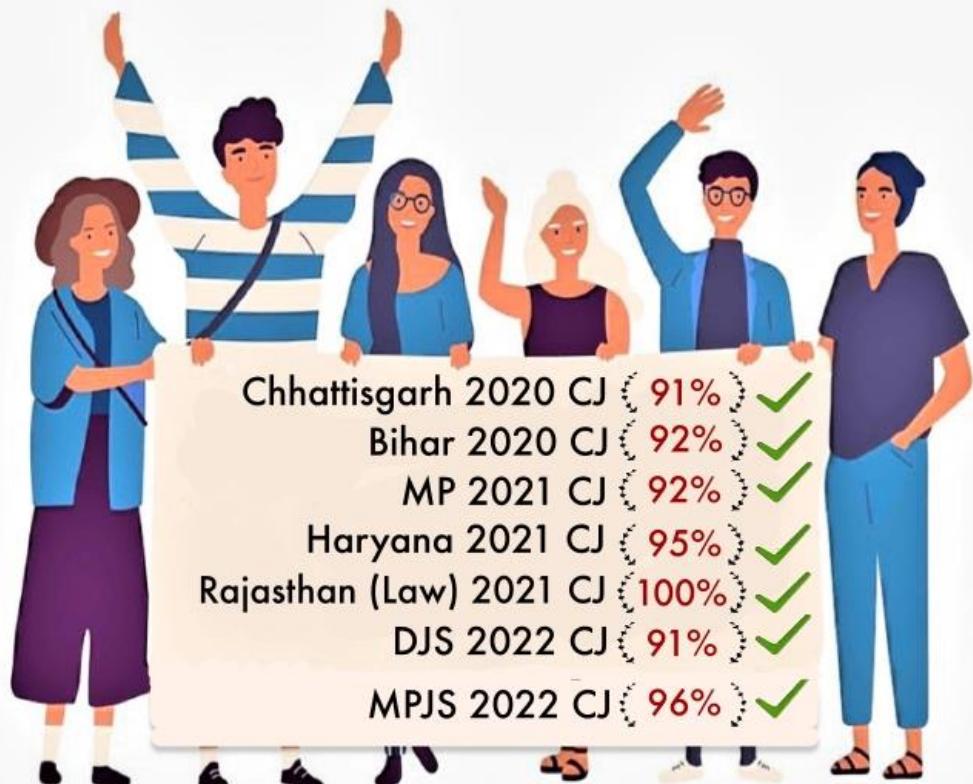


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Section - 5 ADR



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Q.47) Which amongst the following is an arbitrable dispute under the Arbitration and Conciliation Act, 1996?

- 1) Disputes relating to testamentary succession covered under Indian Succession Act, 1954.*
- 2) Infringement of a trademark registered under the Trade Marks Act, 1999*
- 3) Landlord and tenant and disputes arising from a lease deed covered under the Transfer of Property Act, 1882.*
- 4) Guardianship disputes covered under Guardian And wards Act, 1890.*

Ans: 3



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Q.48) In an arbitral tribunal consisting of 3 members, an interim order of restraint is passed staying the invocation of a bank guarantee. Subsequently, for health reasons, one of them withdrew from the office of the arbitrator, and a substitute arbitrator is appointed by the Court. Now that the composition of the arbitral tribunal has changed, what is the legal effect of the restraint order passed by the erstwhile tribunal?

- 1) Still valid, as the change of composition of the tribunal does not invalidate the order of the erstwhile tribunal*
- 2) The newly appointed tribunal has to formally express opinion on the earlier order to make it binding on the parties*
- 3) The court appointing the substitute arbitrator has to specifically validate the earlier orders of the erstwhile tribunal*
- 4) The party has to file a fresh formal application before the newly constituted tribunal for continuation of the interim order.*

Ans: 1



Q.49) Which amongst the following is not an appealable order under the Arbitration and Conciliation Act, 1996?

1) Refusing to refer the parties to arbitration under Section 8

2) Refusing to grant any measure under Section 9

3) Setting aside an arbitral award under Section 34

4) Rejecting the plea under sub-section 2 of Section 16

Ans: 4

**Source: Edzorb Law Qbank – MPJS - Prelims Crash Course
– QBank concepts – Arbitration Act – Unit V – Q.24**

24.



MCCQ Single Correct Question

Once a matter reaches arbitration, the High Court would not interfere with orders passed by the arbitrator or the arbitral tribunal during the course of arbitration proceedings. The statement is

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

Explanation

A

- **High Court cannot interfere** with the orders passed by the arbitrator or arbitral tribunal.
- The Arbitration Act allows court interference in following cases –



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1 Reference to Arbitration S. 8, 45 & 54

2 Appointment of Arbitration S. 11

3 Interim Measures S. 9

4 Challenge to Arbitrators S.12, 13 & 14

5 Challenging the Arbitration Awards S. 34

6 Seeking Court Assistance with regard to witness S. 27



7

Contempt Proceedings S. 27

8

Enforcement of Awards S. 36, 49
& 58

9

Appealable Orders S. 37 and S. 59

We can seek court assistance with regards to witness.



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**Bhavani Construction Vs Executive Engineer Sardar
Sarovar Narmada Nigam Ltd.**

Civil Appeal No. 14665 of 2015

Facts: The respondent aggrieved by arbitrator order filed application under **Article 226 and 227** of Indian Constitution.

Held: A three-judge bench of Supreme Court held –

- The power of the High Court under **Article 226 and 227** needs to be exercised **in exceptional rarity**.
- The intervention would be warranted only in cases wherein a party is left remediless under the Arbitration Act, 1996.

Reference: The Arbitration and Conciliation Act, 1996
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Q.50) Mr. ABC, an Indian, enters into a contract in Mumbai with Mr. PQR, an American, who is in India on a business tour. The agreement between them contains an arbitration clause which states that the laws of USA would be applicable. The agreement also provides for the jurisdiction of the courts of district Borivali at Mumbai. Disputes have arisen, which have to be referred to arbitration. Which court should be invoked for appointment of arbitrator?

- 1) Court of competent jurisdiction in District Borivali*
- 2) High Court of Bombay*
- 3) Supreme Court of India*
- 4) Court of competent jurisdiction in USA*

Ans: 3



**Source: Edzorb Law Qbank – MPJS - Prelims Crash Course
– QBank concepts – Arbitration Act– Unit V – Q.1**

1.

MCQ, Single Correct Question

Where a party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party in violation of section 11(3) of the Arbitration and Conciliation Act, the appointment shall be made, upon request of a party, by the

- (a) High Court
- (b) Supreme Court
- (c) Chief Justice
- (d) None of the above

Explanation

B

Prior to Amendment, 2015 – If party fails to appoint then
Amendment Act, 2015 – It entrusted the responsibility to
Supreme Court for appointing arbitrator.

- Amended by – **Section 6** of Arbitration and Conciliation Act, 2015.

Enforced

on

23 Oct, 2015

Section 11: Appointment of arbitrators

(3) If a **party fails to appoint an Arbitrator within 30 days** from the receipt of a request to do so from the other party then,

- On the request (application) of the party the appointment shall be made by –



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Reference: The Arbitration and Conciliation Act, 1996 s 11
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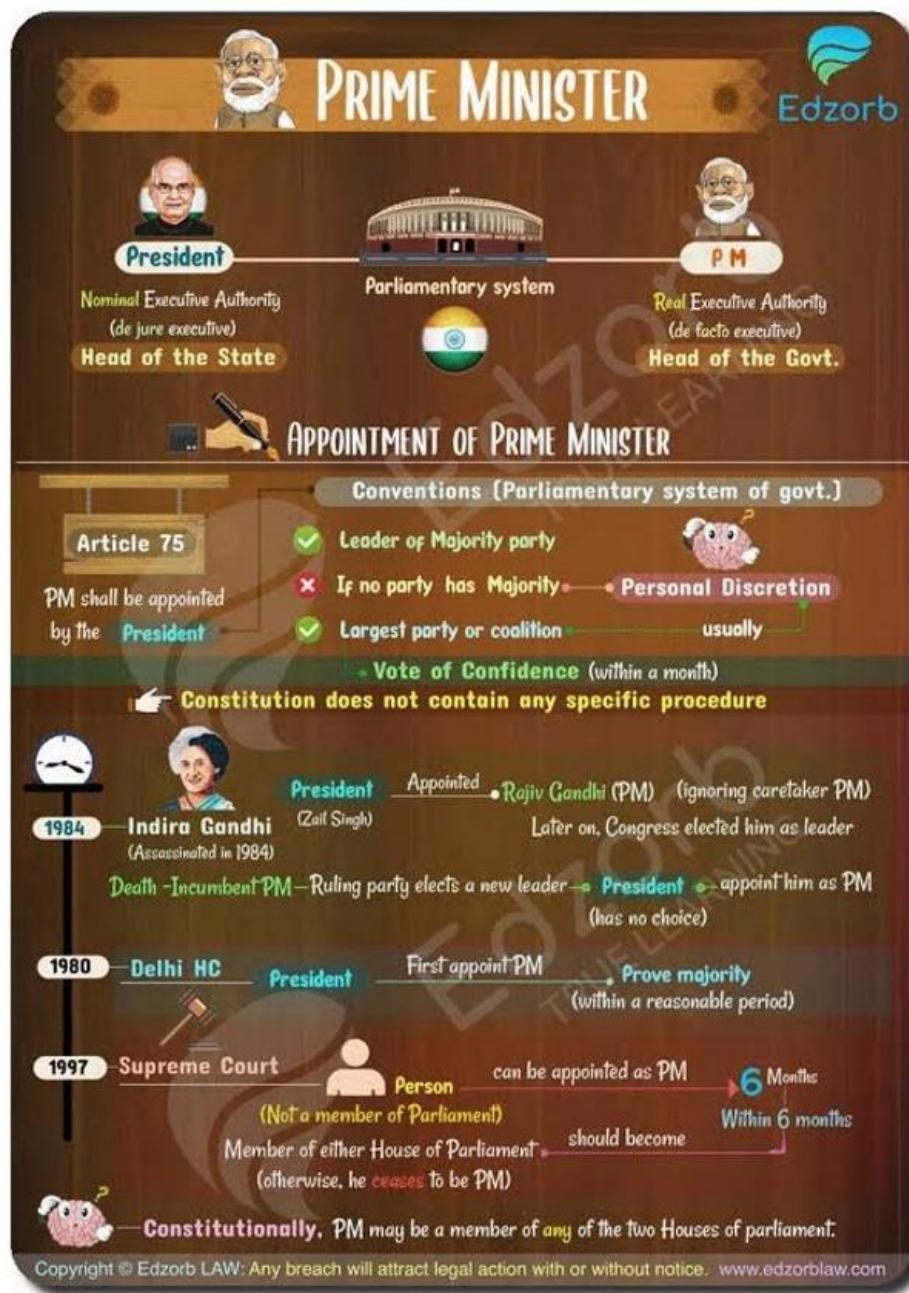
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HIGH COURT



HISTORY

Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3 common HC Delhi (UT)- own HC

ORGANISATION Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President

Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges
President	Appointed by President	Appointed by President	Appointed by President	Appointed by CJ of HC
Misbehaviour	President	President	President	(Temporary)
Recommended by Parliament (Special Majority)	CJ — Absent Unable to perform duty	More work 2 years term	Judge Absent Unable to perform duty	

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	Matters	Enforcement
Original jurisdiction	• Company laws • Court contempt Election disputes	Fundamental Rights Revenue matters
	Cases	
		Transferred from Subordinate courts

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BIOME



• EQUATORIAL REGION

Tropical rainforest

Evergreen forest



10°N
0°
10°S

Broad leaves

Canopy formation

Very tall trees

Very dense forest

No shedding of leaves

- Hardwood
- Mahagony
- Ebony
- Rosewood
- Rubber
- Cinchona



ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm



Semang (Malaysia)



Kubus (Sumatra)



Dayaks (Borneo)



Pygmies (Congo)



Amazon Indians (South America)

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**ARTICLE
165**

ADVOCATE GENERAL OF THE STATE

Highest Law Officer in the State



Governor

Appoints Advocate Gen.
Determines remuneration



Entitled to appear before any court
of law within the state



DUTIES AND FUNCTIONS

Qualifications

Qualified to be appointed as a — **Judge of H C**
Judicial office- 10 years Advocate of HC- 10 years

✓ Can speak, take part in proceedings
State Legislature

- Both Houses
- Committee
- Without right to Vote

✓ Holds office during the pleasure of the Governor.

Removal

- By Governor at any time.
- **Resignation** to the Governor.
- Conventionally resigns when Govt. resigns or replaced.

- Advice to the State Government on legal matters.
- Functions conferred by the Constitution/ Law.
- Other duties (legal) assigned by Governor.

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Sample

Q. "Equal Pay for Equal Work" is not expressly a constitutional right, it has been read into the Constitution through the interpretation of which other articles?

- A. Article 14, 15
- B. Article 39, 14, 15, 16
- C. Article 21
- D. None of the Above

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(B)

Equal Pay for Equal Work:



- The **directive principle of State Policy** under **Article 39**.
- It is the concept of labour rights that individuals in the same workplace be given equal pay.
- Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances.



History of Equal Pay for Equal Work

As wage-labour became increasingly formalized during the Industrial Revolution, the principle of equal pay for equal work arose at the same part of first-wave feminism, with early efforts for equal pay being associated with **nineteenth-century** Trade Union activism in industrialized countries.

Principle of Equal Pay for Equal Work – Binding as precedent

State of Punjab Vs Jagit Singh

(2017) 1 SCC 148

- **Decision of Lower court:** Temporary employees were not entitled to the minimum of the pay-scale, as was being paid to similarly placed regular employees was challenged.
- **Decision of Apex Court:** Principle of "**equal pay for equal work**" expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India and is applicable to all temporarily engaged employees.

Did you Know?

The World Bank, which has tracked legal changes for the past decade, found **Belgium, Denmark, France, Latvia, Luxembourg or Sweden** were the only countries in the world to enshrine gender equality in laws affecting work.



SUO MOTU LIMITATION



SC Allows Service Through Instant Tele-Messenger Services

Considering difficulty in visiting post offices amid pandemic, SC allowed service of summons & notices through instant tele-messenger services like whatsapp, email and fax. All these will prove valid service on a party.



SA Bobde, C.J.I.; AS Bopanna, J. & Subhash Reddy, J.

Reference: economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-email-fax-instant-messaging-apps-like-whatsapp-for-service-of-notices-summons/articleshow/76898274.cms?from=mdr



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Rajeev Kourav v. Baisahab & Ors.

Crl.A. No .232/2020



Criminal proceedings not to be quashed on the basis of statement made under S. 161 CrPC



S.161 of CrPC, S. 482 CrPC

Statements recorded under S.161 are inadmissible in evidence and are not a valid ground for allowing a petition under S.482. Courts not to appreciate evidence while dealing with the quashing petition filed under S. 482 CrPC.



Bench: L. Nageshwar Rao, J. & Deepak Gupta, J.

Reference: <https://main sci gov in supremecourt>

2017/2075/2075-2017-11-1502-20472-Judgement-11-Feb-2020.pdf



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BIOME

LAURENTIAN TYPE

HELLO SUMMER

Short



60° N
-18° to -24°C



45° N

0



-3° to -17°C

Westerlies bring cold influences interior of the continent

Cold current, reduces warming influence from sea

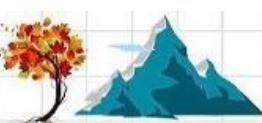
Vegetation consists mostly of coniferous forests



Northern Japan covered with dense Coniferous made up of Spruce, Fir, Larch, Pine

ST LAWRENCE TYPE

COOL TEMPERATE EAST MARGIN



ECONOMIC ACTIVITIES

- Fruits

Pear

Peach

Plum

Apple

Orange
- Fishing

Prominent
- Mixed Cropping

Mountains in Manchuria

Maple

Elm

Beech

Ash



Extreme South East, Deciduous trees flourish



Q.51) Which amongst the following would not amount to an ‘arbitration agreement’ under Section 7 of the Arbitration & Conciliation Act 1996?

- 1) An arbitration agreement arrived at by exchange of letters which provide a record of the agreement*
- 2) An exchange of statements of claim and defense, in which existence of arbitration agreement is acknowledged, is alleged by one party and not denied by the other*
- 3) A document containing an arbitration agreement, which is acknowledged by the parties through WhatsApp.*
- 4) An agreement which requires the parties to further consent before making a reference to arbitration*

Ans: 4

*Source: Edzorb Law Qbank – MPJS - Prelims Crash Course
– QBank concepts – Arbitration Act – Unit I – Q. 25*



25.

MQ Single Correct Question

Which of the following sections of the Arbitration and Conciliation Act defines 'arbitration agreement' as an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not?

- a. Section 7
- b. Section 8
- c. Section 9
- d. Section 10

Explanation

Explanation

(A)

Section 7: The **arbitration agreement** has to be in **writing** in any of the following manner:

Arbitration Agreement

In a contract as a reference to the clause part of the agreement

A document signed by both the parties

An exchange of letters, telegrams, information through electricity which also includes telecommunication



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Garware Walls Ropes Ltd. Vs. Coastal Marine Constructions & Engineering Ltd.

SLP(C) 9213/ 2018

- Section 7(2) of the Arbitration Act: The arbitration agreement may be in the form of an arbitration clause in a contract.
- As per Indian contract law, Section 2(h) of the Indian Contract Act, 1872, an agreement enforceable by law is a contract.

Reference: Arbitration and Conciliation Act, 1996, Section 7

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Q.52) Indian arbitration is premised code. Is this proposition true or false?

- 1) True. Singapore International Arbitration center is parent body under which our arbitration law has been framed.*
- 2) True. The Singapore code is applicable in the entire south East Asia.*
- 3) False. It is based on the Model Law of the United Nations Commission on International Trade Law*
- 4) False. It is-based on the Indian Council of Arbitration Model Law.*

Ans: 3



Q.53) Correct this proposition: "International Commercial Arbitration" under Section 2(f) of the Arbitration & Conciliation Act 1996 is arbitration of any disputes between two parties, both of whom are resident abroad.

- 1) It is arbitration of commercial disputes between two parties, at least one of which is either a foreign national; or resident or incorporated abroad; or whose central management and control is exercised from abroad; or is a foreign Government.*
- 2) It is arbitration of commercial disputes between two corporate entities, any one of which is resident abroad.*
- 3) It is arbitration of commercial disputes between two individuals, both of whom are resident abroad.*
- 4) It is arbitration of commercial disputes between any two Governments, whether in India or abroad.*

Ans: 1

Source I: Edzorb Law Qbank – MPJS - Prelims Crash Course – QBank concepts – Arbitration Act – Unit I – Q. 6

Source II: Edzorb Law Qbank – MPJS - Prelims Crash Course – QBank concepts – Arbitration Act – Unit VI – Q. 6



6

MCQ Single Correct Questions

'International commercial arbitration' means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is

- (i) An individual who is a national of, or habitually resident in, any country other than India
- (ii) A body corporate which is incorporated in any country other than India
- (iii) A company or an association or a body of individuals whose central management and control is exercised in any country other than India
- (iv) The Government of a foreign country

- (i) only
- (i) and (ii) only
- (i), (ii) and (iii) only
- (i), (ii), (iii) and (iv)

Explanation

(D)

Section 2(1)(f) of Arbitration and Conciliation Act, 1996:

International Commercial Arbitration as:

International commercial arbitration in India is where atleast one party is

An individual who is a of country other than India

A body corporate which is incorporated in any country other than India

An association or a body of individuals whose central management and control is in country other than India

The government of a foreign country

Reference: Arbitration and Conciliation Act, 1996, Section 2(1)(f)

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6.

MCQ Single Correct Question

Which of the following sections of the Arbitration and Conciliation Act, 1996 defines 'international commercial arbitration'?

- (a) Section 2(f)
- (b) Section 2(g)
- (c) Section 2(h)
- (d) Section 2(l)

Explanation

A.

Section 2(1)(f) → "International Commercial" Arbitration



1. • Should be related to disputes
2. • should arise out of Legal Relationships
3. • can be contractual or not
4. • And should be considered as commercial under law in force in India.



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Parties to a contract where at least one of the parties is -

1. Individual of any country other than India
2. A body corporate of any country other than India.
3. Association whose central work is outside India.
4. The Government of Foreign Country.

Bharat Aluminum Co. Vs Kaiser Aluminum Technical

(2012) 9 SCC 552

Facts:

- The dispute was referred to arbitration seated in England.
- The Appellant had filed applications to set aside the award before the Chhattisgarh High Court under **Section 34** of the Act (which falls under Part I).

Issues: The agreement is governed by Indian law but the arbitration proceedings are governed by English Arbitration Law.

Held: The Indian Supreme Court overruled *Bhatia* and *Venture Global* on the basis that **Part I** of the 1996 Act **does not apply to foreign-seated arbitrations.**

- This conclusion laid down 2 fundamental propositions.
- The application of the UNCITRAL Model Law was intended to be limited to the territorial jurisdiction of the seat of arbitration.
- The seat of the arbitration is the 'center of gravity' of the arbitration and therefore a **choice of a foreign-seated arbitration by the parties** meant that they agreed to the application of the law of that foreign country.

Reference: The Arbitration and Conciliation Act, 1996 s 2

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Q.54) Since arbitration is a process of adjudication by private person(s), the Legislature has laid down the scope of judicial intervention in arbitration proceedings. Which of this is true?

- 1) Judicial intervention is unrestricted, since such intervention is necessary to preserve the integrity of the adjudicatory process.*
- 2) Judicial intervention is prohibited under Section 5 of the Arbitration & Conciliation Act 1996*
- 3) Judicial intervention in domestic arbitration is limited under Section 5 of the Arbitration & Conciliation Act 1996 to only where it is so provided in the statute.*
- 4) Judicial intervention in international arbitrations is limited under Section 5 of the Arbitration & Conciliation Act 1996*

Ans: 3

Source: Edzorb Law Qbank – MPJS - Prelims Crash Course – QBank concepts – Arbitration Act– Unit III – Q. 20



20.

MQCL Single Correct Question

Once a matter reaches arbitration, the High Court would not interfere with orders passed by the arbitrator or the arbitral tribunal during the course of arbitration proceedings. The statement is

- (A) True
- (B) False
- (C) Partly Correct
- (D) None of the above

Explanation

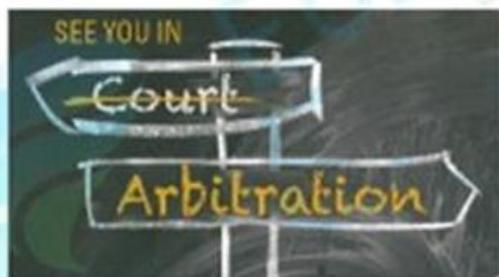
(A)

The Arbitration and Conciliation Act, 1996 is a self-explanatory code, where the scope of 'judicial intervention' has been cleared under certain sections:

- **Section 5:** No judicial authority shall intervene in arbitration proceedings. This provision is made superior to all the laws for the time being in force.
- **Section 16 (1):** It empowers Arbitral Tribunal itself to determine whether it has jurisdiction in the matter, subject of course, to ultimate court control.

GTPL Hathway Ltd. Vs Strategic Marketing Private Limited**20 April, 2020**

The act being a "self-contained" act and limits the opportunity of approaching writ jurisdiction of court only in case of 'patent lack in inherent jurisdiction'.



Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 182
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Q.55) Since under the Indian contract law, any agreement can be either oral or in writing, an agreement to refer disputes to arbitration can also be oral. Is this statement true or false?

- 1) True. Since a dispute resolution mechanism in an oral contract, must necessarily be oral.*
- 2) True. Since the entire purpose of arbitration law is to provide an alternate dispute resolution process, there is no formality that an arbitration agreement must be in writing.*
- 3) False. Section 7 of the Arbitration & Conciliation Act 1996 mandates that an arbitration agreement must be in writing.*
- 4) True. But an oral arbitration agreement has to be first proved independently before disputes can be referred to arbitration under it.*

Ans: 3

**Source: Edzorb Law Qbank – MPJS - Prelims Crash Course
– QBank concepts – Arbitration Act – Unit IV – Q. 3**



3.

MQI Single Correct Question

Even if the words 'arbitration' and 'arbitral tribunal' (or arbitrator) are not used with reference to the process of settlement or with reference to the private tribunal which has to adjudicate upon the disputes, in a clause relating to settlement of disputes, it does not detract from the clause being an arbitration agreement if it has the attributes or elements of an arbitration agreement. They are:

- (i) The agreement should be in writing
- (ii) The parties should have agreed to refer any disputes (present or future) between them to the decision of a private tribunal
- (iii) The private tribunal should be empowered to adjudicate upon the disputes in an impartial manner, giving due opportunity to the parties to put forth their case before it
- (iv) The parties should have agreed that the decision of the Private Tribunal in respect of the disputes will be binding on them

- (i) and (ii)
- (i) and (iii) only
- (i) and (iv) only
- (i), (ii), (iii) and (iv)

Explanation**D**

Section 7(3): An arbitration agreement shall be in **writing**.



- Parties agree to refer **present or future disputes** to decision of a private tribunal.

Whether your decision will be binding?

Yes, don't worry I will act impartially.



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Section 18: Parties shall be treated equally and

- Each party shall be given **full opportunity to present his case.**

Jagdish Chandra Vs Ramesh Chander

2007 (5) SCC 719

Facts: There is no arbitration agreement between parties.

- They just speak about the possibility of going for arbitration.

Issue: Whether there is valid and binding arbitration agreement?

Held: Mere use of word “arbitration” or “arbitrator” will not make it an arbitration agreement.

- The words “arbitration” and “arbral tribunal or arbitrator” are not used in reference to the process of settlement.
- Also, there is no valid and binding arbitration agreement.
- Hence, order for appointing arbitrator is set aside.

Did you Know?

On 12th Feb, 2020, Government of India issued draft rules to set up an International Arbitration Centre.

- In order to achieve institutionalised arbitration in India.



Reference: The Arbitration and Conciliation Act, 1996 § 7
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Q.56) An arbitration clause in a contract is not binding since it is hit by Section 28 of the Indian Contract Act, being an agreement that restrains a party from invoking its legal remedy to file a suit. This proposition is:

- 1) Untrue, since the Indian Contract Act has no application to arbitration proceedings.*
- 2) Untrue, since Exceptions 1 and 2 to Section 28 save arbitration agreements from being void.*
- 3) Untrue, since the Arbitration & Conciliation Act 1996 is a code in itself.*
- 4) Untrue, since under Section 16 of the Arbitration & Conciliation Act 1996, an arbitration clause is to be treated as an independent agreement.*

Ans: 2

Source: Edzorb Law Premium + – Simplified Notes – Indian Contract Act – Part I – S. 28



Section 28:

Agreement in restraint of legal proceedings, void:

Agreement in restraint of legal proceedings
void

Party restricted absolutely
from enforcing his rights by
usual legal proceedings in
ordinary tribunals



Extinguishes right of the parties
from any liability on expiry of
specified period to restrict from
enforcing his rights

- Two kinds of void agreements,
- An agreement by which **party is restricted absolutely** from enforcing legal rights or,
- By using **legal proceedings in the ordinary tribunals**
- An agreement which **limits the time** within which the contract right may be enforced.
- Is void to the extent.



The agreement for supplying the goods in which it states you are restricted from enforcing your legal rights against us.

What! No, you can't do that it will be void. You know, that right? Its void.



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No way! As per Limitation Act the time limit is 3 years. Its again void.

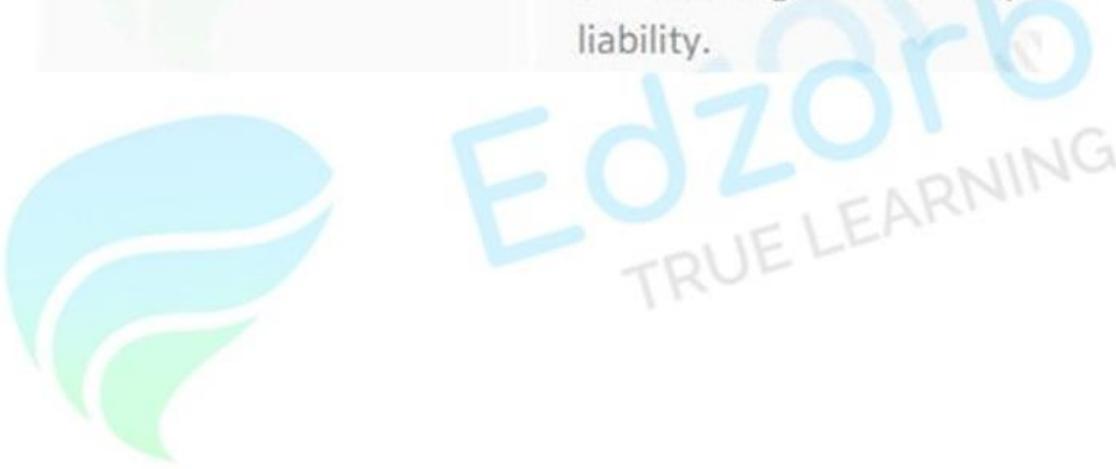
Okay! It's a new agreement where you can use legal right within 2 years.



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Exception	References
• To future disputes or arbitration	• Shall not render illegal a contract by two or more person agrees for any dispute be referred to arbitration
• Existing question to arbitration	• Shall not be illegal for a contract in writing for any question between them which has already arisen.
• Guarantee of a bank or a financial institution	• Stipulates a term (one year) in a guarantee or agreement for extinguishment of rights or discharge from any liability.



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Hirabhai Vs Manufacurers life Ins

14 Bom LR 741

Fact- A clause providing that no suit shall be brought against the company in connection,

- With the said policy later than one year after the time when the cause of action accrues.

Held- The effect of agreement was not to limit the time but to provide for surrender of rights if no action was brought within that time.

Reference: The Indian Contract Act, 1872, Central Law Agency, Diglot Edition, P.14

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Q.57)) 'X' issues to 'Y' a written notice dated 24.10.2015, calling upon 'Y' to concur in the appointment of a nominated arbitrator and to refer their disputes to such person. 'Y' receives the notice on 29.10.2015 but declines to comply. The arbitration agreement is silent as to the date of commencement of arbitration proceedings. Pick the correct statement:

- 1) Arbitration proceedings would be deemed to have commenced on 29.10.2015 under Section. 21 of the Arbitration & Conciliation Act 1996.*
- 2) Arbitration proceedings would be deemed to have commenced on 29.10.2015 under Section 23 of the Arbitration & Conciliation Act 1996.*
- 3) Arbitration proceedings would commence only on filing of a statement of claim by 'X' before the arbitrator.*
- 4) Arbitration proceedings would commence only when the arbitrator frames issues arising from the disputes.*

Ans: 1

Source: Edzorb Law Qbank – QBank concepts – Arbitration Act – Unit V – Q.21



21.

MCQ_Single Correct Question

The arbitral proceedings in respect of a particular dispute commence on the date on which

- (a) Arbitration agreement is signed
- (b) A request for that dispute to be referred to arbitration
- (c) A request for that dispute to be referred to arbitration is received by the respondent
- (d) None of the above

Explanation

Section 21: Commencement of Arbitral Proceedings

Unless otherwise agreed by the parties,

The arbitral proceedings in respect of a particular dispute,

Commence on the date on which

A request for that dispute to be referred to arbitration is received by the respondent.



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Yesterday, I received your request for arbitration. It means the proceedings initiated.



Y. Parthsarthy Vs G.M. Railway Electrification

1997 (2) Arb LR 347

Held: The object of **Section 21** is to initiate arbitration proceedings when it is communicated to the respondent that their dispute is referred to arbitration.

Reference: The Arbitration and Conciliation Act, 1996 s 21
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17.

MCQ, Single Correct Question

The arbitral proceedings in respect of a particular dispute commence on the date on which

- (a) Arbitration agreement is signed
- (b) A request for that dispute to be referred to arbitration
- (c) A request for that dispute to be referred to arbitration is received by the respondent
- (d) None of the above



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(C)

Section 21 of Arbitration and Conciliation Act, 1996:

The commencement of arbitral proceedings in respect of a particular dispute starts on the date on which a **request for that dispute to be referred to arbitration is received by the respondent.**

However, this is subject to the agreement between the parties.

**Alupro Building Systems Pvt Ltd Vs Ozone Overseas Pvt Ltd
2017 SCC Del 7228**

- The object behind the provision, it said that the party to the arbitration agreement against whom a claim is made should know what the claims are and it impossible that in response to notice, the issues on dispute may be narrowed down.
- The failure to comply with the notice under **Section 21** will render the arbitral award and the proceedings null and void.

Did you Know?

On commencement of arbitral proceedings under **section 21**, there is an existence of dispute and therefore, the petition under **Section 9** of the IBC is not maintainable.



Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 128

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Q.58) In accordance with their agreement for a 3-member arbitral tribunal, 'X' appoints Mr. Al as his nominee arbitrator; 'Y' appoints Mr. A2 as his nominee arbitrator; and Mr. Al and Mr. A2 together agree and appoint Ms. A3 as the third arbitrator who will act as the presiding arbitrator. Which of these is true?

- 1) Mr. Al and Mr. A2 are meant to protect the interests of 'X' and 'Y' respectively, since that is the whole purpose of having a nominee arbitrator on the tribunal.*
- 2) Mr. Al must protect the interests of 'Y' and Mr. A2 must protect the interests of 'X', since the scheme of the Arbitration & Conciliation provides this mechanism to achieve balance in the constitution of the tribunal.*
- 3) Ms. A3 would have the casting vote' in the adjudication process, since she is the presiding arbitrator.*
- 4) All three arbitrator are expected to act with independence and impartiality, regardless of the party that may have nominated or appointed them.*

Ans: 4

Source 1 : Qbank Concepts – Arbitration Act– Unit IV – Q.

19



19.

MCQ Single Correct Question

In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the third arbitrator can be appointed by

- (a) Court
- (b) Parties
- (c) The arbitrators already appointed
- (d) None of the above

Section 11: Appointment of arbitrators

(1) Unless, otherwise agreed by the parties –

A person of any nationality may be an arbitrator

Any person can become an Arbitrator.



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(2)

The **parties** are free to agree on a procedure for appointing the arbitrator(s).

(3) Applicable – Ad hoc Arbitration

- Each party appoint **one arbitrator** and
- Two **appointed arbitrators** shall appoint the → 3rd Arbitrator.

We are already appointed as arbitrators.

And we want to appoint you as third arbitrator.

Great! I'll be the 3rd arbitrator.



Suri Construction Vs State of Rajasthan

AIR 2006 RAJ 53

Held: Exercise of discretion for appointment of same arbitrator even after forfeiture of right is **improper**.

Did you Know?

The New Delhi International Arbitration Centre Act, 2019 was passed in 2019.

- It created autonomous regime **for the promotion of Institutional Arbitration.**



Reference: The Arbitration and Conciliation Act, 1996 s 11

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Q.59) Complete this proposition: A dispute between landlord and tenant arising from the tenancy is not amenable to arbitration unless:

- 1) it is outside the purview of rent control legislation.*
- 2) The property was let for commercial use.*
- 3) the property was let after the coming into force of the Arbitration & Conciliation Act 1996.*
- 4) the tenant is a commercial entity.*

Ans: 1

Source I: Edzorb Law Qbank – QBank concepts – Arbitration Act– Unit III – Q. 18

18.



MCQ, Single Correct Question

Can the question of winding up of a company be referred to arbitration?

- a Yes
- b No
- c Depends
- d None of the above



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(B)

The Arbitration and Conciliation Act, 1996:

- **Section 8** of Act: Power to the court to refer parties to arbitration where there is an arbitration agreement.
- The courts have divided the matters between two divisions; **one which are arbitral and other as non-arbitral.**

**Booz Allen and Hamilton Inc Vs SBI Home Finance Ltd.
(2011 SC)**

All disputes relating to rights in personam are considered to be amenable to arbitration; and all disputes relating to rights in rem are required to be adjudicated by courts, being unsuited for private arbitration. This is not a rigid rule.

(1) The judicial authority shall refer parties to arbitration

If action brought before judiciary is subject to arbitration,

And the party or person claim for arbitration,

Before submitting the first statement of dispute, and

Without affecting any decree or order of the Supreme Court.



- Section 8 not applicable if –

At *prima facie* no valid arbitration agreement exists.



- *prima facie* – at first sight or instance.

P. Anand Gajapathi Raju Vs P.V.G. Raju

2000 (4) SCC 539

Facts: There is an arbitration clause in agreement,

- But one of the parties referred the civil court to resolve the dispute.

Issue: Whether the court can refer parties to resolve the dispute via arbitration?

Held: The language of Section 8 is peremptory in nature.



- Therefore, in case where there is an arbitration clause in the agreement,
- It is **obligatory for the courts to refer the parties to arbitration in terms of their arbitration agreement.**
- After application, nothing remains to be decided in the original action, except to refer the dispute to an arbitrator.

I am referring this case
to Arbitration Tribunal.



Non-arbitrability of subject matter of a dispute
Accordingly,

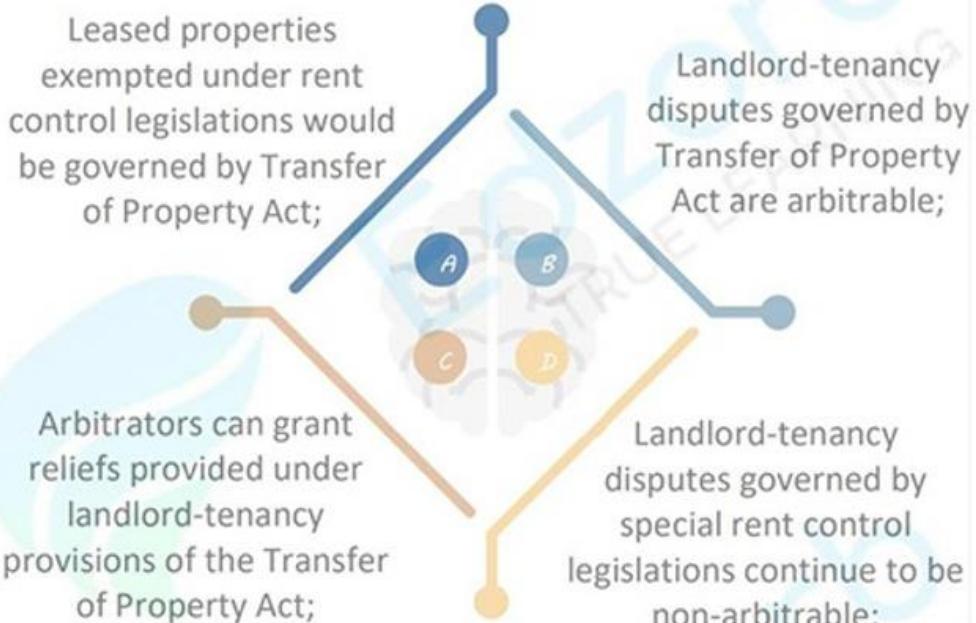


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The examples of **non-arbitrable disputes** are:

- Disputes arise out of criminal offences;
- Matrimonial Disputes;
- Guardianship Matters;
- **Insolvency and Winding Up Matters;**
- Testamentary Matters;
- Eviction.

Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 97
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Q.60) Before filing written statement, the defendant, an Indian national, files an application under Section 8 of the Arbitration & Conciliation Act 1996 seeking reference of the disputes with the plaintiff, an Indian company, to arbitration, based on an arbitration clause in their contract that covers the subject matter of the civil suit.

What could you do as a Civil Judge?

- 1) Continue with the civil suit, since once the plaintiff has invoked the remedy of a civil suit, the option of arbitration stands extinguished.*
- 2) Refer the matter to arbitration by appointing an arbitrator to adjudicate the disputes between the parties,*
- 3) Refer the matter to arbitration, leaving the parties to appoint an arbitrator by consent or seek appointment of an arbitrator by approaching the High Court. D*
- 4) Return the plaint, leaving the plaintiff to seek appropriate remedies, in accordance with law.*

Ans: 3

Source I : Edzorb Law Qbank – QBank concepts – Arbitration Act– Unit Iv – Q. 13



13.

MCQ Single Correct Question

Does the power of court to refer parties for arbitration include the power and jurisdiction to appoint arbitrator also?

- a Yes
- b No
- c Depends
- d None of the above

Explanation**A**

Section 8: Power to refer parties to arbitration where there is an arbitration agreement –



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- This section does not include the power and jurisdiction of court to appoint arbitrator also.

Pawan Sharma Vs Tarkeshwar Shah

AIR 2007 (NOC) 156 HP

Held: It is not the duty of the court to **adjourn** a matter,

- To enable parties to report to court about **appointment of Arbitrator**.
- And then make reference also.



Reference: The Arbitration and Conciliation Act, 1996 s 8

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Q.61) 'X Ltd.' terminates its contract with 'Mr. Y', which contained an arbitration clause. Which of these propositions is wrong?

- 1) The arbitration clause perishes once the contract is terminated.*
- 2) The arbitration clause survives even if the contract is terminated.*
- 3) The arbitration process may be invoked even after the contract is terminated.*
- 4) Section 16(a)(1) of the Arbitration & Conciliation Act 1996 saves the arbitration clause.*

Ans: 1

Source : Edzorb Law Qbank – QBank concepts – Arbitration Act– Unit IV – Q. 18



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Section 16(1):

(1) The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose—

(a) an arbitration clause:

- which **forms part of a contract**,
- shall be treated as an agreement independent of the other terms of the contract; and

The contract is no longer valid, neither the clauses in it.



As per **S. 16(1)** of the Commercial Courts Act, arbitration clause will exist even after termination of contract.



- (b) a decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

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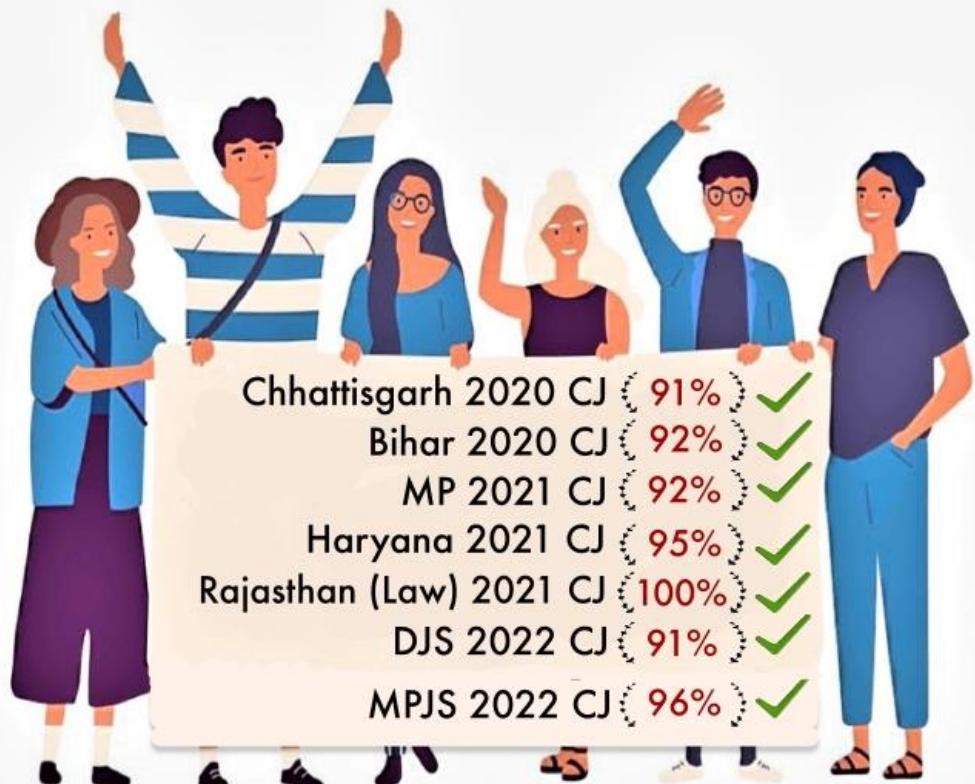


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Section - 6 Commercial Courts Act



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Q.62) Which of the following disputes would not fall within the definition of a “commercial dispute” under the Commercial Courts Act, 2015?

- 1) a claim arising out of a transaction of export of goods;*
- 2) a suit for arrest of a ship;*
- 3) a claim for unpaid rent in respect of a residential property;*
- 4) a suit based on infringement of a registered trademark?*

Ans: 3

**Source : Edzorb Law Free Initiatiuves –DJS Mock Exam 3 –
– Q. 13**



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S.2. Definitions —

- (c) “commercial dispute” means a dispute arising out of—
- (i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
 - (ii) export or import of merchandise or services;
 - (iii) issues relating to admiralty and maritime law;
 - (iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
 - (v) carriage of goods;
 - (vi) construction and infrastructure contracts, including tenders;
 - (vii) agreements relating to immovable property used exclusively in trade or commerce;
 - (viii) franchising agreements;
 - (ix) distribution and licensing agreements;
 - (x) management and consultancy agreements;
 - (xi) joint venture agreements;
 - (xii) shareholders agreements;



- (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
 - (xiv) mercantile agency and mercantile usage;
 - (xv) partnership agreements;
 - (xvi) technology development agreements;
 - (xvii) **intellectual property rights** relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
 - (xviii) agreements for sale of goods or provision of services;
 - (xix) **exploitation of oil and gas reserves** or other natural resources including electromagnetic spectrum;
 - (xx) insurance and re-insurance;
 - (xxi) contracts of agency relating to any of the above; and
 - (xxii) **such other commercial disputes as may be notified by the Central Government.**



INTELLECTUAL

• PROPERTY RIGHTS DAY •

Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—

- (a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;
- (b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;



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Q.63) P files a suit in the Commercial court which, if filed before the regular civil court, would have been barred by venue of a provision in another statute. can the Commercial court entertain the suit?

- 1) Yes
- 2) No
- 3) *It can entertain the suit. if the value of the suit is above the Specified Value under the Commercial Courts Act, 2015*
- 4) *It can entertain the suit only if defendant consents.*

Ans: 2

Source : Edzorb Free Initiatives –DJS Mock Exam 2 — Q. 93



Section 11- Bar of jurisdiction of Commercial Courts and Commercial Divisions—



- Provides that Commercial Courts and Commercial Divisions shall not entertain or decide any suit, application or proceeding;
 - Relating to any commercial dispute in respect of which jurisdiction of the Civil Court is either expressly or impliedly barred under any other law for the time being in force.

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Q.64) In a suit for recovery of money filed before the Commercial Court, the Specified Value is determined on the basis of

- 1) the principal amount claimed*
- 2) the amount claimed, inclusive of interest, computed up to March 31 of the year in which the suit is filed.*
- 3) the amount claimed, inclusive of interest, computed up to the date the suit is filed.*
- 4) None of the above*

Ans: 3

Source : Edzorb Free Initiatives – DJS Mock Exam 2 – Q. 20

Section 12 - Determination of Specified Value —

(1) The Specified Value of the subject matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:



(a) if suit/application is for **money**:

- Money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit /application, as the case may be;



(b) Movable property:

- The market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be;



(c) Immovable property:

- the market value of the immovable property, as on the

date of filing of the suit, appeal or application, as the case may be; &

(d) Intangible right:

- the market value of the said rights as estimated by the plaintiff shall be taken into account.



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Q.65) An international commercial arbitration concerns a commercial dispute of Specified Value. In respect of such an arbitration, an application or appeal under the Arbitration and Conciliation Act, 1996 would lie before

- 1) the Commercial Division of the High Court.*
- 2) the Commercial Court at the district level.*
- 3) the court of the Civil Judge.*
- 4) the Commercial Appellate Division of the High Court.*

Note: You may assume that, in the concerned territory, commercial courts at the district level, and the Commercial Division and Commercial Appellate Division of the High Court, have all been constituted.

Ans: 1 & 4

Source : Edzorb Free Initiatives – DJS Mock Exam 3 – Q. 20



COMMERCIAL APPELLATE DIVISION

Appeals against judgement and orders as Indicated below:

- Applications and appeals under the Arbitration and Conciliation Act, 1996 arising out of International Commercial Arbitrations(ICA)
- Applications arising out of Arbitration other than ICA that would have been filed on the original side of the HC.

Appeal

Appeal

COMMERCIAL COURT

- Suits and application relating to commercial Dispute or Specified Value arising out of entire territory of state over which it has been vested Jurisdiction.
- Applications and appeals arising out of Arbitration other than (ICA), that would ordinarily lie before Principal Civil Court of Org. Jurisdiction in District (Not HC).

COMMERCIAL DIVISION

- Suits and application relating to commercial Dispute or Specified Value filed in HC having ordinary Org. Civil Jurisdiction.
- Suits Transferred to HC by Virtue of Designs Act, 2000 or Patents Act, 1970 in areas over which HC exercise Org. Civil Jurisdiction
- Applications under A&C Act,1996 pending in HC relating to Commercial Disputes or Specified Value

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Q.66) Parties enter into a written settlement agreement during the process of pre-institution mediation in a commercial dispute. The settlement agreement is signed by the parties and the mediator. What is the status of the settlement?

- 1) It is a contract between the parties.*
- 2) It is a non-binding memorandum of understanding.*
- 3) It is treated as an arbitral award on agreed terms.*
- 4) It can be placed before the Court as part of the proposed suit.*

Ans: 3

Source : Edzorb Free Initiatives – DJS Mock Exam 3 – Q. 20

The need for a legislation promoting expeditious adjudication of commercial disputes was 1st highlighted by the **188th Report of the Law Commission of India**.

The Commercial Courts Act, 2015 was amended in 2018 and the legislature introduced **Section 12A**, providing for mandatory pre-institution mediations in all cases.



Exceptions:

M/S. Dhanbad Fuels Ltd Vs Union Of India & Ors

22 February, 2021, C.O. No. 1678 of 2020

Held:

It was held that only when an **urgent interim relief** was required for in a commercial suit, the suit could be instituted without exhausting the remedy of Pre-Institution Mediation.

Section12A (2)

The procedures of pre-institution mediation, conducted by-



The Authorities constituted under the Legal Services Act, 1987

Section12A (3)



The process of pre-institution mediation has to be completed within a **period of three months**, extendable by two months with consent of the parties, from the date of application made by the Plaintiff.

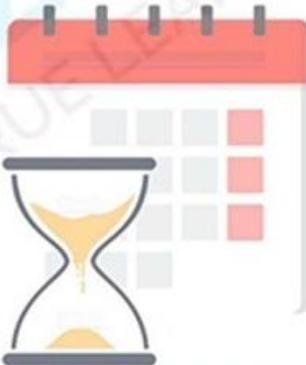


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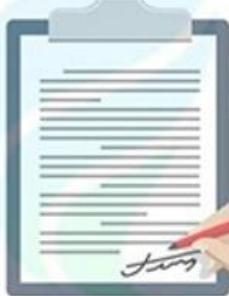
Proviso:

Time spent in pre-institution mediation shall not be computed for the purpose of limitation under the **Limitation Act, 1963.**



Did you Know?

This pre-institution mediation is guided by the Commercial Courts (Pre-institution Mediation and Settlement) Rules, 2018.



If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

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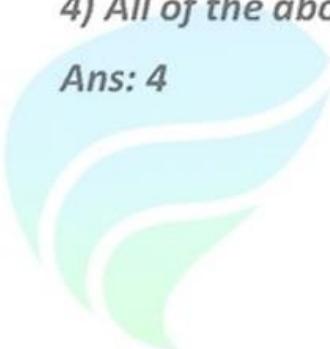
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Q.67) In a Case Management Hearing held under Order XV-A of the CPC, as applicable to Commercial Disputes, the Court may

- 1) Frame issues in the suit.*
- 2) Direct a separate trial of a particular issue.*
- 3) Exclude an issue from consideration.*
- 4) All of the above*

Ans: 4



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Q.68) When is the Court required to hold the first Case Management Hearing under Order XV-A of the CPC, as applicable to Commercial Disputes?

- 1) The day after filing of the plaint*
- 2) The day after filing of the written statement*
- 3) Within four weeks after all parties have filed affidavits of admission or denial of documents*
- 4) Two weeks before the date fixed for framing of issues*

Ans: 3



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Q.69) What is the maximum period for Pre-institution mediation provided under the Commercial Courts Act, 2015?

- 1) 3 months
- 2) 5 months
- 3) 7 months
- 4) 2 months

Ans: 2

Source : Edzorb Free Initiatives – DJS Mock Exam 3 – Q. 20

The need for a legislation promoting expeditious adjudication of commercial disputes was 1st highlighted by the **188th Report of the Law Commission of India**.

The Commercial Courts Act, 2015 was amended in 2018 and the legislature introduced Section 12A, providing for mandatory pre-institution mediations in all cases.



Exceptions:

M/S. Dhanbad Fuels Ltd Vs Union Of India & Ors

22 February, 2021, C.O. No. 1678 of 2020

Held:

It was held that only when an **urgent interim relief** was required for in a commercial suit, the suit could be instituted without exhausting the remedy of Pre-Institution Mediation.

Section12A (2)

The procedures of pre-institution mediation is conducted by-

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Section12A (3)



The process of pre-institution mediation has to be completed within a **period of three months, extendable by two months with consent of the parties, from the date of application made** by the Plaintiff.

Proviso:

Time spent in pre-institution mediation shall not be computed for the purpose of limitation under the Limitation Act, 1963.



Did you Know?

This pre-institution mediation is guided by the Commercial Courts (Pre-institution Mediation and Settlement) Rules, 2018.

Sub-rule (8) provides that the Legal Services Authority has to ensure that the process must be completed within a **period of 3 months from the date of receipt of application** for pre-institution mediation. And period can be extended for 2 months with the consent of the applicant and the opposite party.



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Q.70) Under Section 35A of the Code of Civil Procedure, 1908 as amended by the Commercial Courts Act, 2015, 'compensatory costs' in respect of false or vexatious claims or defences shall be:

- 1) Not more than Rs.3,000 or exceeding the limits of pecuniary jurisdiction, whichever is less*
- 2) Not more than Rs.5,000 or exceeding the limits of pecuniary jurisdiction, whichever is less*
- 3) Not more than Rs. 10,000 or exceeding the limits of pecuniary jurisdiction, whichever is less*
- 4) There is no such restriction*

Ans: 4

Source 2 : Edzorb premium+ – Simplified Notes – CPC – S. 35A



Section 35A: Compensatory costs in respect of false or vexatious claims or defences

- This section is an exception to the general rule of **section 35** which is based on,
- Costs are only an **indemnity** and never more than indemnity.
- This section is intended to deal with those cases in which **Section 35 does not afford sufficient compensation.**

It applies to suits or other proceedings including an **execution proceeding** but **excludes an appeal or a revision.**

The Court may after recording its reasons make an order for the payment of costs by way of compensation

The following **conditions must exist** before this section can be applied



1

The claim or defence must be false or vexatious

2

Objection must have been taken by the other party that the claim or defence was false or vexatious to the knowledge of the party.

3

Such claim must have been disallowed or withdrawn or abandoned in whole or in part.

- The Court shall not make any such order for the payment of an amount **exceeding three thousand rupees (3,000)** or
- Exceeding the limits of its pecuniary jurisdiction (whichever is less).



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

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Did you Know?

Vide Act No. 4 of 2016, in case of commercial suit, no amount is prescribed for compensatory costs in respect of false or vexatious claims or defences.



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Q.71) An order allowing execution of a foreign arbitral award is:

- 1) Appealable under Section 50 of the Arbitration & Conciliation Act, 1999*
- 2) Appealable under Section 13 of the Commercial Courts Act, 2015*
- 3) Both of the above*
- 4) Neither of the above*

Ans: 4



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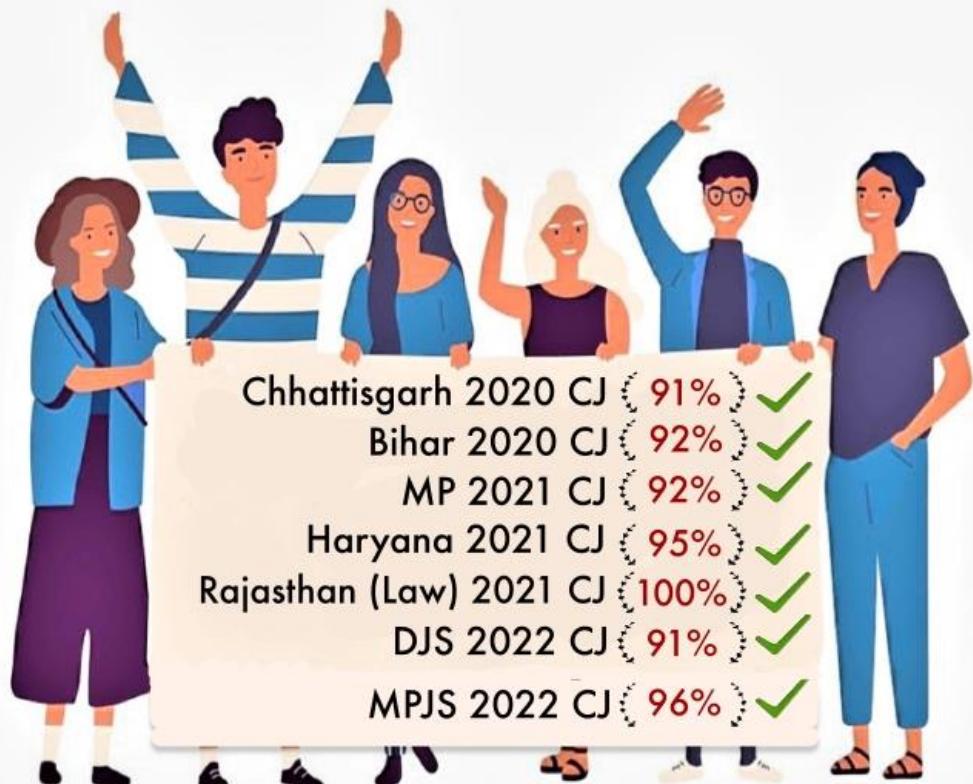


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Section - 7 Legal GK



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Q.72) Which of the following is considered as an important provision in enforcing the performance of public or statutory duty?

- 1) Certiorari
- 2) Mandamus
- 3) Quo Warranto
- 4) Habeas Corpus

Ans: 2

Source 2 :Q Bank Concepts – Unit IX – Question 22



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22.

MCQ, Single Correct Question

Match List I with List II and select the correct answer using the codes given below the lists:

List I

- (i) Habeas corpus
- (ii) Mandamus
- (iii) Quo warranto
- (iv) Certiorari

List II

- (A) Violation of natural justice
- (B) Unlawful arrest and detention
- (C) Exercise of power without jurisdiction
- (D) Non-performance of public duty

- a I-B, II-D, III-C, IV-A.
- b I-A, II-C, III-D, IV-B.
- c I-B, II-C, III-D, IV-A.
- d I-A, II-D, III-C, IV-B.

Explanation

Habeas Corpus	Unlawful arrest and illegal detention
Mandamus	Non-performance of public duty
Quo warranto	Exercise of power without jurisdiction
Certiorari	Violation of natural justice

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1428.
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Habeas Corpus

- In Latin, it means **You should have the body.**
- The person under arrest must be produced before the court.

Mandamus

- It means "**we command**".
- Order from a superior court to a lower court or tribunal or public authority to perform an act, which falls within its duty.

Certiorari

- It means to **be certified**.
- It issued to some inferior court to transfer the matter to it or to some other superior for consideration.

Quo warranto

- It means **by what authority**.
- It is a writ issued with a view to restraining a person from acting in a public office to which he is not entitled.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1428.
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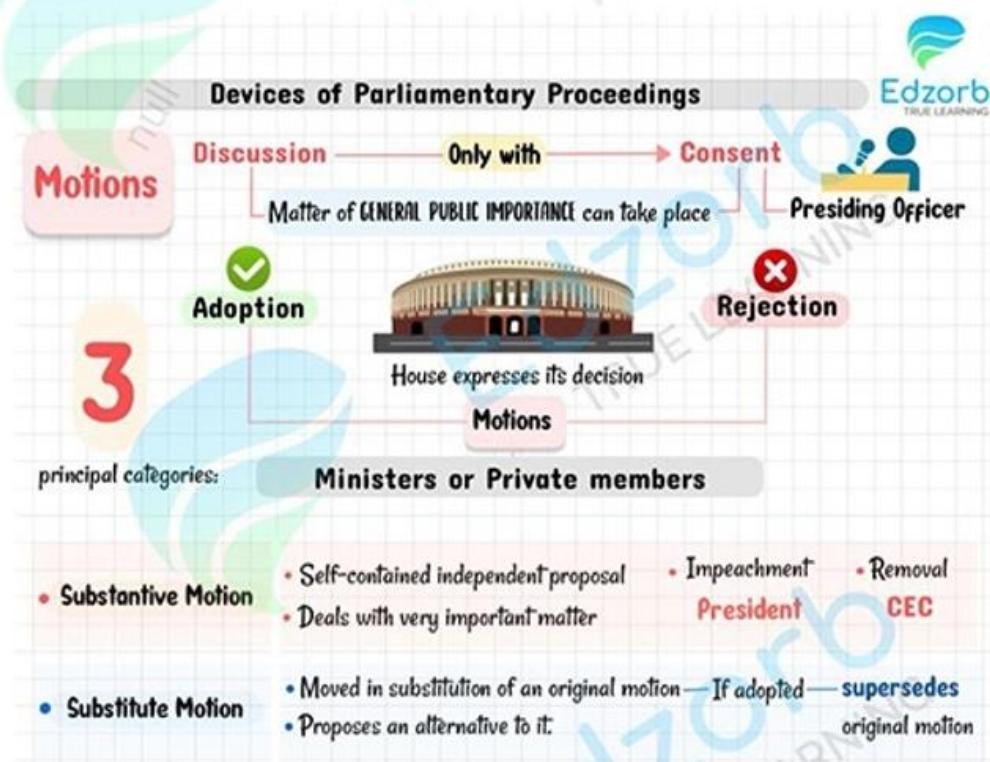
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Q.73) Under which procedural rule can a matter of public importance be raised in the Lok Sabha?

- 1) Calling Attention procedure
- 2) Discussion under Rule 193
- 3) Subsidiary motion
- 4) Adjournment motion

Ans: 1

Source : Bare Act Revolution – Constitution – Parliament – Devices of Proceedings



• Subsidiary Motion

- By itself, has no meaning without reference to the original motion
- Cannot state the decision of the House



ANCILLARY MOTION

Regular way of proceeding

SUPERSIDING MOTION

Moved in the course of debate on another issue
Seeks to supersede that issue.

AMENDMENT

Modify / substitute only a part of original motion.

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Devices of Parliamentary Proceedings

Closure Motion

To cut short the debate on a matter before the House.

If approved debate is stopped forthwith and the matter is put to vote.



4 TYPES

Simple Closure

'Matter having been sufficiently discussed be now put to vote'.

Closure by Compartments

- Clauses of a Bill
- Grouped into parts before commencement of the debate
- Lengthy resolution
- Debate covers the part as a whole and the entire part is put to vote.



Kangaroo Closure

Only important clauses ✓

Taken up for debate and voting

✗ Intervening clauses

Skipped over and taken as passed.

Guillotine Closure

Undiscussed clauses of — also put to vote
Bill / resolution

(along with discussed ones)



due to

want of time



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Privilege Motion

concerned with **breach of parliamentary privileges** by a **Minister**



- Commit a breach of privilege of the House
- Withholding facts of a case
- Giving wrong or distorted facts.



Purpose

Censure

concerned Minister

Calling Attention Motion

(also an Indian innovation)

Call the attention of a
Minister



Matter of urgent
public importance



Seek an
Authoritative statement



Mentioned in the Rules of Procedure



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Q.74) Which judgement of the Supreme Court in 1992 upheld OBC reservations while separating the creamy layer?

- 1) *Maneka Gandhi v. Union of India*
- 2) *M Nagaraj v. Union of India*
- 3) *M R Balaji v. State of Mysore*
- 4) *Indira Sawhney v. Union of India*

Ans: 4

Source : Free Initiatives – DJS Simulator Mock 2 – Parliament – Q. 189

189

MCQ Single Correct Question

Which of the following Judges were the part of landmark judgement in Indra Sawhney & Others V. Union of India Case ?

- 1. M Karla
- 2. M Venkatachallah
- 3. S R Pandian
- 4. T Ahmadli

Choose the correct ones

- a All of the above
- b 2,3&4 only
- c 1&3 only
- d 1 only



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- **Indra Sawhney Case:** A **nine-judge bench** in the Indra Sawhney case (famously known as the Mandal Commission case) imposed the ceiling of **50%** on total reservation

Bench:

- Justice MN Kania,
- Justice MN Venkatachaliah,
- Justice S R Pandian,
- Justice T Ahmadi,
- Justice K Singh,
- Justice PB Sawant,
- Justice SR Sahai,
- Justice Jeevan Reddy
- Justice TK Thommen
- Justice RM Sahai



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Q.75) International organizations can institute proceedings before the International Court of Justice under:

- 1) Advisory jurisdiction*
- 2) Special Agreement, Article 36*
- 3) Compulsory jurisdiction*
- 4) Contentious jurisdiction*

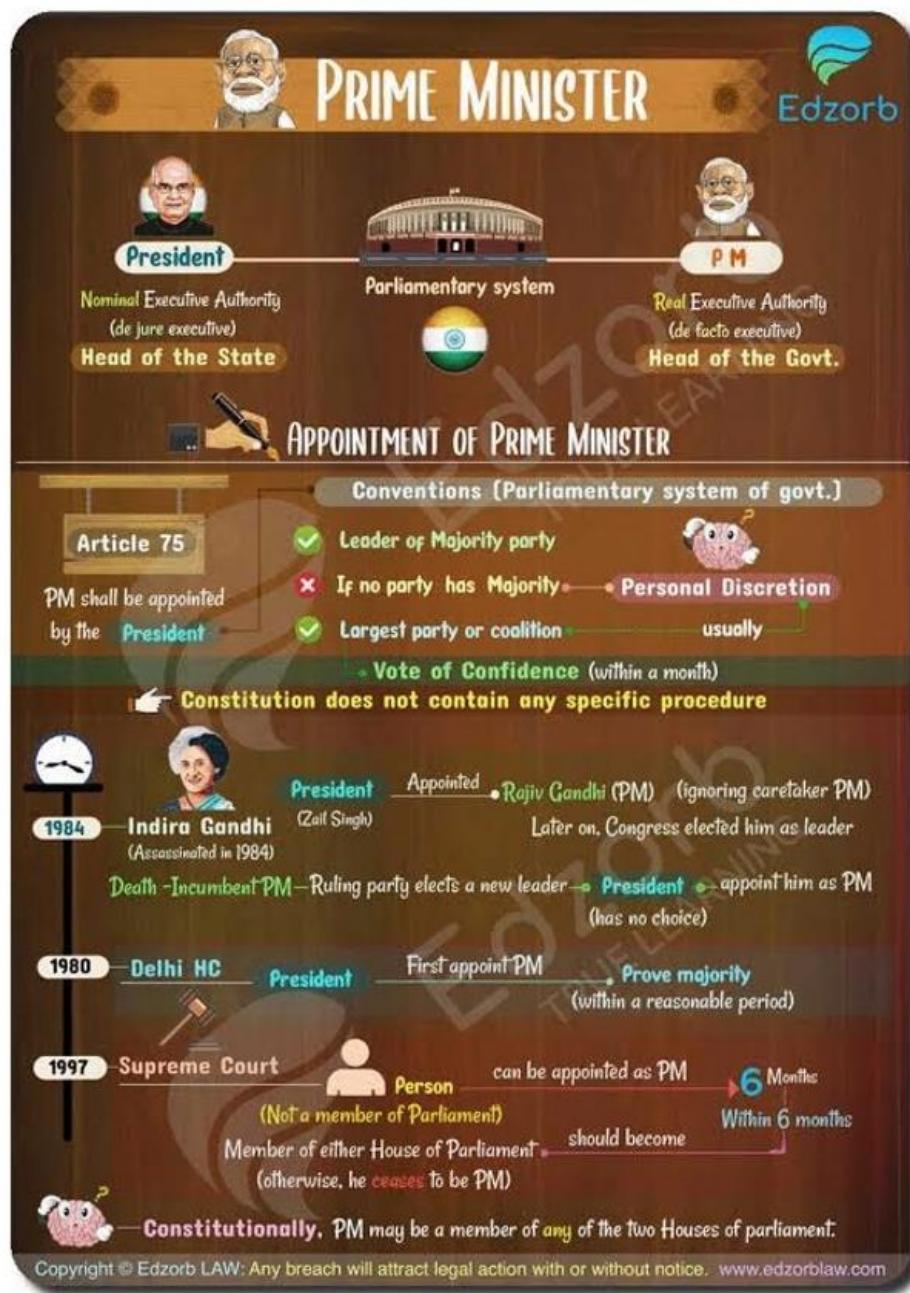
Ans: 1



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HIGH COURT



HISTORY

Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3 common HC Delhi (UT)- own HC

ORGANISATION Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President
Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges	
President Misbehaviour Recomended by Parliament (Special Majority)	Appointed by President President CJ —Absent Unable to perform duty	Appointed by President More work 2 years term	Appointed by President Judge Absent	Appointed by CJ of HC (Temporary)	
			Unable to perform duty		

JURISDICTION & POWERS

✓ Highest court of appeal (In state)	Original Hear disputes (1st instance)	Writ Under Article 226
✓ Protector of FR	Appellate Appeal against judgements	Supervisory Superintendence
✓ Interpret Constitution	Control Subordinate courts	Judicial review Article 226
	Matters	Enforcement
Original jurisdiction	• Company laws • Court contempt Election disputes	Fundamental Rights Revenue matters
		Cases Transferred from Subordinate courts

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BIOME



- **EQUATORIAL REGION**

Tropical rainforest

Evergreen forest



10°N
0°
10°S

Broad leaves

Canopy formation

Very tall trees

Very dense forest

No shedding of leaves

- Hardwood
- Mahagony
- Ebony
- Rosewood
- Rubber
- Cinchona



ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm



Semang (Malaysia)



Kubus (Sumatra)



Dayaks (Borneo)



Pygmies (Congo)



Amazon Indians (South America)

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SUO MOTU LIMITATION



SC Allows Service Through Instant Tele-Messenger Services

Considering difficulty in visiting post offices amid pandemic, SC allowed service of summons & notices through instant tele-messenger services like whatsapp, email and fax. All these will prove valid service on a party.



SA Bobde, C.J.I.; AS Bopanna, J. & Subhash Reddy, J.

Reference: economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-email-fax-instant-messaging-apps-like-whatsapp-for-service-of-notices-summons/articleshow/76898274.cms?from=mdr



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Q.76) Which of the following is not a role of the University Grants Commission?

- 1) to give recognition to universities in India*
- 2) to disburse funds for public universities*
- 3) to set up new colleges and universities*
- 4) Maintenance of academic standards in teaching and research*

Ans: 3



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Q.77) The Ranganath Misra Commission was constituted to:

- 1) look into the issues of religious and linguistic minorities in India**
- 2) look into issues of Indian economy**
- 3) enquire into the representation of backward classes in state public services**
- 4) examine Centre-State relations**

Ans: 1

Source : Free Initiatives - HJS Simulator Mock 1 – Q.114

114



MCQ, Single Correct Question

Which Commission was appointed for religious and linguistic minorities in India ?

- a Kothari Commission
- b Sarkaria Commission
- c MM Punchhi Commission
- d Ranganath Misra Commission



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Explanation

COMMISSION	PURPOSE
• Kothari Commission	For educational reforms
• Sarkaria Commission	To examine center-state relations
• M.M. Punchhi Commission	To examine center-state relations
• Ranganath Misra Commission	For religious and linguistic minorities in India

QUOTA CONUNDRUM

Recommendations of the Ranganath Misra-headed National Commission for Backward and Dalit Minorities.

Legislative and executive measures	Suggested economic measures	Measures in education
<ul style="list-style-type: none"> ▪ Around 25% of seats in all state and central legislatures and in the Central Board of Education should be reserved for minorities and 25% shares of government schemes such as the Rural Employment Generation Programme, Prime Minister's Rural Yatra, Gram Vikas Yojana, etc., and so on, be reserved for minorities. ▪ Alternatively, in the 25% of the other seats in the legislatures, 5% each for SCs & STs and 5% inter-seats should be reserved for the minorities. ▪ Central sectors should be recognized as a general social characteristic of the Indian society as a whole without questioning whether the ethnicity and castology of which particular religion recognizes it or not. ▪ Para 3 of the Constitution (Scheduled Castes, Scheduled Tribes and Other Backward Classes) Order of 1950, which defines the Scheduled Castes and Tribes, must be redefined to include SCs and STs and Buddhists, that is, excluding Hindus, Christians, Muslims, Sikhs and Parsis, and to see that they are wholly deleted from the Constitution as far as immediately as possible. Otherwise, the Constitutional order will be fully religion-based and that of the scheduled tribes (STs). ▪ Establishment of a parliamentary committee for minority and dignity in the light of the Constitution's policy relating to the minorities. A National committee consisting of representatives of backward Hindus, Dalits, Christians, Sikhs, Buddhists, Muslims, National Commission for SCs, National Commission for STs, National Commission for minorities, etc. 	<ul style="list-style-type: none"> ▪ National level coordination mechanism involving representatives of all major religious bodies and other financial institutions to work under the Reserve Bank of India for resuscitating credit flows to the minorities. ▪ Rules, regulations and guidelines of the Central Statistical Organisation, Central Bureau of Economic Intelligence, Central Statistical Organization, and Finance Commission should be prioritized to make it more efficient, effective and far-reaching among the minorities. ▪ Effective ways should be adopted for monitoring and promoting all the self-reliance and income-generating schemes among the minorities, and to encourage them to benefit from various schemes. Special funds should be formulated for the promotion and development of agriculture, agroforestry and agriculture of tribes among the minorities. ▪ Minorities and backward communities to the Prime Minister's 21-point programme for minorities. 	<ul style="list-style-type: none"> ▪ At least 25% seats in all minority-majority constituencies should be reserved for minorities. ▪ Enactment of a bill to enforce the deletion of Article 15(3) of the Constitution to do away with aspects of restricted educational rights. ▪ All schools and colleges run by Muslims should be provided enhanced aid. ▪ Minority reservation scheme of the government should be suitably revised, strengthened and provided with more funds. ▪ The statute of the National Minority Educational Institutions Commission should be amended to make it independent in its composition, powers, functions and autonomy. It should be made accountable to the Parliament for a minimum self-assessment of all aspects of its restricted educational rights under the Constitution. ▪ Committees now available in terms of financial viability for admissions and fees ratio of less than 1000 students to SCs and STs, should be enhanced due to teach sections, among the minorities. ▪ Separate institutions in the country, such as the Aligarh Muslim University and Jamia Millia Islamia, should be kept open, special responsibility to provide education at all levels to Muslim students by taking all possible steps for this purpose. ▪ The role and presence of the Central Walid Council should be revised in such a way that its main responsibility should be educational development of the Muslims. ▪ Three-language formula should be implemented everywhere in the country.

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Q.78) How many women judges have been appointed to the Supreme Court of India till 1.1.2022?

- 1) 9
- 2) 11
- 3) 10
- 4) 12

Ans: 2

Source : Free Initiatives - DJS Simulator Mock 2 – Q.186

186

MCQ. Single Correct Question

In a historic moment of 2021, nine new judges has been appointed to the apex court. Which of the following is not one of them?

- a) Justice Vikram Sanghi
- b) Justice Vikram Nath
- c) Justice PS Narasimha
- d) Justice BV Nagarahna

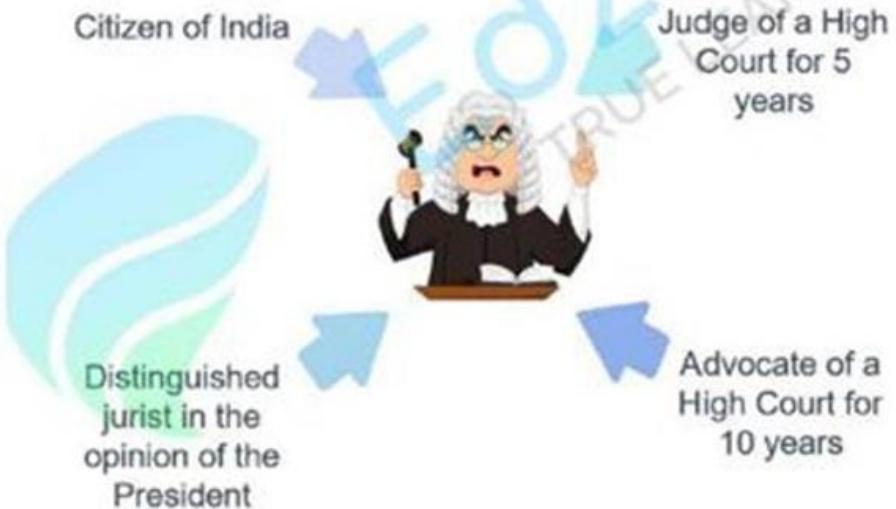


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The nine new judges who were administered oath of office as apex court judges include

- Justice Abhay Shreenivas Oka,
 - Justice Vikram Nath,
 - Justice Jitendra Kumar Maheshwari
 - Justice Hima Kohli and
 - Justice B V Nagarathna
 - Justice C T Ravikumar
 - Justice M M Sundresh
 - Justice Bela M Trivedi
 - Justice P S Narasimha
- Qualification of a Supreme Court Judges:



Did you know?

Nine new judges, including **three women**, administered oath of office as judges of the Supreme Court, taking its strength to 33.

It is for the **first time** in the history of the apex court that nine judges took oath of office at one go.



Only 11 women Supreme Court judges in 71 years, three of them appointed in 2021

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Q.79) Who was the first attorney general of India?

- 1) Niren De**
- 2) G. Ramaswamy**
- 3) C.K. Daphtary**
- 4) M.C. Setalvad**

Ans: 4

Source : Free Initiatives - DJS Simulator Mock 1 – Q.54

193

MQ_Single_Correct_Questions

Consider the following statements regarding Attorney General of India. Which of the following is false?

- a Is the First law officer in India
- b Is not debarred from private law practice
- c Can be full time Counsel of the Government
- d Both a & b



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Explanation



M. C. Setalvad, First Attorney General of India



ARTICLE
76

ATTORNEY GENERAL OF INDIA

Highest Law Officer in the Country



President
Appoints Attorney Gen.
Determines remuneration

- Appear in SC—HC for govt.
- Not a government servant
- Not a full time counsel for government
- Not debarred from private legal practice

Qualifications

Qualified to be appointed as a — **Judge of S.C.**

Judge of HC - 5 years Advocate of HC- 10 years



✓ Can speak, take part in proceedings
Parliament

- (Both House)
- Joint sitting
- Committee
- Without a right to vote

✓ Holds office during the pleasure of the president:

DUTIES AND FUNCTIONS

- Advice to the Government on legal matters
- Functions conferred by the Constitution/ Law
- Other duties (legal) assigned by president

RIGHTS AND LIMITATIONS

- Should not advise / brief against COI
- Should not accept appointment as Director (company or corporation) without permission of COI

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Q.80) What is the total sanctioned strength of Judges (permanent plus additional) of the Delhi High Court?

- 1) 45
- 2) 50
- 3) 60
- 4) 55

Ans: 3



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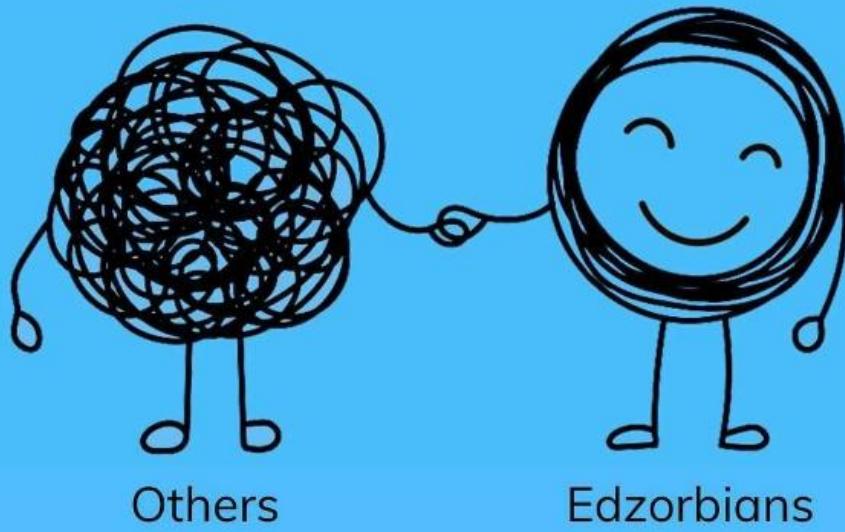
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Q.81) Which Chief Justice of India had the shortest tenure in office?

- 1) Justice Rajendra Babu**
- 2) Justice J.C.Shah**
- 3) Justice G.B.Patnaik**
- 4) Justice K.N.Singh**

Ans: 4

**Source : Free Initiatives – Free Judiciary Scholarship
Challenge 2 - Q. 82**

82.

MCQ, Multiple Correct Question

KN Singh, the shortest-serving Chief Justice of India, served for:

- a 16 Days
- b 17 Days
- c 17 weeks
- d 16 weeks



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Explanation

SHORTEST TENURE

KAMAL NARAIN

SINGH, the 22nd

chief justice, is the

shortest-serving, for 17 days (25 November 1991 – 12 December 1991).



LONGEST TENURE

YESHWANT

VISHNU

CHANDRACHUD,



the longest-serving chief justice, serving over seven years (February 1978 – July 1985).



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KAMAL NARAIN SINGH

22ND CHIEF JUSTICE OF INDIA

In office

- 25 November 1991 – 12 December 1991
- **Appointed by:** Ramaswamy Venkataraman
- **Preceded by:** Ranganath Misra
- **Succeeded by:** M.H. Kania
- **Chairman, 13th Law Commission of India**
- **BAR:** Allahabad High Court
- **Appointed by the President:** Ramaswamy Venkataraman

Personal details

- **Born-** 13 December 1926 (age 95)
- **Nationality-** Indian

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Q.82) The Committee constituted in the year 2000 to look into reforms in Criminal Justice System in India was headed by:

- 1) Justice Venkatachaliah*
- 2) Justice V.S. Malimath.*
- 3) Justice M.S. Liberhan*
- 4) Justice K.T. Thomas*

Ans: 2



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Q.83) Who is the current president of the National Consumer Disputes Redressal Commission?

- 1) Justice Shiva Kirti Singh**
- 2) Justice R.K. Agrawal**
- 3) Justice A.K. Sikri**
- 4) Justice Subhash Reddy**

Ans : 2

Source: Edzorb Free Initiatives – HJS Simulator Mock 4 –

Q. 54

54.



MCQ Single Correct Question

Justice RK Agarwal is currently serving as the:

- a President of BCI
- b Chairman of UPSC
- c President of National Consumer Disputes Redressal Commission
- d Chairman NCLT



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NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION



- Constituted in the year **1988**.
- It is headed by a sitting or **retired Judge** of the Supreme Court of India.
- **The Consumer Protection Act, 1986** lays down the rights of the consumers and provides promotion and protection of their rights.
- The first and the only Act of its kind in India, it has enabled ordinary consumers **to secure less expensive** and **often speedy redressal** of their grievances.



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NDCRC- Presently headed by Hon'ble **Mr. Justice R. K. Agrawal**, former Judge of the SC of India as President.



In office

Assumed office: 1 July 2018

Appointed by: Ram Nath Kovind

Personal details

Born: 5 May 1953 (age 68) Uttar Pradesh, India

Did you Know?



The Hon'ble **Justice V. Balakrishna Eradi** was the 1st President of NDCRC.



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SET - 1



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2022

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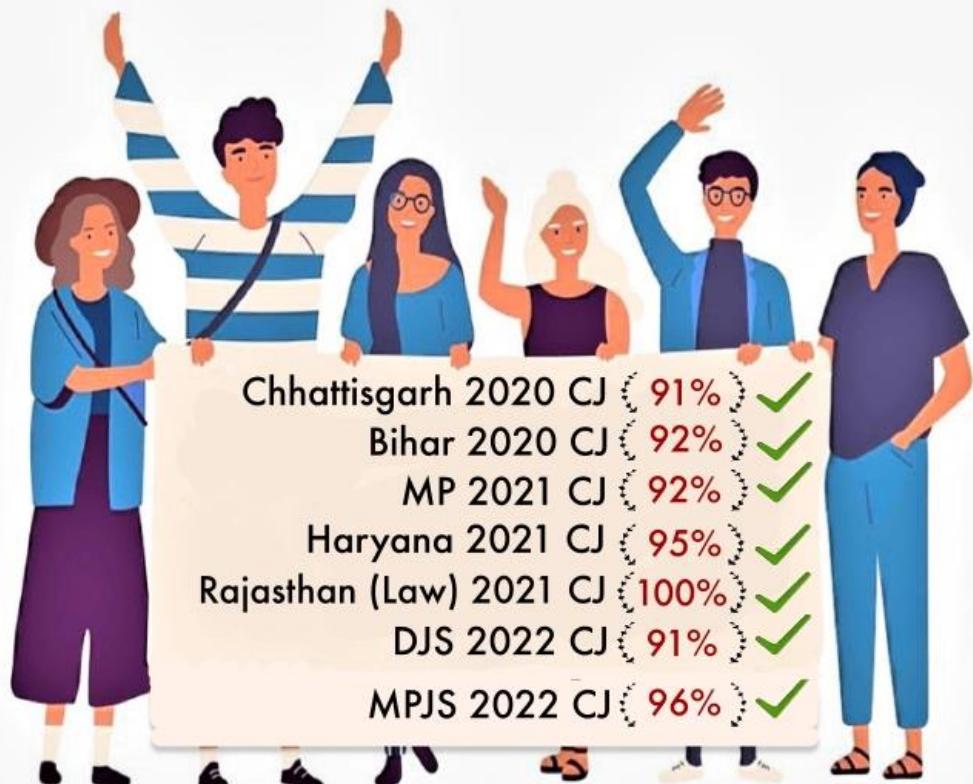


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Section - 8 English



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Q.84) 'The expression 'burning the candle at both ends' means

- 1) Recklessly spending all the money, one has**
- 2) Trying to illuminate an issue**
- 3) Finish off all the tasks quickly**
- 4) Exhausting oneself by working hard**

Ans : 4

Source: Free Daily Vocabulary – Free Idioms – Idioms 9



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Idiom of the day



Burning the candle at both ends

Exhausting oneself by
working hard

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Q.85) I will return _____ a month.

I stayed in Delhi _____ a week.

I have not met her _____ September.

The blanks in the above sentences can be filled correctly in the order.

1) since, after, for

2) in, since, for

3) within, for, since

4) after, within, after

Ans: 3

Source: Free Initiatives by Edzorb –RJS Simulator Mock 3–

IdQ. 83

84.



MCQ, Multiple Correct Question

She has been living in Paris.....1979

- a Since
- b After
- c For
- d None of above

Explanation

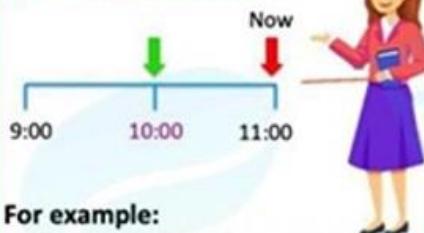


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Since

Specific point in time.



For example:

- I have been studying **since** 9am.
- She has been a teacher **since** 2015.
- Ali has lived in London **since** April.

For

Duration of time.



For example:

- I have been studying **for** 3 hours.
- She will be in the office **for** 2 hours.
- He has lived in London **for** 3 months.



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Within means; in, within, inside of, therein, inwardly

Opposite of **Within**

- outside
- except
- outside of
- apart from
- except that
- on the outside of
- out
- outdoors
- abroad
- without

Example Sentences

- The number of patients reached 200 thousand **within** 1 year.
- They expanded the factory so much **within** 2 years that it became the 3rd best factory in the country.
- Evolution can occur if there is enough genetic variation **within** a population.

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Q.86) I was enlisted _____ the army.

The master dispensed _____ the services of his staff.

Hard work is indispensable _____ success.

The blanks in the above sentences can be filled in the following order:

- 1) to, of, with
- 2) by, off, with
- 3) into, with, in
- 4) in, with, to

Ans: 4

Source: Free Initiatives by Edzorb –RJS Simulator Mock 3–

Q. 71

71.

MCQ, Multiple Correct Question

I went to work _Monday

Meet me _midnight

Fill in the blanks.

- a in, on
- b** on, at
- c at, in
- d None of the above



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Prepositions of Time

General

Specific

IN

Parts of days
(morning, afternoon)
Months
(April, May)
Years
Months
Centuries

ON

Holidays with 'day'
(Labor Day, Christmas Day)
Days of the week
(Monday)
Days of the month
(Fourth of July)
Dates
(April 15, my birthday)

AT

Holidays without 'day'
(Easter, New Year's)
Time
(noon, midnight, 6:00, 10 am)



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List of Prepositions

Movement	Manner	Place	Common
Beneath Against Past On Down Ahead Through Away Under Into Toward Further to Along Onto Off Behind Off of Up Amid Along with By means of Across In between Over Around Above Below Out of Away from Round Via	Cum Due to On behalf of Pro Regarding But As Other than Excepting Counting As well as Aside from In view of Despite Except Save Unlike Per As per Considering But for In case of Anti Saving As for Less Excluding In face of In favor of/in favor of With reference	Inside Amid By Toward/towards Apart from Far from In between Round Under Up against Atop Astride Between At Against Near to Without Together with To Into In Outside Within Out Onboard Below Above Beside With Outside of Over	Up until About Past Off Up Above In Around For Gone Inside Until Around Except Since At Regarding Despite But With Minus On Via Against Than Between Before From For Onto About

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Q.87) The counsel _____ to the client's request

The above blank can be filled with:

- 1) exceeded
- 2) acceded
- 3) excepted
- 4) accepted

Ans: 2

Source: Free Initiatives by Edzorb – AIRPT 3 – Q. 121

121

MCQ: Multiple Correct Question

The authorities did not ____ to the strikers' demands.

- a exceed
- b accede**
- c except
- d accept



EXCEED vs. ACCEDE

EXCEED

Definition: To go beyond what is allowed or stipulated by (a set limit).

Example: The Tribunal's decision clearly exceeds its powers under the statute.

ACCEDE

Definition: To agree to a demand, request, or treaty.

Example: The authorities did not accede to the strikers' demands.



ACCEPT vs. EXCEPT

ACCEPT

Definition: To admit or approve; to receive

Examples: Accept his opinion; accept an award

EXCEPT

Definition: With the exception of

Examples: There was nothing left except bread.

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Q.88) The word _____ by the teacher from the Gita made profound sense.

A leopard was _____ in the village.

The above blanks can be filled in the correct order with:

- 1) cited, sighted
- 2) sighted, cited
- 3) cited, sited
- 4) sited, sighted

Ans: 1

Source: Free Initiatives by Edzorb – Free Judiciary Scholarship Challenge 1 – Q. 98

98.

MCQ, Single Correct Question

We _____ the white smoke plumes before we reached the lime mine

- a) seated
- b) sited
- c) cited
- d) sighted



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Spelling Rules

cite, site, sight

Cite

“Cite” is a verb meaning to quote or refer to.

example

She **cited** several studies in her research paper.

Site

“Site” is a noun that refers to the location or placement of something.

example

The **site** of the new building is near the old building

Sight

A “sight” is something you see or a famous landmark.

example

She came to New York City to see the **sights**.

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Q.89) Hard work _____ good result.

The _____ from the event will go towards charity.

The group now _____ onwards for the mission.

The above blanks can be filled in the order:

- 1) proceeds, proceeds, precedes
- 2) precedents, proceeds, precedes
- 3) precedes, proceeds, precedes
- 4) precedes, proceeds, proceeds

Ans: 4

Source: Free Initiatives by Edzorb –RJS Simulator Mock 3–

Q. 198

198



MCQ Single Correct Question

The _____ will be used to improve the school playground.

- a) precedes
- b) Precede
- c) proceed
- d) proceeds



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Precede vs. Proceed vs. Proceeds

Precede

Definition: Be earlier in time; go back further

Examples: Stone tools precede bronze tools

Proceed

Definition: Continue

Examples: We proceeded towards Washington

Proceeds

Definition: The total amount of money brought in

Examples: The proceeds from the concert will go to charity.

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Q.90) The cattle _____ grazing in the field.

The jury ____ now complete.

Fifty thousand rupees ____ not a bad salary.

The above blanks can be filled in the order:

1) is, are, are

2) are, is, is

3) are, are, are

4) is, is, are

Ans: 2

Source: Free Initiatives by Edzorb –RJS Simulator Mock 4

– Q. 93

93.



MCQ, Multiple Correct Question

Everybody ____ leaving now.

- a is
- b am
- c are
- d at



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Explanation

Am

I I am late.
I'm late.
I am not late.
I'm not late.

Q Am I late?



Is

He He is funny.
He is not funny.

She She is busy.
She is not busy.

It It is raining.
It is not raining.
Q Is it raining?

Are

You You are tall.
You're not tall.

We We are lost.
We are not lost.

They They are big.
They're not big.
Q Are they big?

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HIGH COURT

HISTORY

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3 common HC Delhi (UT)- own HC

ORGANISATION Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President

Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges
President Misbehaviour Recomended by Parliament (Special Majority)	Appointed by President CJ —Absent Unable to perform duty	Appointed by President More work 2 years term	Appointed by President Judge Absent Unable to perform duty	Appointed by CJ of HC (Temporary)

JURISDICTION & POWERS

- ✓ Highest court of appeal (In state)
- ✓ Protector of FR
- ✓ Interpret Constitution

Original jurisdiction	Original		Writ
	Hear disputes (1st instance)		Under Article 226
Appellate	Appeal against judgements		Supervisory Superintendence
Control	Subordinate courts		Judicial review Article 226
Matters	Enforcement	Cases	
• Company laws • Court contempt Election disputes	• Marriage • Divorce Revenue matters	Fundamental Rights	
		Transferred from Subordinate courts	



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Q.91) The High Court set _____ the decree of the lower court.

After appointment, she immediately set _____ organizing her department.

These Seats are set _____ for women?

The above blanks can be filled in the order:

- 1) aside, forth, of
- 2) off, up, forth
- 3) apart, off, up
- 4) aside, about, apart

Ans: 4

**Source: Free Initiatives by Edzorb – DJS Simulator Mock 3
– Q. 5**

5.



MCQ Single Correct Question

The Court of Appeal set _____ his conviction

- a aside
- b up
- c apart
- d on

Explanation

Phrasal Verbs with " Set"

Set about

Meaning- Initiate or begin some action

E.g. He set about designing his homepage.

Set Back

Meaning- Remove from or allow distance

E.g. Set it back from the road by 20 or 30 ft.

Set Down

Meaning- Write

E.g. I Set down this account so others may benefit from my experience.

Set Forth

Meaning- Begin a journey or expedition

E.g. Columbus set forth with three small ships.

Set off

Meaning- leave; To Begin a journey or trip

E.g. He set off in search of better opportunities.

Set up

Meaning- to make something ready to use

E.g. It will take a half an hour to set up tent.

Set aside

Meaning- To separate or to reserve something for a particular aim

E.g. John set aside some money for his kid's future.

Set in

Meaning- Take root, become established

E.g. That was the point at which the rot set in.



PHRASAL VERBS

about

to begin doing something

She set about studying.

back

to delay sth or sb

*The government will set back
the reforms.*

down

to write

*The rules for service have
been set down.*

forth

to start a journey

*They set forth on their
travels in early June.*

off

to initiate sth working

*Someone set off a fire
extinguisher.*

on/upon sb

to attack sb

*He was set on by a
vicious dog.*

in

to take root,
start and continue

*The rainy season
has set in.*

to

to make sb feel sad

*When my work gets me down, to keep sth available for
I want to resign.*

aside

a purpose

*We set aside some
money for repairs.*

up

to place or to build sth

*The travelers set up a
camp on the river bank.*

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Q.92) Neither the groom nor the bride _____ a formal reception.

The state of the students' academic achievements _____ improving.

The Law School held _____ convocation outside this year,

The above blanks can be filled in the order:

- 1) wants, is, its
- 2) want, are, its
- 3) wants, is, their
- 4) want, is, its

Ans: 1

Source: Free Initiatives by Edzorb – Free Judiciary Scholarship Challenge 1 – Q. 99

99.

MCQ Single Correct Question

The cat ___ eating all of ___ food.

- a) is, its
- b) are, it's
- c) is, it's
- d) are, its



Explanation



It's or its?

Use it's when you mean it is

– Hey, it's raining!

Use it's when you mean it has

– Yeah, it's been raining for two hours already.

Use its when you mean of or belonging to it

– Look! That crazy dog is chasing its tail.

What about its'?

Its' is never correct. Ever.

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Q.93) The head-coach is the person _____ is wearing a cap.

My teacher is the only person _____ face I recognize.

It is unclear to _____ the credit should go.

The above blanks can be filled in the order:

- 1) who, whose, whom
- 2) who, who's, who
- 3) whom, whose, who
- 4) whose, who's, whom

Ans: 1

Source: Free Initiatives by Edzorb – AIRPT 3 – Q. 115

115

MCQ Multiple Correct Question



Fill in the blanks:

The boy _____ father is a doctor often visits me.

My uncle _____ is a teacher has got three children.

- a) whose, who
- b) who, whose
- c) who's, whose
- d) whose, who's



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Explanation

Who → Verb

- e.g. is / are / was / were
- Or any action word, e.g. enjoy / enjoys

Example:

Mandy, who enjoys reading, is a member of the library.

Whom → Pronoun / name of person / title of person
(must be a person)

- e.g. he / she / they / we / I
- the doctor / the teacher / Jack

Example:

Jack, whom we met earlier, is a student from 6-3.

Whose → Noun (any thing / person / animal)

- e.g. pencil / uncle / cat

Example:

Jane, whose cat went missing, is feeling very dejected.

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Q.94) Choose the correct spelling:

- 1) *proprietary*
- 2) *propreitory*
- 3) *propreitary*
- 4) *proprietary*

Ans: 4

**Source 1 : Free Daily Vocabulary – February Vocabulary –
4th Feb**

**Source 2 : Edzor Premium + –English + – Meaning of Words
– Part 1**

Proprietary

Relating to ownership

Ex: He company had proprietary rights to
the land it purchased



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Free Daily Vocabulary

PROPRIETARY

Noun | Meaning

Relating to an owner or
ownership.

संपदा



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Q.95) The unruly remonstrance will not change the law that has been passed.

With reference to the above sentence the antonym of remonstrance will be:

- 1) Demur
- 2) Expostulation
- 3) Acceptance
- 4) Reproach

Ans: 3

Source : Free Initiatives – Free DJS Simulator Mock 1 –

Q.103

103



MCQ, Single Correct Question

The opposite for Assent is :

- a) Accesptance
- b) Approval
- c) Remonstrance
- d) None of the above

Explanation



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what's the
opposite of
remonstrance?

acceptance, approval, praise,
willingness, sanction,
acquiescence, agreement, assent,
compliance, obedience



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Q.96) He said to us, "Are you going away today?"

The above sentence can be written in reported speech as:

- 1) He asked us are we going away that day.
- 2) He inquired of us whether we were going away that day.
- 3) He said to us whether we are going away that day.
- 4) He inquired if we are going today.

Ans: 2

**Source : Free Initiatives By Edzorb –RJS Simulator Mock 2
– Q. 85**

85.



MCQ, Single Correct Question

Nancy said, "I may leave tomorrow." Write this in the reported speech.

- a) Nancy said that she might leave the next day.
- b) Nancy said that she might leave tomorrow.
- c) Nancy asked if she should leave the next day.
- d) Nancy informed me to leave tomorrow.



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Explanation

What is indirect speech

- Indirect speech can be described as a **formation of speech** that **reports** what the other person has said without using the exact **words** said by the **speaker**.
- The **message** of the speaker of those words is conveyed but not the exact words are used.
- The **tense** when reporting a direct speech into indirect one often changes.



DIRECT SPEECH	REPORTED SPEECH
Are you going to my house?	She asked/inquired me if I was going to her house.
Where were you going	She asked me where I was going.
Where Have you been?	She asked me where I had been..

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Q.97) A little help with notes that I gave to my friend made him an albatross around my neck.

The underlined phrase means:

- 1) *A burden that one cannot get rid of*
- 2) *A person who is greatly treasured*
- 3) *Someone worthless*
- 4) *A person who gives unwanted advice*

Ans: 1

Source : Free Daily Vocabulary –Free Idioms – February – Idiom 9



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Idiom of the day



Albatross around my neck

A burden that one cannot
get rid of

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Q.98) "The fact that toys literally prefigure the world of adult functions obviously cannot but prepare the child to accept them all by constituting for him, even before he can think about it, the alibi of nature which has at all times created soldiers, postmen and Vespas." With reference to the above quotation, 'prefigure' means:

- 1) To draw figures
- 2) To overshadow
- 3) To imagine beforehand
- 4) To stunt creativity

Ans: 3

Source 1: Free Initiatives by Edzorb Law –MPCJ Simulator

Mock Exam 3 – Q. 150



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2022

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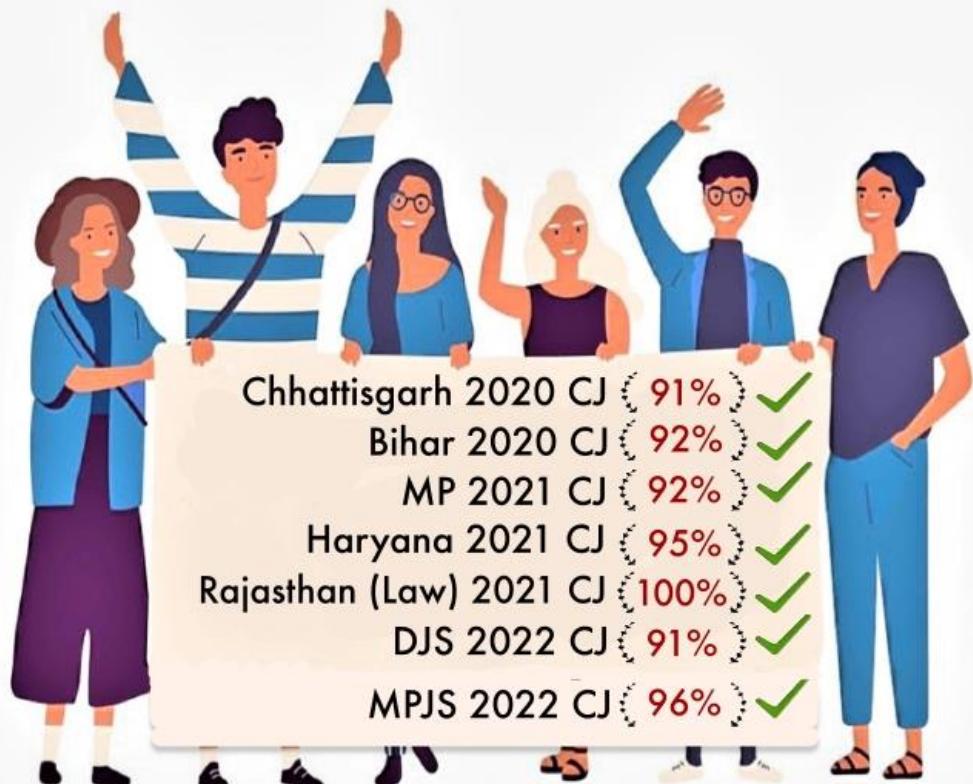


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Section - 9 Constitution



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Q.99) How many States and how many Union Territories are listed in the First Schedule of the Constitution of India?

- 1) 28 states and 9 union territories
- 2) 27 states and 10 union territories
- 3) 28 states and 8 union territories
- 4) 29 states and 9 union territories

Ans: 3

Source 1: Free Initiatives by Edzorb Law –MPCJ Simulator
Mock Exam 2 – Q. 128

Source 2: Bare Act Revolution – Constitution – Schedules

128|

MCQ, Single Correct Question

What is the present number of States and Union Territories in India ?

- a 28 States 8 UTs
- b 29 States 8 UTs
- c 28 States 9 UTs
- d 29 States 9 UTs



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SCHEDULES of the Constitution



Schedule	Subject Matter	Articles Covered
1 First Schedule	Names of the States/ Union territories (territorial jurisdiction)	1 and 4

- India is a federal union comprising **28 states and 8 union territories, for a total of 36 entities.**

States and union territories of India

Category	Federated states
Location	Republic of India
Number	28 States 8 Union territories

Did you Know?

- The **Union Territories of Daman and Diu, Dadra and Nagar Haveli** have become a single union territory since *January 26 through a Bill passed by the Parliament in the winter session.*
- With the merger of Daman and Diu, and Dadra and Nagar Haveli, the number of **UT's have come down to eight.**





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Q.100) The Constitution Bench Judgement of the Supreme Court in "L. Chandra Kumar vs Union of India" (1997) 3 SCC 261 case is a land mark decision on the issue of

- 1) Inter State Trade and Commerce*
- 2) Power of Judicial Review of High Courts and Supreme Court is part of basic structure of constitution*
- 3) Elections to Parliament*
- 4) Reorganization of States*

Ans: 2

Source: Free Initiatives by Edzorb Law – Free Case Law Based Mock Exam– Q. 6

6.

MCQ, Multiple Correct Question

L Chandra Kumar v UOI, (1997) 3 SCC 761 is a landmark case on:

- a Fundamental rights vis-a-vis Directive principles
- b Emergency powers
- c Powers of a Speaker
- d Basic structure of Constitution



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Explanation



L. Chandra Kumar
v.
Union of India

Basic structure of
constitution includes the
power of Judicial Review
of High Courts and the
Apex Court

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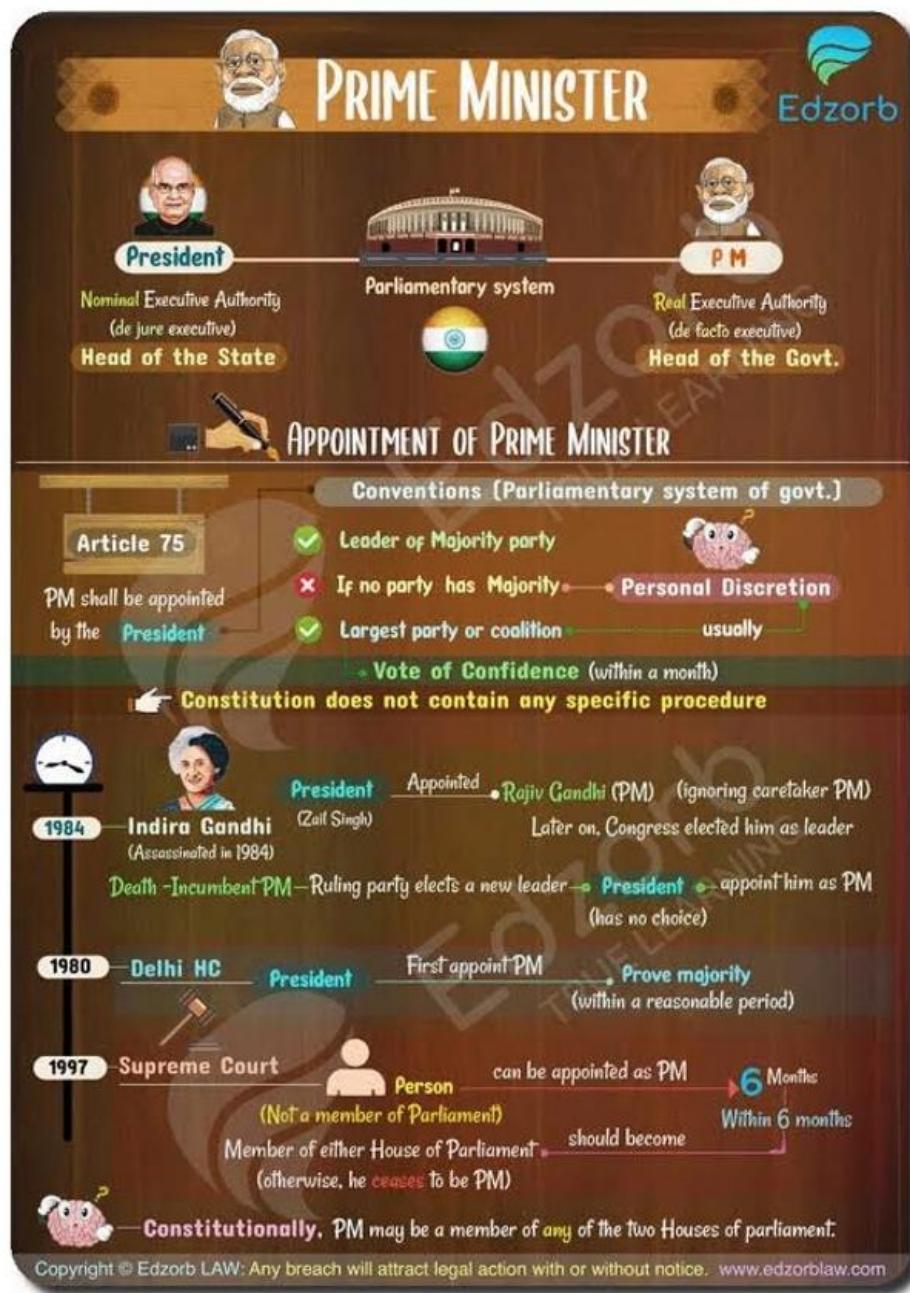
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Subjects	No. of Questions	Total Marks
Criminal Law		
IPC	25	25
CrPC	30	30
POCSO Act	5	5
Civil Law		
CPC	30	30
Constitution	12	12
Indian Evidence Act	20	20
Specific Relief Act	5	5
Indian Contract Act	8	8
Indian Limitation Act	10	10
Arbitration & Conciliation Act	15	15
Commercial Courts Act	10	10
LLP Act	3	3
English & GS		
English	15	15
GS	12	12



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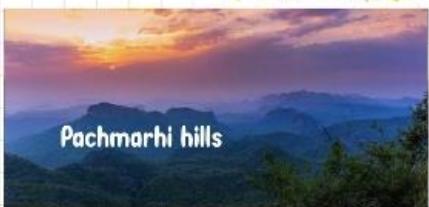
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PACHMARHI BIOSPHERE RESERVE



Madhya Pradesh 1999



Pachmarhi hills

National Park

Satpura National Park

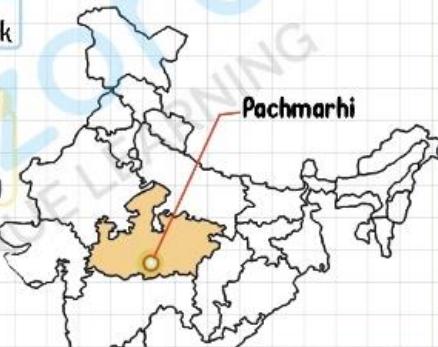
Wildlife Sanctuary

Bori Sanctuary

Pachmarhi Sanctuary

Rivers

Dudhi River



Nilgai



Chinkara



Wild Dog



Giant squirrel



Bisons



Flying squirrel

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ACHANAKMAR-AMARKANTAK BIOSPHERE RESERVE



Madhya Pradesh Chhattisgarh 2005



Wild dog

Wildlife Sanctuary

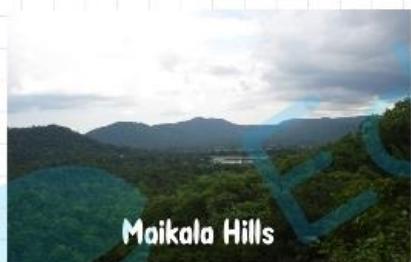
Achanakmar

Rivers

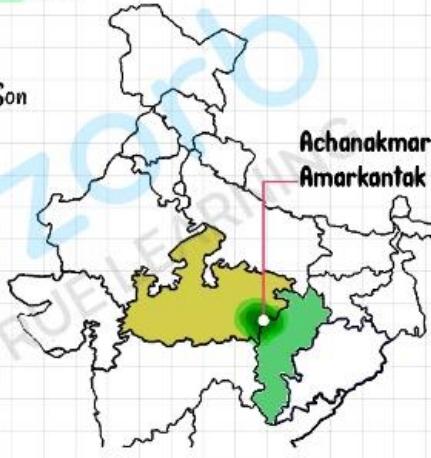
Narmada, Johilla, Son



Four-horned antelope



Maikala Hills



Sarus crane



White-rumped Vulture



Sacred grove Bush Frog



Northern Tropical Moist Deciduous forest

Southern Dry Mixed Deciduous forest

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Q.101) How many languages are included in the Eighth schedule of the Constitution of India?

) 18

) 20

) 22

) 25

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Constitution – Schedules



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SCHEDULES of the Constitution



Schedule	Subject Matter	Articles Covered
1 First Schedule	Names of the States/ Union territories (territorial jurisdiction)	1 and 4
2 Second Schedule	Emoluments, allowances, privileges	59, 65, 75, 97, 125, 148, 158, 164, 186 & 221
3 Third Schedule	Forms of Oaths or Affirmations	75, 84, 99, 124, 146, 173, 188 and 219
4 Fourth Schedule	Seats in the Rajya Sabha states & UTs	4 and 80
5 Fifth Schedule	Scheduled areas & tribes	244
6 Sixth Schedule	Tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.	244 and 275
7 Seventh Schedule	Division of powers between the Union and the States (Union List, State List, Concurrent List)	246
8 Eighth Schedule	Languages recognized by the Constitution.	344 and 351
9 Ninth Schedule	State legislatures dealing with land reforms & abolition of zamindari system & of the Parliament dealing with other matters.	31-B
10 Tenth Schedule	Disqualification- Members of Parliament & State Legislatures on the ground of defection.	102 and 191
11 Eleventh Schedule	Specifies the powers, authority and responsibilities of Panchayats.	243-C
12 Twelfth Schedule	Specifies the powers, authority & responsibilities of Municipalities.	243-W

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The 22 official languages recognized by the Indian Constitution:

S.No.	Language
1	Assamese
2	Bengali
3	Bodo
4	Dogri (Dongri)
5	Gujarati
6	Hindi
7	Kannada
8	Kashmiri
9	Konkani
10	Mathili (Maithili)
11	Malayalam



12	Manipuri
13	Marathi
14	Telugu
15	Nepali
16	Oriya
17	Punjabi
18	Sanskrit
19	Santhali
20	Sindhi
21	Tamil
22	Urdu



Q.102) When was the Constitution of India adopted by the Constituent Assembly?

- 1) 13th November 1949
- 2) 15th December 1949
- 3) 26th January 1950
- 4) 26th November 1949

Ans: 4

Source: Edzorb Law Qbank – Constitution – Unit II – Q. 5

5.



MCO Single Correct Question

On which date Constitution of India was adopted and enacted by the Constituent Assembly?

- a) August 15, 1947.
- b) January 26, 1950.
- c) November 26, 1949.
- d) January 30, 1948.

Explanation



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(C)

Constitution of India was adopted and enacted on **26 November, 1949** containing 395 Articles, 8 Schedules with the sign of 284 members of the constituent assembly and the President Indian constitution came into force on 26 January 1950.

26th November is known as **National Constitution Day or Law Day.**



Declaration of Purna Swaraj, 1930

- On **26 January 1930**, Pt. Jawaharlal Nehru declared **Purna Swaraj** (complete freedom) from the British Raj at its **Lahore session** due to the **breakdown of negotiations** between INC and the British over the question of dominion status for India.
- Later on this day the constitution was adopted and first general **Lok Sabha elections** took place in **1951**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 10

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Q.103) How many Fundamental Duties are listed in Article 51-A of the Constitution of India?

- 1) 9
- 2) 10
- 3) 11
- 4) 12

Ans: 3

Source: Edzorb Law Qbank – Constitution – Unit III – Q. 32

32.



MCQ, Single Correct Question

How many Fundamental Duties are mentioned in Indian Constitution at Present?

- a 10.
- b 11.
- c 12.
- d 09

Explanation



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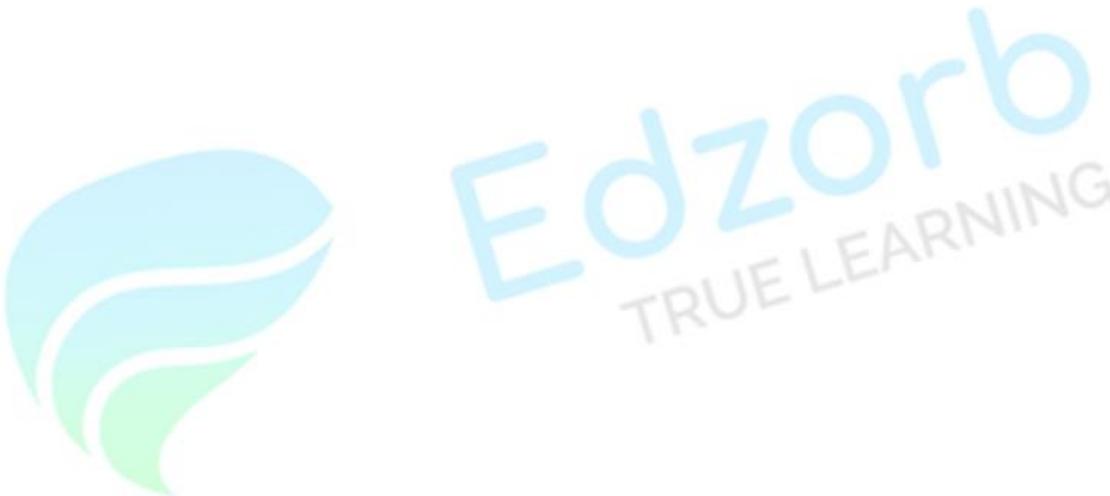
(B)

FUNDAMENTAL DUTIES
Sardar Swaran Singh Committee recommendations
12ND CONSTITUTIONAL AMENDMENT ACT 1976

Part IV A : consists of only 1 Article, i.e. Article 51A (fundamental duties of citizens)

ARTICLE 51 A it shall be the duty of every citizen of India:

- 1 (a) **Abide by the Constitution** **Respect** • Institutions • National Flag • National Anthem
- 2 (b) **Cherish and follow the noble ideals that inspired the national struggle for freedom**
- 3 (c) **to uphold and protect the Sovereignty Unity and Integrity of India**
- 4 (d) **to defend the country and render national service when called upon to do so**



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- 5** (e) promote harmony
spirit of common brotherhood amongst all
transcending religious, linguistic and regional diversities
renounce practices derogatory to the dignity of women



- 6** (f) to value and preserve the rich heritage
of the country's composite culture



- 7** (g) Protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures



- 8** (h) to develop scientific temper, humanism and the spirit of inquiry and reform

- 9** (i) to safeguard public property and to abjure violence:



- 10** (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement



- 11** (k) Provide opportunities for education to his child or ward between the age of 6-14 years.

This duty was added by 86th Constitutional Amendment Act, 2002.



Read more about:

<https://www.indiatoday.in/education-today/featurephilia/story/32-million-indian-children-have-never-been-to-any-school-how-can-we-reform-education-for-the-underprivileged-1582293-2019-08-19>

Literacy Rate in India - Gender and Age Dimension -

<https://www.orfonline.org/research/literacy-in-india-the-gender-and-age-dimension-57150/>

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1521.
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Q.104) Which Article of the Constitution of India contains provisions regarding equal justice and free legal aid?

- 1) 38
- 2) 39
- 3) 39-A
- 4) 43

Ans: 3

Source: Edzorb Law Qbank – Constitution – Unit III – Q. 20

20.

MCQ, Single Correct Question

Match List-I with List-II and select the correct answer using the code given below the lists.

List-I (Articles)	List-II (Provisions)
A. Article 39A	1. Living wages for workers.
B. Article 43	2. Uniform Civil Code.
C. Article 44.	3. Separation of judiciary from executive.
D. Article 50	4. Free Legal Aid.

Codes:

A B C D

- a 1 4 2 3
- b 4 1 3 2
- c 4 1 2 3
- d 1 4 3 2

Explanation



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(C)

Article 39A - Equal justice and free legal aid.

State shall:

- secure the operation of the legal system.
- promote justice, on a basis of equal opportunity.
- provide free legal AID
- ensure opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 43

Living wages for workers

Article 44

Uniform Civil Code

Article 50

Separation of judiciary from executive

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1497.

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Q.105) Which Article of the Constitution of India Prescribes that a person Who voluntarily acquires the citizenship of a foreign State shall not be a citizen of India?

- 1) Article 5
- 2) Article 9
- 3) Article 10
- 4) Article 11

Ans: 2

Source: Edzorb Law Qbank – **Constitution – Unit III**



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Article 9 of The Constitution of India

- A person who **voluntarily acquires citizenship** of any other country is **no longer** an Indian citizen.
- If the person refuses to surrender the passport it is a **criminal offense**.
- Must also **surrender Indian passport** and voter card according to the Passports Act.
- Indian ID cards must **not be used** after acquiring citizenship from another country.



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CONSTITUTION

1. Discuss the rights granted to convicted person under the Constitution. Elaborate the findings of the court in Selvi vs Union of India and the development of the issue in the later cases.

- 8 Marks

**EPIC MAINS TEST SERIES EVALUATION
SAMPLE**

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Shall not be compelled to witness against
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→ What does
'compel' mean
be a here?

"Person accused of" means that a formal accusation has been made against such person which might result in his conviction.

The case of Kathi Kalu v. State of Bihar SC

"No person can be compelled or forced to give evidence against himself."

Selvi v. State UOI, 2010 SC

Fact?
Issue?

Mention
them at
least in

In this case the petitioner has challenged a line, the narco analysis, brain finger mapping and polygraph test which are being conducted against the consent of the person accused of an offence. The Supreme Court held the following guidelines-



• ~~“any~~ 500 CPC here. (ii)

→ Confession under the Evidence Act

- (2) Art 20(2) - The protection against double jeopardy -
It reads as -
"No person shall be ~~convicted~~ or
prosecuted and
for the same offence twice." Punished

It is based on the maxim - "Nemo debet vis
vexari". → What does it mean?

The Code of criminal procedure 1973 4/s 300
also deals with this principle of double
jeopardy.

essentials - (1) Accused must be convicted
on the same offence for which he has
been prosecuted before.

(2) Proceeding was conducted before the
judicial magistrate or court in judicial
proceeding.

→ Pinpoint the difference b/w S. 300 CrPC
& Art. 20(2)



→ S. 300 cpc is for the convicts & the acquits as ex-post facto laws → well.

(3) The protection against ~~only terrorism~~ laws →

Art. 20(1) reads as -

"No person shall be ~~arrested~~ except for the violation of law in force at the time of commission of act or omission nor shall be subjected to greater punishment than at the time of commission of act of omission."

The Indian constitution protects only from two types of ex post facto laws -

- (1) The law which was not in force at the time of commission of offence.
- (2) The punishment which was enhanced after the punishment of offence.

→ What if the punishment is reduced?



→ discuss the facts properly.
→ What is Narco analysis and the other tests etc.

- (1) No person shall be examined or compelled to give evidence against his consent.
- (2) If an accused person consents to give evidence he shall be explained to the consequences of such test and his lawyer shall be present.
- (3) The consent of person shall be recorded by the judicial magistrate.
- (4) On the hearing before the judicial magistrate Lawyer of accused shall be present.

Thus, even if the accused has consented to such tests, he shall be heard properly by the judicial magistrate to ensure that he has not been forced to give evidence.

→ Review



Q.106) In which judgement did the Supreme Court of India uphold that freedom of speech and expression through the medium of internet enjoys constitutional protection under Article 19(1)(a)?

- 1) *Arjun Gopal versus Union of India (2019) 13 SCC 523*
- 2) *Marthanda Varma versus State of Kerala (2021) 1 SCC 225*
- 3) *Chandana Das versus state of W.B. (2020) 13 SCC 411*
- 4) *Anuradha Bhasin versus Union of India (2020) 3 SCC 637*

Ans: 4

Source: Edzorb Premium Plus 2.0 – Legal Updates –
January 2020 – Legal 1



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Anuradha Bhasin v. Union of India

W.P. [C] 1031/2019



Freedoms of speech & expression are constitutionally protected



**Art.19(1)(a) of Constitution of India,
S. 144 CrPC**

Governments are requested to respect freedom of press at all times. Power under Section 144 cannot be used as a tool to prevent the legitimate expression of opinion.
Indefinite suspension of internet is not permissible.



Bench: N V Ramana, J. Surya Kant, J. & B R Gavai, J.

Reference: https://main sci.gov.in/supremecourt/2019/28817/28817-2019-2-1501-19350-Judgement_10-Jan-2020.pdf



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Q.107) Which Article of the Constitution of India provides for exemption of property and income of a State from Union taxation?

- 1) Article 285
- 2) Article 275
- 3) Article 289
- 4) Article 272

Ans: 3

Source: Edzorb Law Qbank – Constitution – Unit III



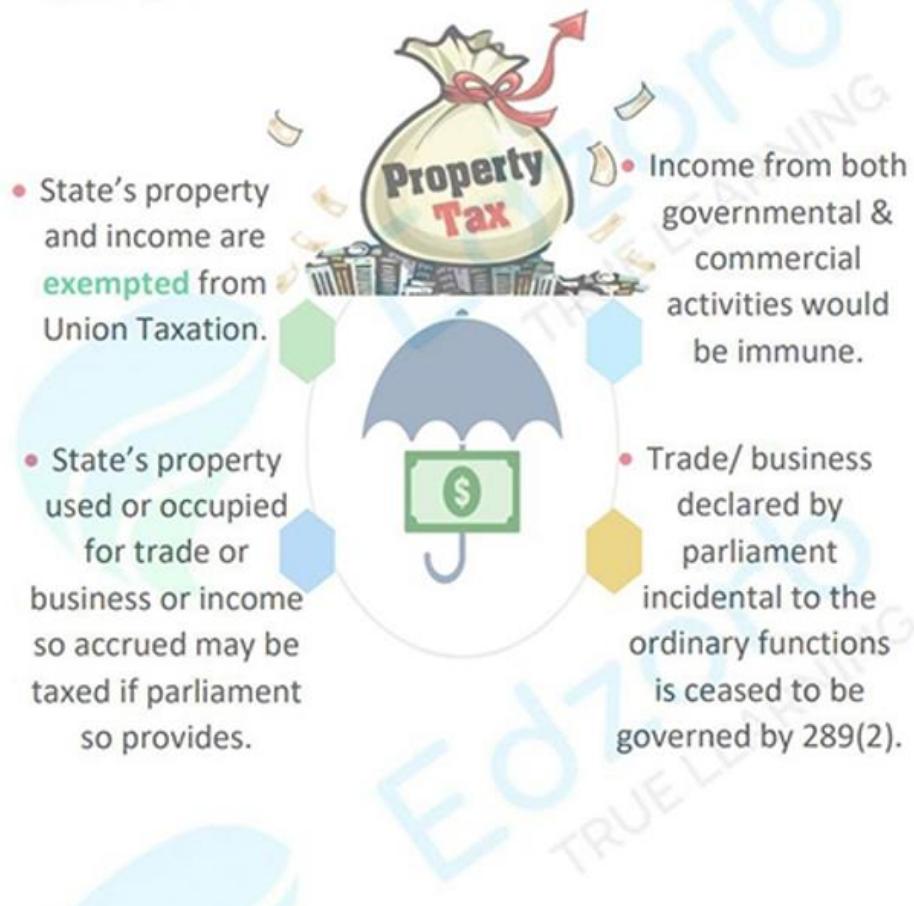
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Article 289



St. of West Bengal Vs. UOI

AIR 1963 SC 1241: 1964(1) SCR 371

Facts:

- State of W.B. challenged the competence of parliament to enact S.47 of the Coal Bearing Areas (Acquisition & Development) Act 1957.

Held:

- State had within their allotted field “full attributes of sovereignty” and therefore the exercise of authority by the union agencies which trenches upon sovereignty is void.
- Court held the Act to be valid.



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Q.108) Which Article of the Constitution of India empowers the President to appoint an Acting Chief Justice of a High Court?

- 1) Article 214
- 2) Article 223
- 3) Article 224-A
- 4) Article 229

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Constitution – High Court

Art. No.	Article
214	High Courts for States
215	High Courts to be courts of record
216	Constitution of High Courts
217	Appointment and conditions of the office of a Judge of a High Court
218	Application of certain provisions relating to the Supreme Court to High Courts
219	Oath or affirmation by Judges of High Courts
220	Restriction on practice after being a permanent Judge



221	Salaries etc., of Judges
222	Transfer of a Judge from one High Court to another
223	Appointment of acting Chief Justice

Art. No.	Article
224	Appointment of additional and acting Judges
225	Jurisdiction of existing High Courts
226	Power of High Courts to issue certain writs
227	Power of superintendence over all courts by the High Court
228	Transfer of certain cases to the High Court
229	Officers and servants and the expenses of High Courts
230	Extension of jurisdiction of High Courts to Union territories
231	Establishment of a common High Court for two or more States



HIGH COURT



Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court	Allahabad	HC of Province	Establish HC	24 HC
• Bombay		HC for State	2 or more States Or 2 or more States + UT	3 common HC Delhi (UT)- own HC
• Madras				
• Culcutta				

ORGANISATION

Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President	Citizen	Governor Or Nominated by	62 age	Determined by President	By President
• CJ	Held Judicial office				
• Other Judges	Or				
• Common HC Judges	HC Advocate				

Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges
President	Appointed by President	Appointed by President	Appointed by President	Appointed by CJ of HC (Temporary)
Misbehaviour	President	President	President	
Recommended by Parliament (Special Majority)	CJ —Absent Unable to perform duty	More work 2 years term	Judge Absent Unable to perform duty	

JURISDICTION & POWERS

✓ Highest court of appeal (In state)	Original Hear disputes (1st instance)	Writ Under Article 226
✓ Protector of FR	Appellate Appeal against judgements	Supervisory Superintendence
✓ Interpret Constitution	Control Subordinate courts	Judicial review Article 226
Original jurisdiction	Matters • Company laws • Court contempt • Election disputes	Enforcement Fundamental Rights
	• Marriage • Divorce Revenue matters	Cases Transferred from Subordinate courts

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Q.109) Which Article of the Constitution of India provides for the functions of Public Service Commissions?

- 1) Article 320
- 2) Article 315
- 3) Article 318
- 4) Article 323

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Constitution – UPSC



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UNION PUBLIC SERVICE COMMISSION



Central Recruiting Agency



President

- Appointment
- Composition
- Service conditions

Chairman—Reappointment ✗

Members—Reappointment ✓

as Chairman UPSC/SPSC only

• Term—6 years/ 65 age



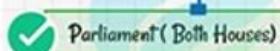
Expense on members
Consolidated Fund
Of India

Only Eligibility—1/2 of members—Officers 10 yrs under—State/ Centre

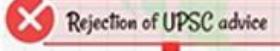
Reports

ANNUAL REPORT ON ITS PERFORMANCE

President



Parliament (Both Houses)



Rejection of UPSC advice

Approved by
Appointments Committee of Cabinet



Functions

Conduct examinations

All India Services

Central Services

Public Services—Union Territories



Assist—States—Joint Recruitment Schemes

- Recruitment
- Transfer
- Disciplinary matters
- Appointment
- Promotion



Removal

By President

- Insolvent
- Paid employment
(Other than duty)
- Unfit (weak health)
- Misbehaviour

President Inquiry Boarding S.C.

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Article 320: Functions of Public Service Commission

These powers & functions come with several other powers & functions.

To conduct examinations for the appointment to the Union & State respectively;

If requested, assist States in framing & operating schemes of joint recruitment;

The Union/State commission shall be consulted in various matters;



Q.110) Which Article of the Constitution of India specifies the Original Jurisdiction of the Supreme Court of India?

- 1) Article 134
- 2) Article 132
- 3) Article 133
- 4) Article 131

Ans: 4

Source: Edzorb Law Qbank – Constitution – Unit XXII –
Q.25

25.

MCQ, Single Correct Question

Original Jurisdiction of Supreme Court is provided under Article

- a 139
- b 141
- c 131
- d 129

Explanation
C



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Article 131

Original jurisdiction of the Supreme Court:

- Dispute between the **Government of India** and one or more **States**
- Dispute between the **Government of India** and any **State or States** on one side and one or more other States on the other
- Dispute between **two or more States.**

State of Bihar Vs Union of India

(1970) 1 SCC 67

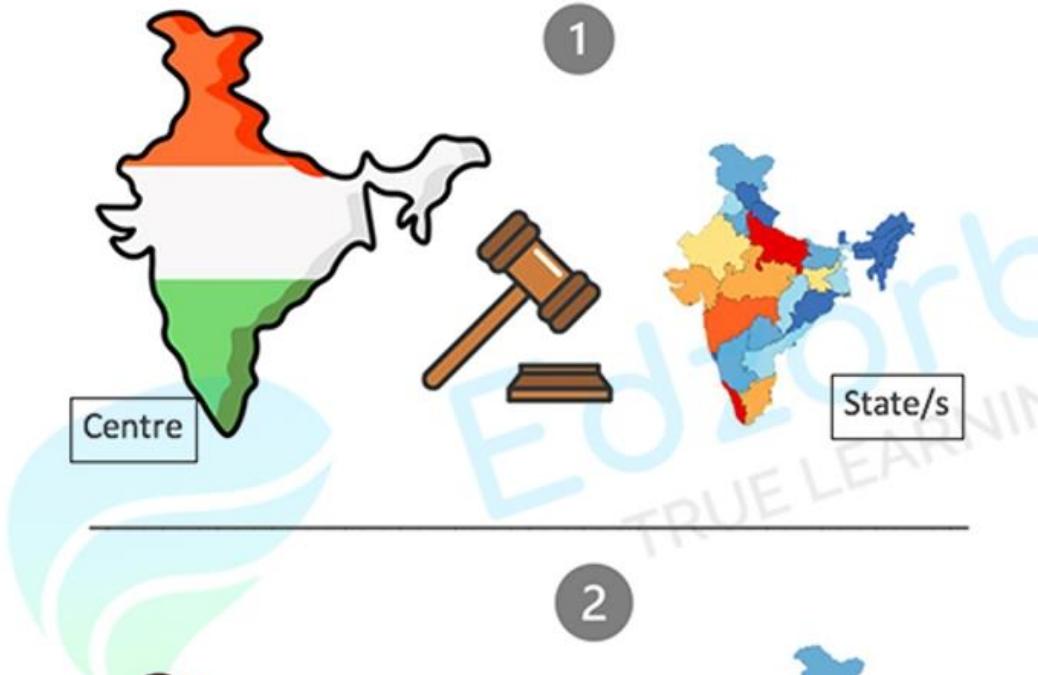
- Dispute between the State of Bihar and the Hindustan Steel Limited.
- The court held that a **company registered** under the Companies Act of 1956 can **never attract** the Original Jurisdiction under **Article 131.**
- Hindustan Steel Limited **can never be considered as a 'state'.**



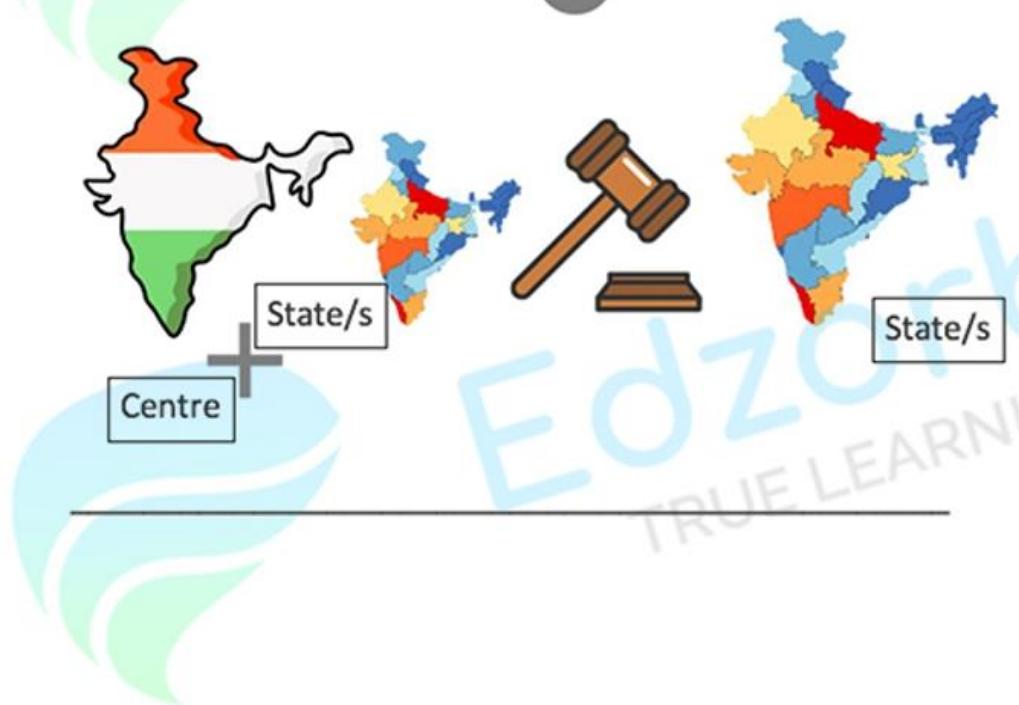
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1

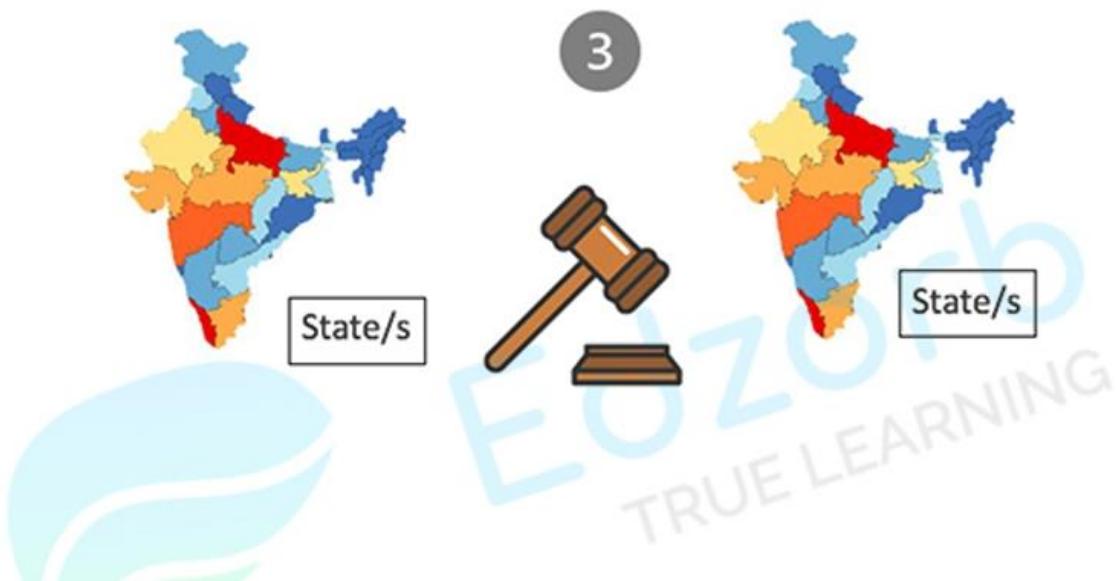


2



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Subject matter of Original Jurisdiction:

- Any question of law or fact on which the **existence or extent of a legal right depends.**

State of Haryana v. State of Punjab

(AIR 2002 SC 685)

- That the dispute regarding an agreement between **two states for the construction of water canals** are **not a considerable matter** under **Article 131.**



Proviso:

Original jurisdiction shall not extend to:

- **Dispute arising out of any treaty, agreement, covenant, engagements**, and or other similar instrument which:
 - Entered /executed before commencement of Constitution and
 - Continues in operation after such commencement, or
 - Provides non application of said jurisdiction.

Note: Original Jurisdiction is to the exclusion of any other court.

State of H.P. Vs Union of India

(2011) 13 SCC 344

- **Art. 131** - Original jurisdiction
- Extends to disputes involving any question of law or fact relating to existence and extent of a legal right.
- **Extent of plaintiff State's right to a share in power generated** (Bakra Nangal and Beas project), covered under jurisdiction of **Art. 131**



Did you Know?

The State of Kerala was one of the first states to vocalize its opposition to the **Citizenship Amendment Act, 2019**.

And has also filed a suit against the Center under **Article 131** challenging its constitutional validity.

The question is can it do so?

Read more: <https://theprint.in/judiciary/what-is-article-131-that-kerala-govt-has-invoked-to-challenge-citizenship-law-in-sc/349260/>



Reference: Constitution of India, 1973 art 131

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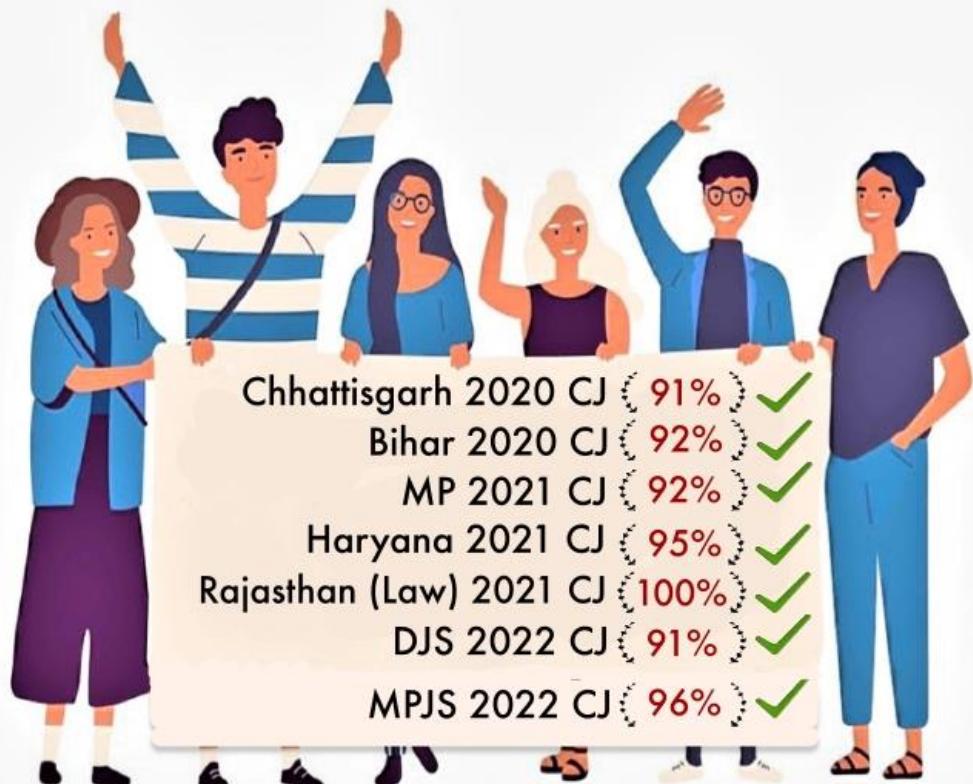


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Section - 10 CPC



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Q.111) No order of attachment passed under Order 39 Rule 2A shall remain in force for more than

- 1) 6 months*
- 2) One year*
- 3) Two years*
- 4) None of the above*

Ans: 2

Source: Edzorb Law Qbank – CPC – Module 26 – Q.15

15.



MCQ, Single Correct Question

According to O. 39, R.2-A, which of the following is a consequence of die breach of injunction:

- a Attachment of the property for 2 years.
- b Detention of the person in civil prison up to 3 months.
- c Sale of attached property after 3 years.
- d All of the above.



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Order XXXIX Rule 2-A: Consequence of disobedience or breach of injunction:

In case of disobedience or breach of injunction granted, the Court may order:



Attachment of Property: The property of the person guilty of such disobedience or breach to be attached, and



Arrest of Person: The person may also be detained in the civil prison for a term not exceeding three months.



(2) No attachment made under this rule shall remain in force for more than one year,

If the disobedience or breach continues, the property attached may be sold and out of the proceeds.

Reference: Civil Procedure Code, Order 39

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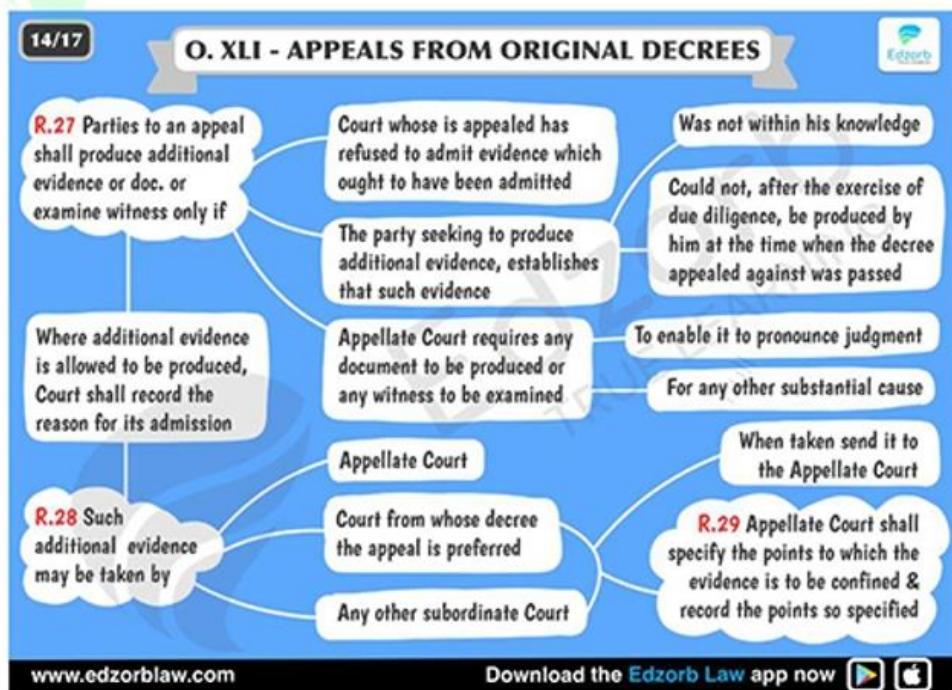
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Q.112) Production of additional evidence in Appellate Court is permissible under which of the following provisions?

- 1) Order 41 Rule 27
- 2) Order 40 Rule 1
- 3) Order 39 Rule 5
- 4) Order 21 Rule 27

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC Mind Maps – Order 41



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Q.113) Under order 6 Rule 17 of CPC, amendment of pleadings can be allowed up till what stage of the suit?

- 1) At any stage*
- 2) Up to the stage of framing of issues*
- 3) Up to the stage of issuance of summons*
- 4) Up to the stage of final hearing*

Ans: 1

Source: Edzorb Law Qbank Concept – CPC –Module 9 –

Q.23



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23.



MCQ, Single Correct Question

An application for amendment of pleadings is filed under:

- a Order 6, Rule 17
- b Order 6, Rule 4
- c Order 38, Rule 5
- d Order 21, Rule 1

A

Order 6 Rule 17

Amendment of pleadings— The Court may

- at any stage of the proceedings
- allow any party to alter or amend his pleadings
- it is made for the purpose of determining the real questions in controversy



CHANGE
OF PLANS



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Vinod George Vs Nita Vinod George

2018 SCC OnLine Bom 7462

- There is no compliance whatsoever with the proviso Order VI Rule 17 CPC or the principles set out therein.
- Family Court had correctly held that the proposed amendment was not necessary for determining the real question of controversy between the parties and the purpose of seeking leave at the belated stage was only to protract the final decision in the case.

Therefore, there is no jurisdictional error in the impugned order and the petition was dismissed accordingly.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 206, 208, 218
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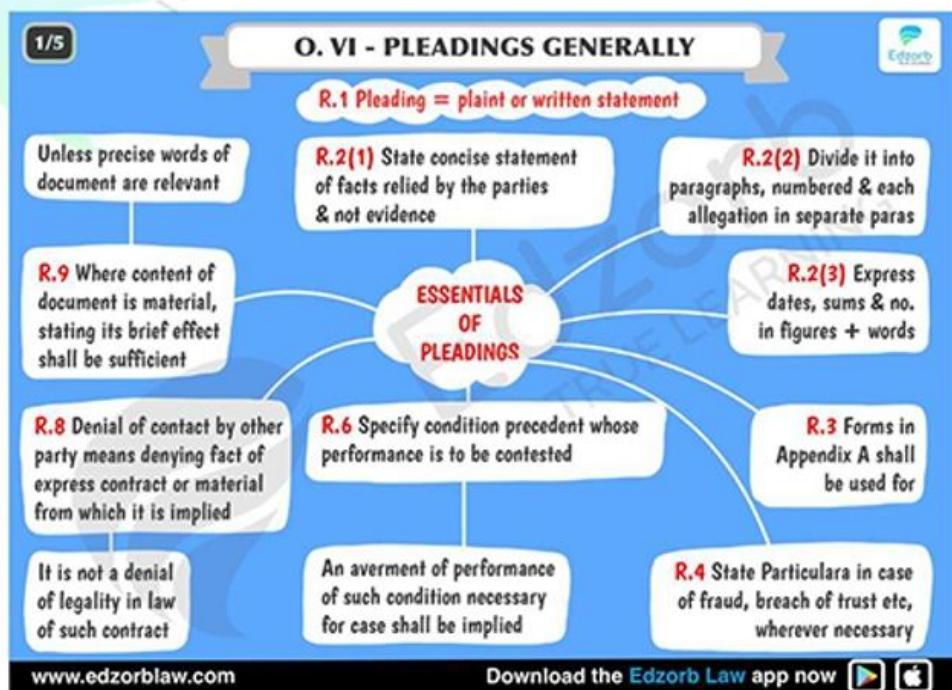
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Q.114) In a commercial suit, what is the consequence if the pleading is not accompanied with Statement of Truth?

- 1) *Imposition of cost*
- 2) *Striking out of the pleading*
- 3) *Proceed ex-parte*
- 4) *None of the above*

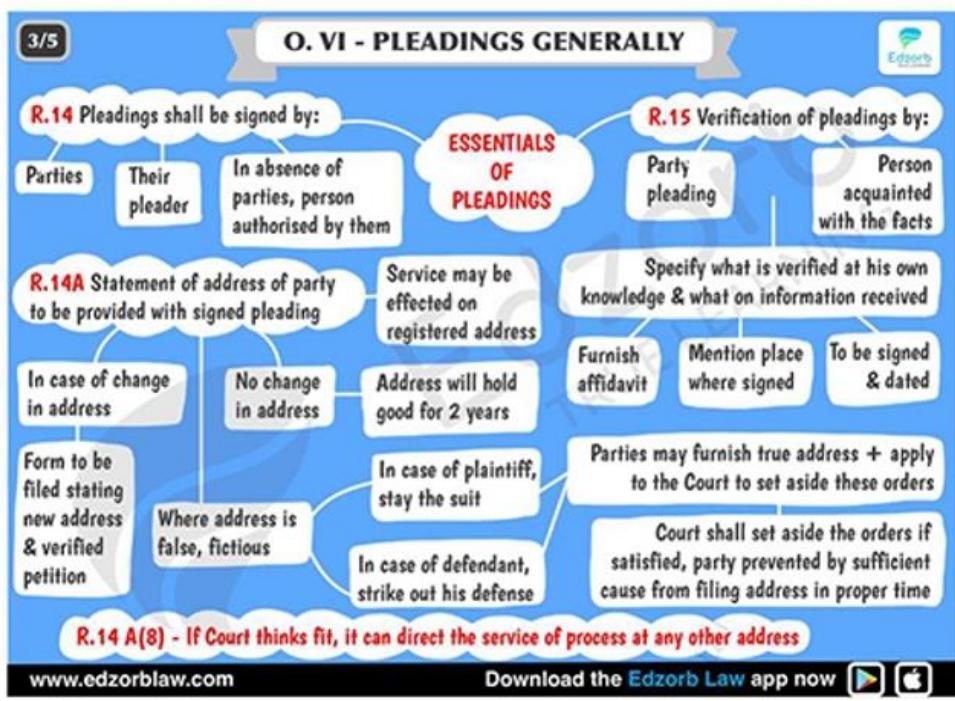
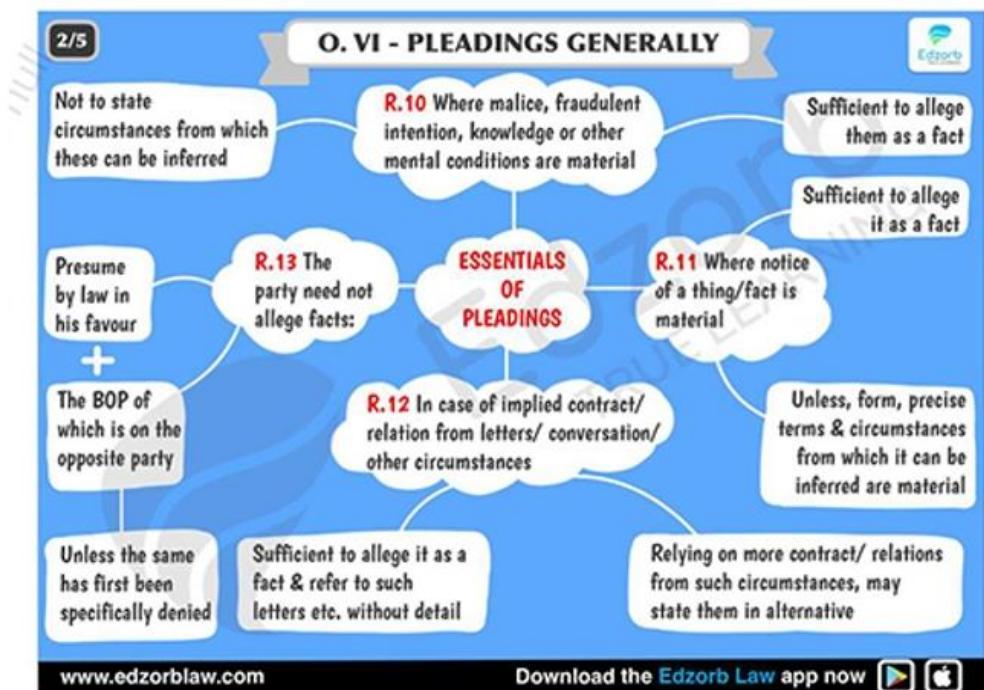
Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – O.VI



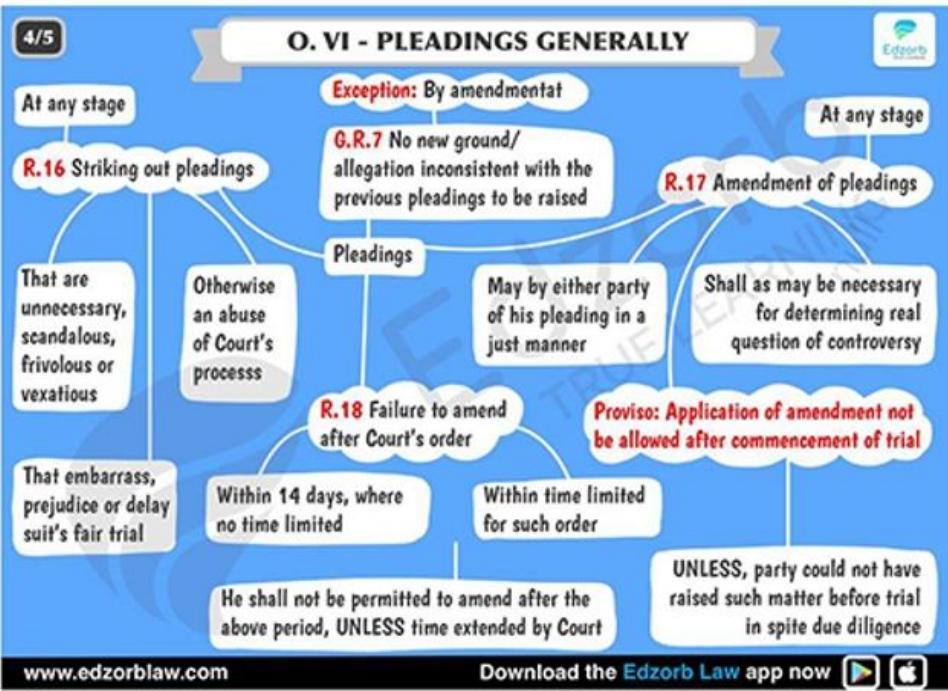
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O. VI - PLEADINGS GENERALLY

Pleadings In case of commercial courts

General rules of pleadings apply

By affidavit in manner & form as per Schedule

R.15A: Verification

Of Amended pleading

R.3A in form as prescribed by HC Rules or Practice Direction

To be signed by party or duly authorised person who is acquainted with the case

Pleading if not verified

Pleading to be strike out

Party not permitted to rely on it as evidence



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Q.115) For which of the following purposes the court cannot issue a commission?

- 1) For framing of issues*
- 2) To make local investigation*
- 3) Partition*
- 4) To perform any ministerial act*

Ans: 1

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
CPC – Sec 75**



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Section 75: Power of Court to issue commissions

- Subject to such **conditions and limitations** as may be prescribed, the **Court may issue a commission**—

A	O.XXVI, R.1-8 Examination of a person
B	O.XXVI, R.9-10 Local Investigation
C	O.XXVI, R.11-12 Examination of accounts and appropriation
D	O.XXVI, R.13-14 Partition
E	O.XXVI, R.10B Ministerial Work
F	O.XXVI, R.10A Scientific and Technical investigation
G	O.XXVI, R.10C Sale of property



- Examination of a person

- Local Investigation





- Examination of accounts and appropriation



- Partition



- Ministerial Work



- Scientific and Technical Investigation



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- Sale of Property

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

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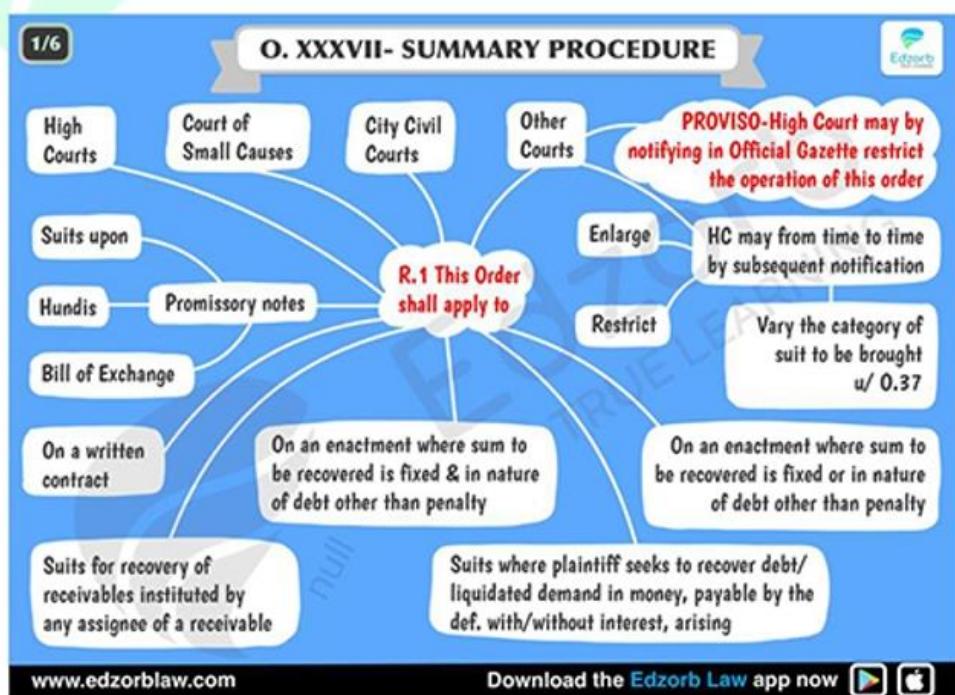
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Q.116) In a summary suit, upon being duly served with the summons, plaint, and annexures, the defendant is required to enter an appearance within how many days?

- 1) 7 days
- 2) 10 days
- 3) 15 days
- 4) 21 days

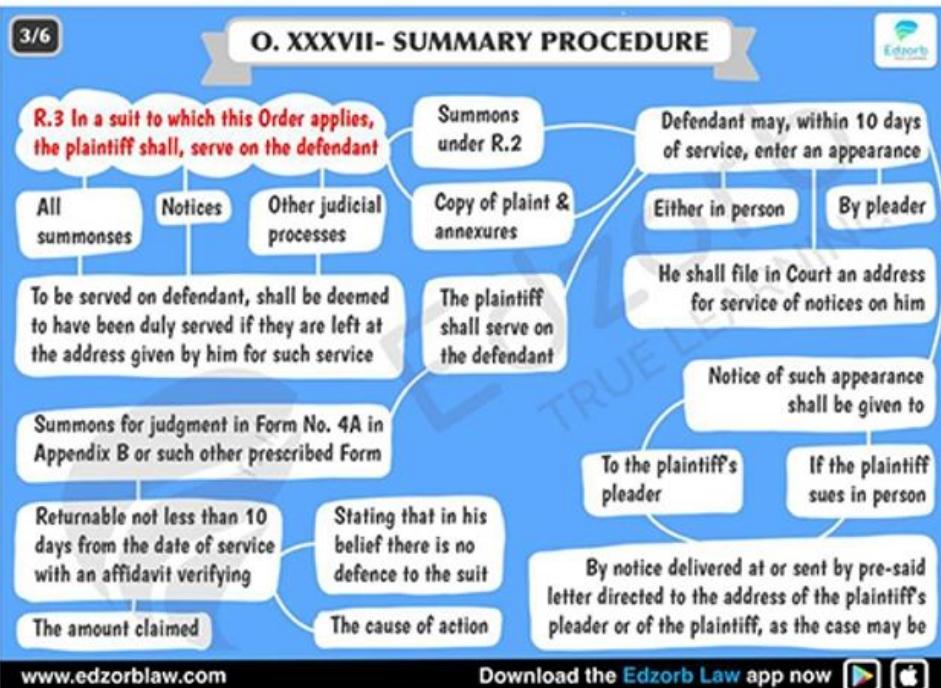
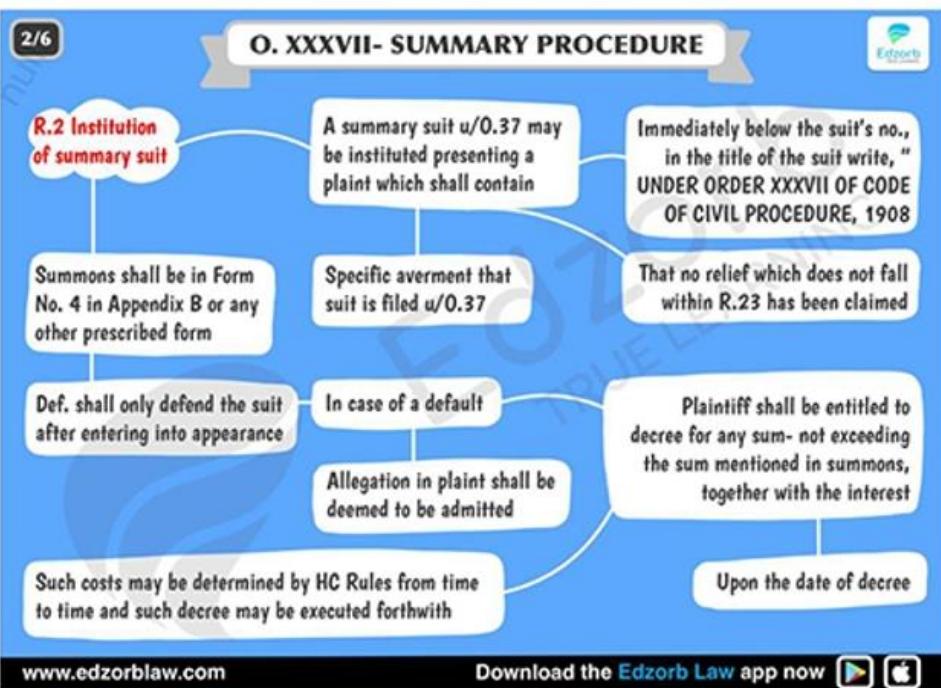
Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec 75



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4/6

O. XXXVII- SUMMARY PROCEDURE



R.3 Contd....

The defendant may, by affidavit or otherwise disclosing such facts as may be deemed sufficient to entitle him to defend

At any time within 10 days from service of such summons for judgment

Apply on such summons for leave to defend such suit

Leave to defend may be granted to him unconditionally

Facts disclosed by defendant do not indicate a substantial defence

Upon such terms as may appear to the Court or Judge to be just:

Defence of the defendant is frivolous/vexatious

PROVISO - leave to defend shall be refused where the Court is satisfied that

Leave to defend the suit shall not be granted unless the amount so admitted to be due is deposited by the defendant in Court

PROVISO- where part of the amount claimed by plaintiff is admitted by the defendant to be due from him

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5/6

O. XXXVII- SUMMARY PROCEDURE



At the hearing of such summons for judgment

The plaintiff shall be entitled to judgment forthwith

If the defendant has not applied for leave to defend

If the defendant is permitted to defend

As to the whole/any part of the claim

If leave to defend made but was refused

Court or Judge may direct him to give such security within time fixed by the Court/Judge

On failure to give such security within time specified/to carry out such directions given by the Court/judge, the plaintiff shall be entitled to judgment forthwith

The Court

Judge

For sufficient cause shown by the defendant

In applying for leave to defend the suit

In entering an appearance

May excuse the delay of the defendant in suit

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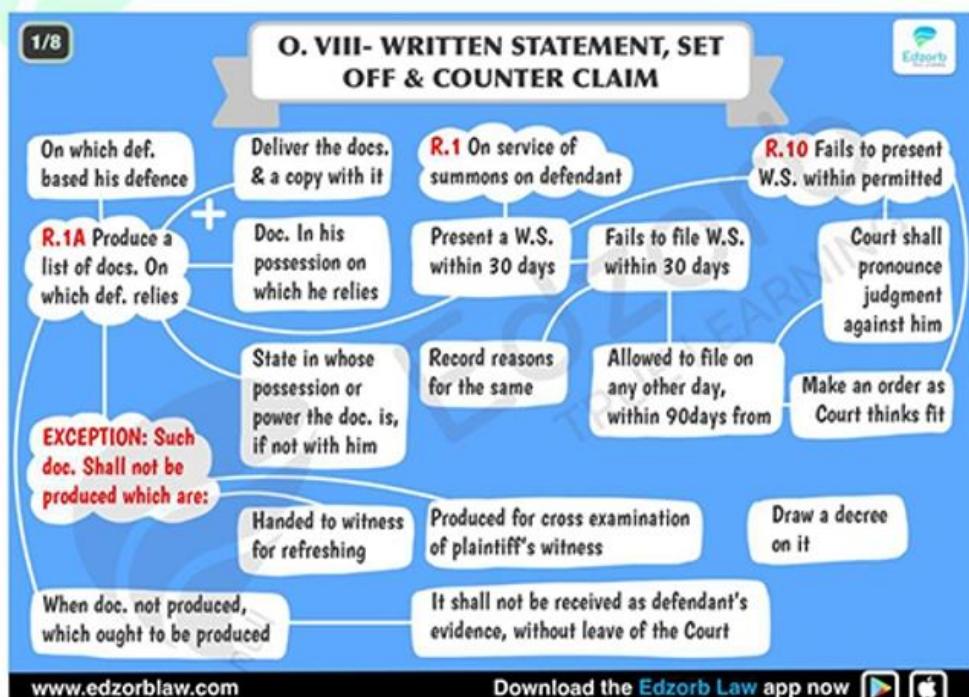
O. XXXVII- SUMMARY PROCEDURE

Q.117) In a commercial suit, upon expiry of 120 days, from the date of service of summons, the

- 1) *Forfeits the right to file a written statement.*
- 2) *May file written statement subject to costs.*
- 3) *May file the written statement upon showing sufficient cause to the court.*
- 4) *None of the above*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. VIII



O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



R.6- SET OFF

Any ascertained sum of money, legally recoverable from Plaintiff

R.6 In a suit for recovery of money
Def. claims to set off against plaintiff's demand

Both parties fill same character as they filled in Plaintiff's suit

It does not exceed the pecuniary limits of Court's jurisdiction

Or afterwards, if permitted by Court

Rules relating to W.S. by def. to apply on a W.S. in answer to a claim of set off

Def. may at suit's first hearing

Rules relating to W.S. by def. to apply on a W.S. in answer to a claim of set off

In respect of a claim & set off

Present a W.S. with particulars of debt sought to be set off

This shall not affect lien upon amount decreed

W.S. shall have same effect to a plaint in a cross suit so as to enable Court to pronounce final judgment

Of pleader in respect of costs payable to him under decree

O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



R.6A- COUNTER CLAIM

Such counter claim(CC) may or may not be in nature of a claim of damages

Def. in a suit may setup a counter claim against the plaintiff's claim

In addition to his right of set off u/R.6

It shall not exceed the pecuniary limits of Court's jurisdiction

Before the time limited for delivery of defence has expired

Before filing of a suit

After filing of suit

But before def. has delivered

CC to have effect as a cross suit

To enable the Court to pronounce judgment in same suit with regard to

Original claim

Plaintiff to file a W.S. in answer to CC within a period fixed by Court

CC shall be treated as plaint

Counter claim

Governed by rules applicable to plaints



O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



R.6B Def. to state specifically in his W.S.

Where he seeks to rely upon any ground supporting his CC

Plaintiff may apply to Court to order exclusion of such CC

R.6C In case of CC raised by def.

Where plaintiff contends that claim ought to be disposed of in an independent suit & not as a CC

At any time before settlement of issues in relation to CC

ESSENTIALS OF COUNTER CLAIM

R.6D In a suit where CC is set up & suit is

Stayed
Discontinued
Dismissed

CC may be proceeded with

On hearing, Court may make such order as it thinks fit

R.6E Default of plaintiff to reply to CC

Court may pronounce judgment against plaintiff

Make such order in relation to CC as it thinks fit

R.6F Where set off/CC is established as a defence

Any balance is found due on the plaintiff/def. as the case may be

Court may give judgment to party entitled to such balance

R.6G Rules relating to W.S. apply to W.S. filed in answer to CC

O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



R.9- SUBSEQUENT PLEADINGS

No pleading shall be presented subsequent to W.S. of a def.

EXCEPTION

Court can at any time require W.S./additional W.S. from parties

Defence to set off

Defence to Counter claim

By law of Court

Such terms as Court thinks fit

Fix time not more than 30 days for presenting the same



O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



R.7 Where def. relies on several distinct grounds of

Counter claim

Set off

Defence

Founded upon separate & distinct facts

They shall be stated

Distinctly

Separately

After the institution of suit

After presentation of W.S. claiming Set off/Counter claim

May be raised in the W.S., as the case may be by

Plaintiff

Defendant

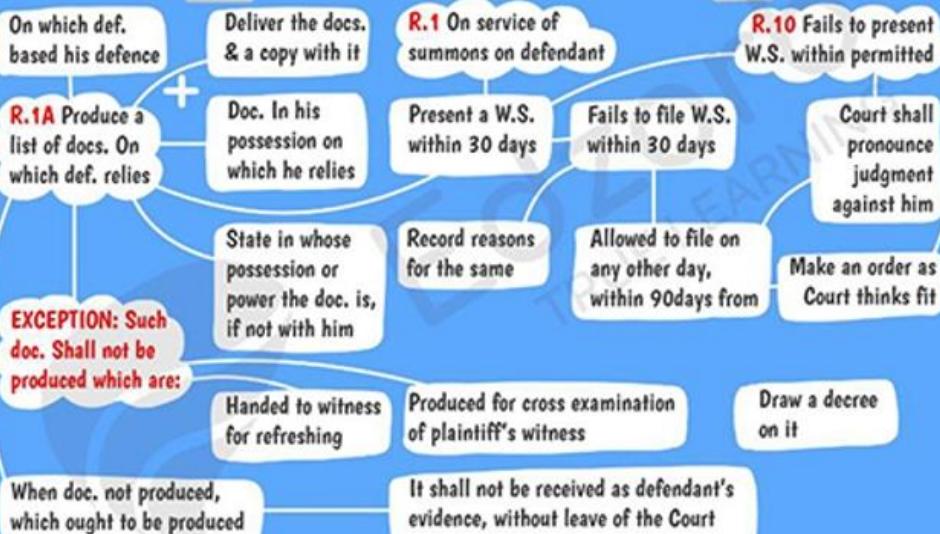
R.8 Any ground of defence which has



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O. VIII- WRITTEN STATEMENT, SET OFF & COUNTER CLAIM



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Did you Know?

Vide Act No. 4 of 2016, in case of commercial suit, the period of extension is **120 days** and in case of expiry of summons, the court forfeits the right to file a written statement.



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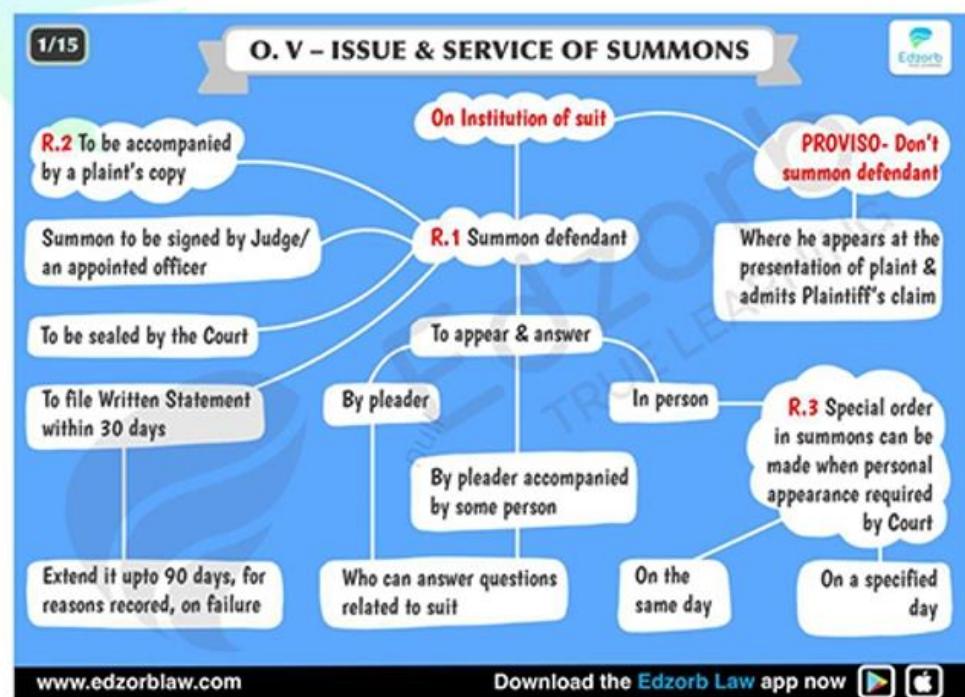
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Q.118) Court can order substituted service upon the defendant upon being satisfied that

- 1) The defendant is avoiding service.*
- 2) The summons cannot be served in an ordinary way.*
- 3) Both (1) and (2)*
- 4) None of the above*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. V

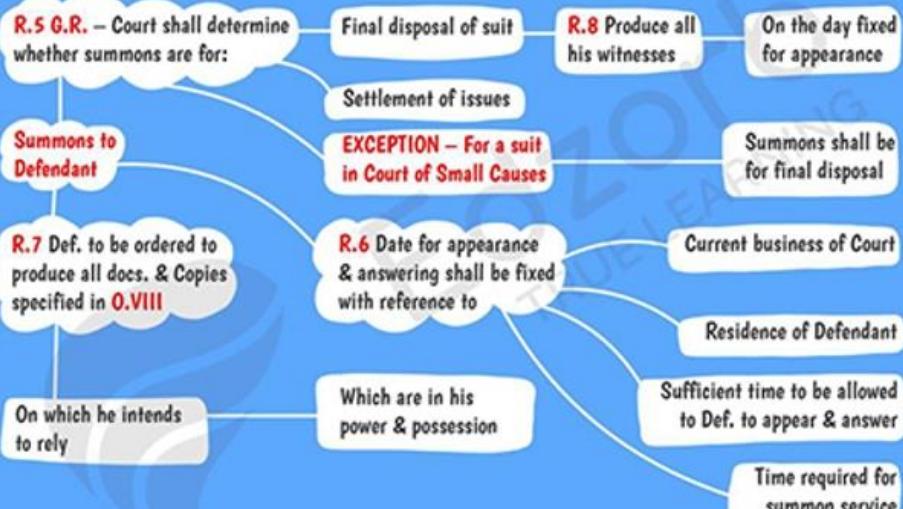


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O. V – ISSUE & SERVICE OF SUMMONS

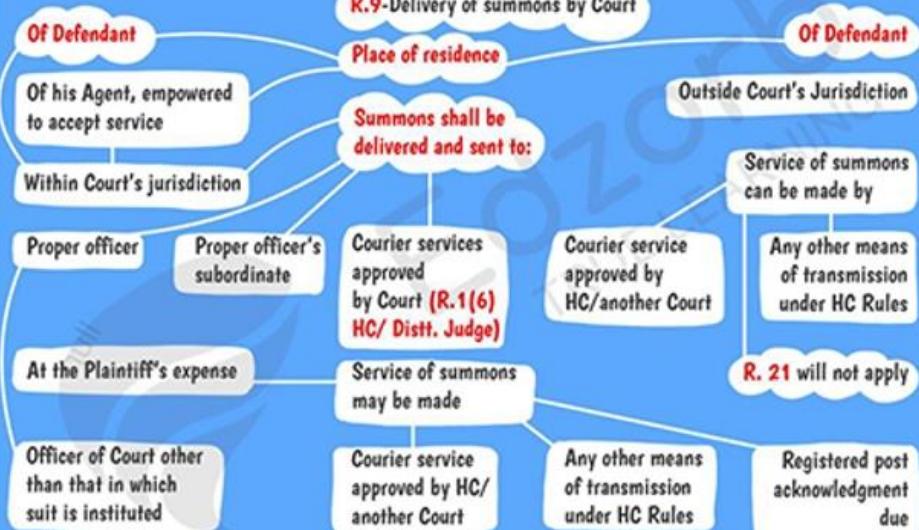

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O. V – ISSUE & SERVICE OF SUMMONS


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O. V – ISSUE & SERVICE OF SUMMONS



Contd... RULE 9

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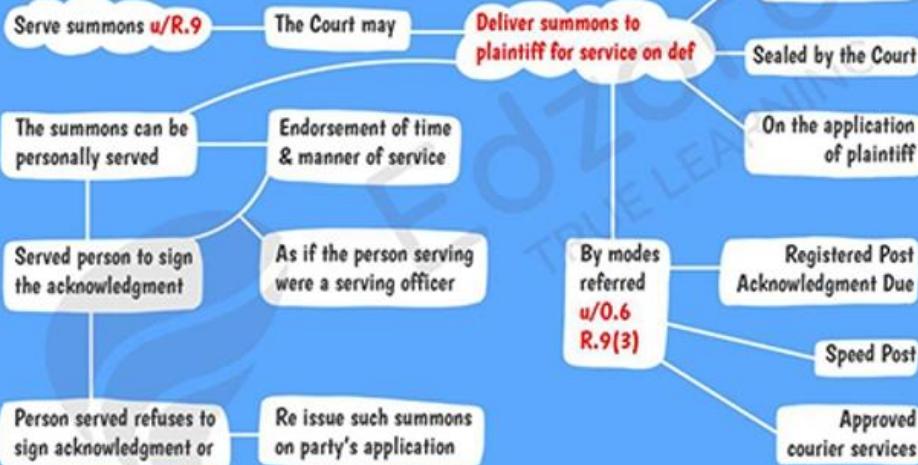
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O. V – ISSUE & SERVICE OF SUMMONS



R. 9A – Summons given to the plaintiff for service

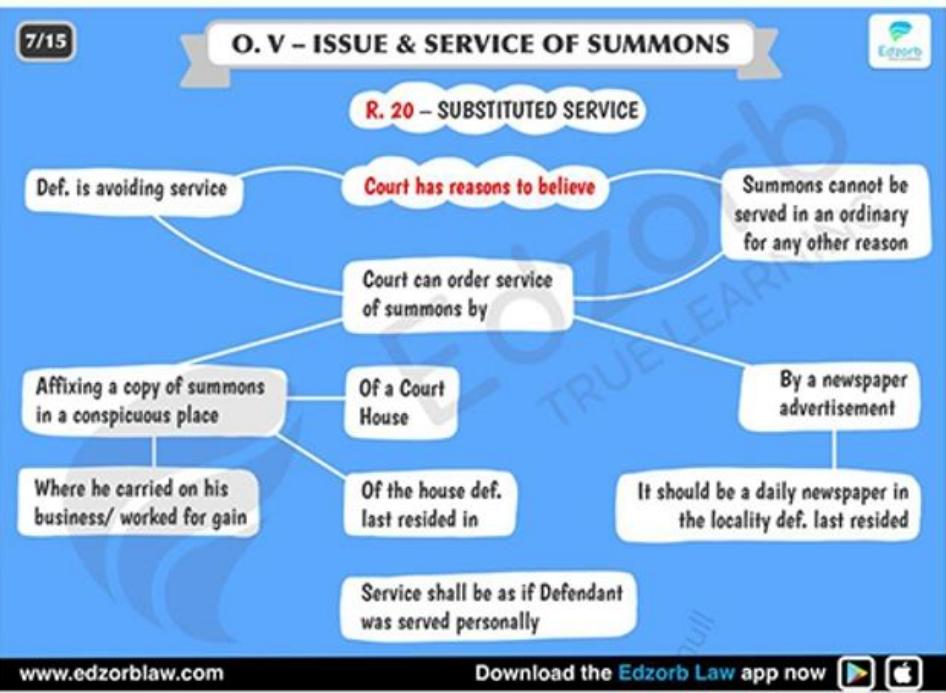
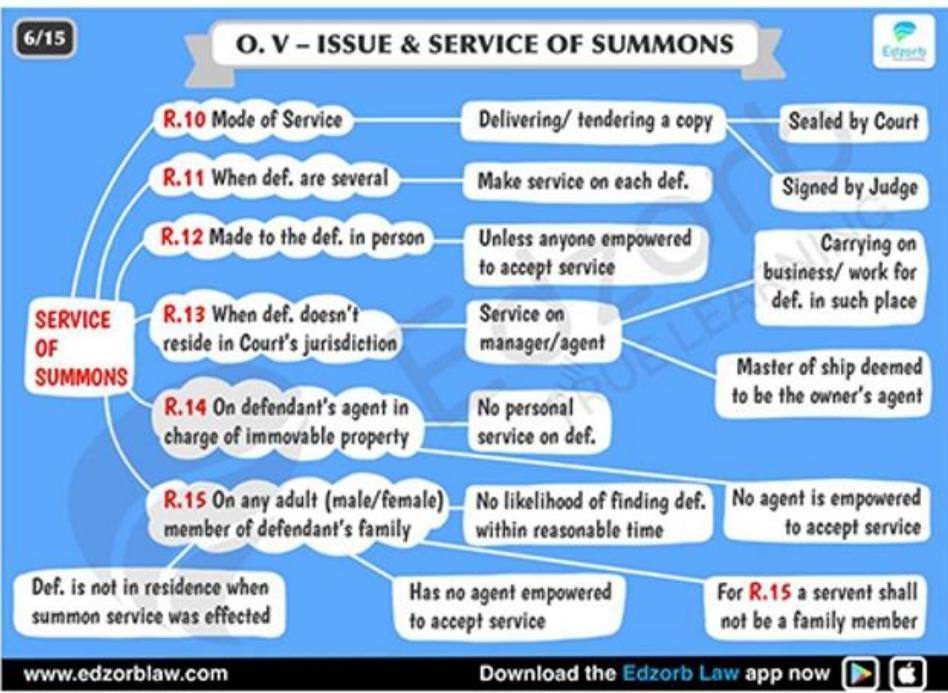
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O. V – ISSUE & SERVICE OF SUMMONS

R.16 Signature of the person to whom copy is delivered/tendered is required

To the def. personally

On service of summons, by a serving officer

On his agent/ other person on his behalf

R.18 Endorse the time & manner in which summons were served

Where def. Refuses to sign

Def. cannot be found

No agent

Affix a copy in outer door/conspicuous part of the house

+ Return original to the Court with a report of circumstances, person identifying the house & in whose presence copy is affixed

Declare summons duly served

R.19 If return not verified by serving officer's affidavit

Examine the officer on oath

Order such service as it thinks fit

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O. V – ISSUE & SERVICE OF SUMMONS

R.4 Summon to defendant for appearance in person

Where def. resides within the Court's

Where def. resides outside jurisdiction

Can be ordered

Can be ordered only when the person summoned resides

Within 50 Miles of the Court house

Outside 50 miles but within 200 miles

Where steamer/ railway/ other established conveyance is available for 5/6th of the distance

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O. V – ISSUE & SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****21**

Def. residing within jurisdiction of another Court

Summons to be sent to the Court where def. resideses (except HC) by:

- Officer of the Court issuing summons
- Courier service approved by HC
- Fax message
- E mail service
- Any other means providede by HC Rules

22

Within Presidency towns, when issuing Court is beyond such town

Send to the Small Causes Court within whose jurisdiction, summon to be served

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O. V – SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****23**Court to which summons are sent u/R. 21 & 22,

- To proceed as if it issued the summons
- Return the summons to Court which issued, with the record of service

24

When def. is in prison

Summons to be sent to the Officer in Charge of prison for service on def. by:

- Post
- Courier service approved by High Court
- Fax message
- Email service
- Any other means provided by HC Rules

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O. V – SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****25**

Service where def. resides out of India and has no agent

Address the summon to def. at the place where he is residing and to him by:

- Post
- Courier service approved by HC
- Fax message
- E mail service
- Other means provided by HC rules
- If there is postal service between the two places

25(Proviso)

Defendant resides in Bangladesh or Pakistan

Send summons with a copy to any Court having jurisdiction in the place where def. resides EXCEPT: High Court

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O. V – SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****25(Proviso2)**

- Defendant is a
- public officer in Pakistan or Bangladesh, but not belonging to military, naval or air forces
 - Servant of railway authority
 - Servant of local authority

Summons to be sent with a copy to the authority or officer as notified in the Official Gazette

26

- Service of summons in a foreign territory:
- When a political agent has been appointed or Court established by Central Govt.
 - Central Govt. has notified a foreign Court shall validly serve summons

Summons to be sent to such Political Agent or Court

- By post, or otherwise
- Through Ministry of Foreign Affairs
- Other manner of service specified by Central Govt.

Where an endorsement is made by the Agent or Court on service of summons, it shall be deemed to be evidence of service

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O. V – SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****26A**

Summons to be served on def. residing or carrying out business in a foreign territory

- Send summon to a Govt. officer in that foreign territory specified by Central Govt., through the Foreign affairs Minister.
- Or send it in such other manner as specified by Central Govt.
- Endorsement of service of summons by such officer shall be sufficient evidence of service

27

Service on

- public officer(not belonging to Indian military, naval or air forces)
- servant of Railway company
- servant of local authority

Send summons for service on def. to the head of the office in which he is employed, with a copy to be retained by def.

O. V – SERVICE OF SUMMONS**Rules****To Whom Served?****How Served?****28**

Service on:

- Soldier
- Sailor
- Airmen

Summons to be sent to his Commanding Officer with a copy to be retained by def.

29

Under R. 24,27 & 28,where summon is sent to any person for service

- Retuen it under his signature, with a written acknowledgment
- Return with a full statementOf cause which makes service impossible & steps taken to procure service



Q.119) Application for setting aside the order of dismissal for non-appearance made under

- 1) Under Order 9 Rule 9*
- 2) Under Order 9 Rule 4*
- 3) Under Order 9 Rule 13*
- 4) None of the above*

Ans: 1 & 2

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
CPC Mind Maps – O. IX R. IX**



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O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



R.8 Where def. appears,
plaintiff is absent on the
day of hearing

In case def.
admits a claim/part

A decree to be passed
upon such admission

Court should
dismiss
in respect to
remainder

PROCEDURE

Make order for
costs/otherwise

R.9 Plaintiff is precluded
from bringing a fresh suit

Court shall order
dismissal of suit

REMEDY- Apply for setting aside the dismissal

On the ground that there was
sufficient ground for non appearance

Shall appoint a day
for proceeding
with the plaint

Court shall make an order for
setting aside the dismissal

Such an order can only be made
after notice of application is
served on the opposite party



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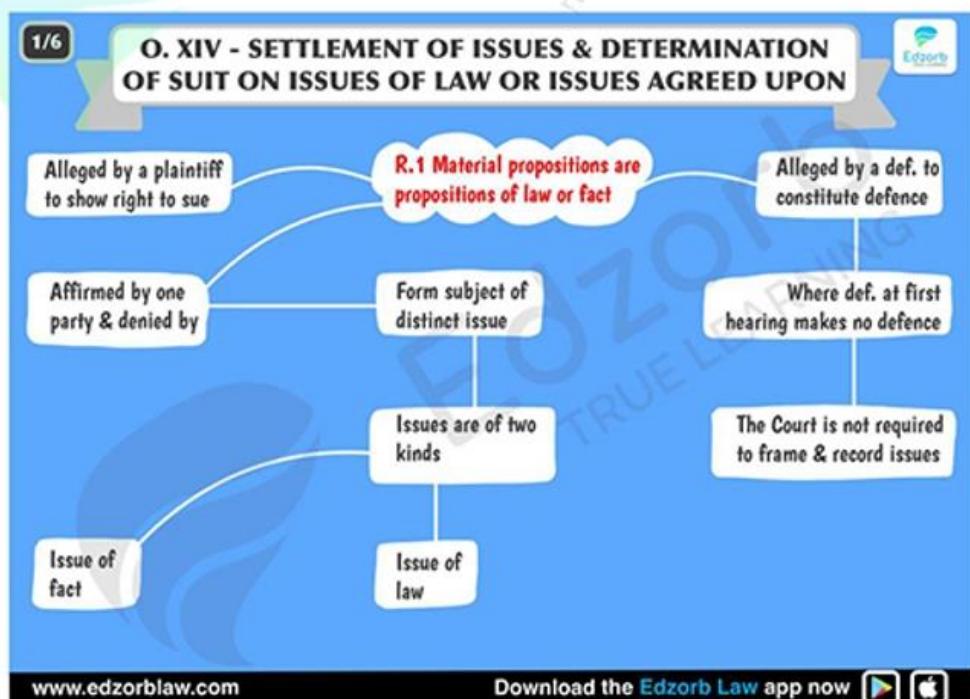


Q.120) Court may strike out any issue that appears to it to be wrongly framed

- 1) Before commencement of trial only.
- 2) Before passing a decree.
- 3) Before commencement of Defendant evidence only
- 4) None of the above

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. XIV



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O. XIV - SETTLEMENT OF ISSUES & DETERMINATION OF SUIT ON ISSUES OF LAW OR ISSUES AGREED UPON



R.1 At first hearing,
after reading of
plaint & W.S.

After examination
u/O. XVI R.2

After hearing of parties/
their pleaders

Court shall ascertain upon what material
propositions of fact & law parties are at variance

R.3 Other material
from which issues
may be framed

Then it shall frame &
record issues

On which right decision
of the Court depends

Content of
document produced

Allegations on oath made by
parties

Their pleaders

Allegations made in pleadings/
answers to interrogatories

Person appointed
on their behalf

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O. XIV - SETTLEMENT OF ISSUES & DETERMINATION OF SUIT ON ISSUES OF LAW OR ISSUES AGREED UPON



R.2 Court shall pronounce
judgment on all issues

Notwithstanding, a case may be
disposed off on a preliminary issue

EXCEPTIONS

Issues both of fact & law
arise in the same suit

Court opines case/part may be
disposed off on an issue of law only

That issue to be
tried first where
it concerns

Jurisdiction
of Court

Bar to suit created by law
for the time being in force

Court can postpone the
settlement of other issues until
that issue has been determined

May deal with the suit according
to the decision on that issue

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O. XIV - SETTLEMENT OF ISSUES & DETERMINATION OF SUIT ON ISSUES OF LAW OR ISSUES AGREED UPON



R.4 Where Court opines that issues cannot be correctly framed

Without some person's examination

Court may adjourn the framing of issues

Without inspection of docs.

To a day not later than 7 days

Attendance of any person

By summons/other process

R.5- Power to amend & strike out issues

Court may compel

Production of document by person who has it

At any time before passing a decree

Add some additional issues

As may be necessary for determination of matter of controversy between parties

Court may also strike out any issue that appears to be

Wrongly framed

Wrongly introduced

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O. XIV - SETTLEMENT OF ISSUES & DETERMINATION OF SUIT ON ISSUES OF LAW OR ISSUES AGREED UPON



R.6 Where parties agree to question of fact/law to be decided between them

They may state it in the form of an issue

Sum specified in agreement/ascertained by court

Enter into a written agreement that upon Court's finding

It shall be paid by one party to another in such manner as court may direct

One party be declared entitled to some right

One/more party shall do or abstain from doing an act specified in agreement & related to matter in dispute

Some property in dispute & specified in agreement be delivered by one party to another

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O. XIV - SETTLEMENT OF ISSUES & DETERMINATION OF SUIT ON ISSUES OF LAW OR ISSUES AGREED UPON



R.7 After making an enquiry as the Court deems proper

When Court is satisfied

Agreement was duly executed by parties

Court shall proceed to try & record issue

They have substantial interest in the decision of the question

Same is fit to be tried & tested

State the finding & decision as the framing of issue by Court

Upon judgment decree shall follow

After finding/decision on issues pronounce judgment according to the terms of the agreement

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Q.121) Decree for payment of money may be executed by

- 1) Detention of judgement debtor in prison.*
- 2) Attachment and sale of property of judgement debtor*
- 3) Both (1) and (2)*
- 4) None of the above*

Ans: 3

Source: Edzorb Law Qbank Concept – CPC –Module 21 –

Q.22

22.



MCQ, Single Correct Question

A decree for the payment of money can be executed by the:

- a Detention in civil prison of the judgment-debtor.
- b By the attachment and sale of property of the judgment-debtor.
- c Both (a) and (b).
- d Only (a)



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(C)

Order XXI Rule 30: Modes of executing money decree:

All money, payable under a decree shall be paid as follows:



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Gurpreet Singh Vs Union of India

2008 (2) RCR (Civil) 207

In cases of execution of money decrees or award decrees, or rather, decrees other than mortgage decrees, interest ceases to run on the amount deposited, to the extent of the deposit.

Did you Know?

If money is paid outside court, it has to be in writing.



Reference: Civil Procedure Code, Order 21

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Q.122) A foreign judgement shall not be conclusive where:

- 1) It has not been given on the merits of the case.**
- 2) It has not been pronounced by a court of competent jurisdiction.**
- 3) It has been obtained by fraud.**
- 4) All of the above**

Ans: 4

Source: Edzorb Law Qbank Concept – CPC –Module 3 –

Q.20

20.



MCQ, Single Correct Question

Under Section 13 of CPC which of the following judgments shall not be conclusive ?

- a Judgment not on merit
- b Judgment founded on breach of Indian law
- c Judgment against International law
- d All of the above



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(D)

Section 13 CPC lays down the **test for a foreign judgment to be 'conclusive'** for being rendered as enforceable, vide **Section 13[2] CPC**. The hurdles are:

- It ought to have been pronounced by a court of competent jurisdiction;
- It ought to have been passed on the merits of the case;
- It should appear, on the face of the proceedings, to be founded on a correct view of international law or should not be a refusal to recognise the law of India in cases in which such law is applicable;
- The proceedings in which the judgment was obtained ought not be opposed to natural justice;
- It ought not be obtained by fraud;
- It ought not be founded on a breach of any law in force in India.

Food for Thought!

A foreign judgment passed by a recognised and notified **reciprocating territory(ies)**, has been declared vide **Section 44-A CPC** to be directly enforced by filing execution proceedings which is laid down under **Order 21 CPC**.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 128
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Q.123) Under what provision of CPC can a court examine the parties to the suit?

- 1) Order 10
- 2) order 12
- 3) order 18
- 4) order 15

Ans: 1

Source: Edzorb Law Qbank Concept – CPC –Module 20 –

Q.16

16.

MCQ, Single Correct Question

Which Order provides for examination of parties by the court?

- a Order 9
- b Order 10.**
- c Order 12.
- d Order 15.



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(B)



Orders	Descriptions	Rules
1.	Parties to Suits	I-13
2.	Frame of Suits	I-7
3.	Recognised Agents and Pleaders	I-6
4.	Institution of Suits	I-2
5.	Issue and Service of Summons	I-30
6.	Pleadings Generally	I-18
7.	Plaint	I-18
8.	Written Statement, Set-off and Counter-Claim	I-10
9.	Appearance of Parties and Consequence of Non-Appearance	I-14
10.	Examination of Parties by the Court*	I-4
11.	Discovery and Inspection	I-23
12.	Admissions	I-9
13.	Production, Impounding and Return of Documents	I-11
14.	Settlement of Issues And Determination of Suit on Issues of Law or on Issues Agreed Upon	I-7
15.	Disposal of the Suit at the First Hearing	I-4
16.	Summoning and Attendance of Witnesses	I-21A
16A	Attendance of Witnesses Confined or Detained in Prisons	I-7
17.	Adjournments	I-3
18.	Hearing of the Suit and Examination of Witnesses	I-19
19.	Affidavits	I-3
20.	Judgment and Decree	I-20
20A	Costs	I-2
21.	EXECUTION OF DECREES AND ORDERS	I-106
22.	Death, Marriage and Insolvency of Parties	I-12
23.	Withdrawal and Adjustment of Suits	I-4
24.	Payment Into Court	I-4

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Q.124) Which of the following are not the grounds for rejection of plaint under order 7 Rule 11?

- 1) Failure on behalf of the plain tiff to file documents along with the plaint.*
- 2) Where the suit appears from the statement in plaint to be barred by any law. –*
- 3) Where it does not disclose a cause of action.*
- 4) Where deficient court fee has been paid.*

Ans: 1 & 4

Source: Edzorb Law Qbank Concept – CPC –Module 8 – Q.7

Source: Edzorb Law Premium + 2.0 - Simplified Notes – CPC Mind Maps – O.VII R.XI



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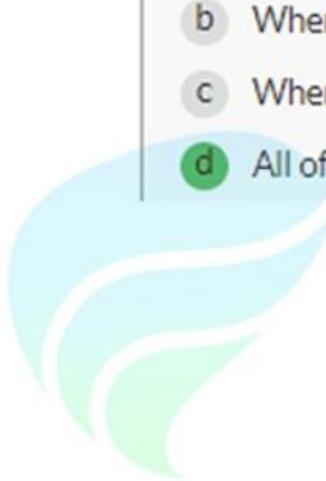
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7.

MCQ, Single Correct Question

When a Court can reject a plaint ?

- a Where plaintiff fails to comply with Rule 9
- b Where suit is barred by law
- c Where plaint is not in duplicate
- d All of the above



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D

Order 7 Rule 11

Rejection of plaint

The plaint is rejected-

- (a) where it **does not disclose** a cause of action;
- (b) where the relief claimed is **undervalued**,
- (c) where the relief claimed is properly valued, but the plaint is **insufficiently stamped**
- (d) where the suit appears to be **barred by any law**

Rule 13. Rejection of plaint does not preclude presentation of fresh plaint.

Arivandanam Vs T.V. Satyapal

(1997) 4 SCC 467

The court held that the intention of the plaint has to be understood from its wordings.

If the plaint is exasperating and the court believes that it is filed with a **malicious intention** to irk the defendant and that it lacks merit, it can be a valid ground for rejection.



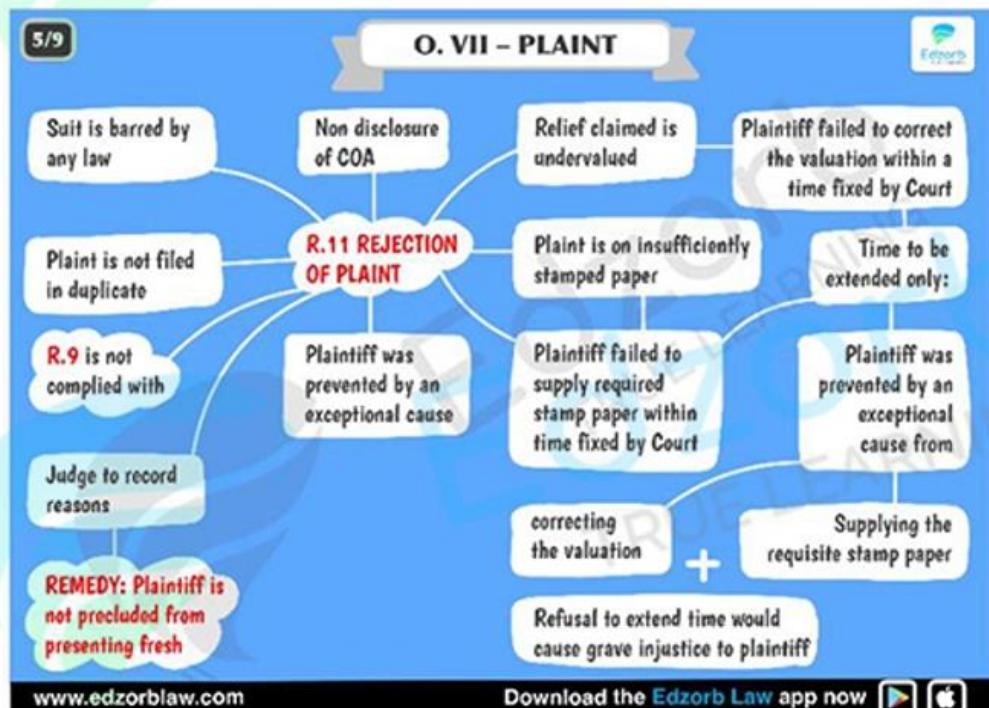
Radhakishen Vs Wali Mohammed

AIR 1956 Hyd. 133

The court allowed the rejection of plaint by the senior civil court because the person whose signature was present on the plaint was not the authorized signatory of the entity but someone else.

The court allowed the error to be amended within 7 days but since, the plaintiff to do so, it was rejected.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 237
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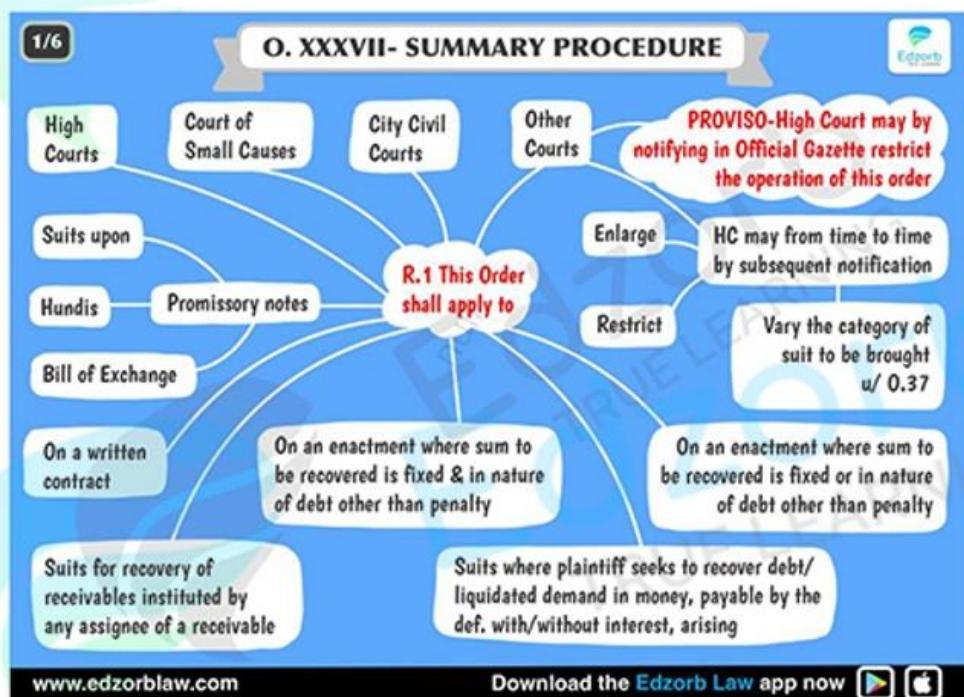
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Q.125) While entering appearance in a summary suit, the defendant is required to file which of the following?

- 1) Address
- 2) Photograph
- 3) PAN
- 4) ITR

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. XXXVII



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O. XXXVII- SUMMARY PROCEDURE**R.2 Institution of summary suit**

Summons shall be in Form No. 4 in Appendix B or any other prescribed form

Def. shall only defend the suit after entering into appearance

Such costs may be determined by HC Rules from time to time and such decree may be executed forthwith

A summary suit u/0.37 may be instituted presenting a plaint which shall contain

Specific averment that suit is filed u/0.37

In case of a default
Allegation in plaint shall be deemed to be admitted

Immediately below the suit's no., in the title of the suit write, "UNDER ORDER XXXVII OF CODE OF CIVIL PROCEDURE, 1908

That no relief which does not fall within R.23 has been claimed

Plaintiff shall be entitled to decree for any sum- not exceeding the sum mentioned in summons, together with the interest

Upon the date of decree

O. XXXVII- SUMMARY PROCEDURE**R.3 In a suit to which this Order applies, the plaintiff shall, serve on the defendant**

All summonses

Notices

Other judicial processes

To be served on defendant, shall be deemed to have been duly served if they are left at the address given by him for such service

Summons for judgment in Form No. 4A in Appendix B or such other prescribed Form

Returnable not less than 10 days from the date of service with an affidavit verifying

The amount claimed

Summons under R.2

Copy of plaint & annexures

The plaintiff shall serve on the defendant

Defendant may, within 10 days of service, enter an appearance

Either in person By pleader

He shall file in Court an address for service of notices on him

Notice of such appearance shall be given to

To the plaintiff's pleader

If the plaintiff sues in person

By notice delivered at or sent by pre-said letter directed to the address of the plaintiff's pleader or of the plaintiff, as the case may be



4/6

O. XXXVII- SUMMARY PROCEDURE



R.3 Contd....

The defendant may, by affidavit or otherwise disclosing such facts as may be deemed sufficient to entitle him to defend

At any time within 10 days from service of such summons for judgment

Apply on such summons for leave to defend such suit

Leave to defend may be granted to him unconditionally

Facts disclosed by defendant do not indicate a substantial defence

Upon such terms as may appear to the Court or Judge to be just:

Defence of the defendant is frivolous/vexatious

PROVISO - leave to defend shall be refused where the Court is satisfied that

Leave to defend the suit shall not be granted unless the amount so admitted to be due is deposited by the defendant in Court

PROVISO- where part of the amount claimed by plaintiff is admitted by the defendant to be due from him

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O. XXXVII- SUMMARY PROCEDURE



At the hearing of such summons for judgment

The plaintiff shall be entitled to judgment forthwith

If the defendant has not applied for leave to defend

If the defendant is permitted to defend

As to the whole/any part of the claim

If leave to defend made but was refused

Court or Judge may direct him to give such security within time fixed by the Court/Judge

On failure to give such security within time specified/to carry out such directions given by the Court/judge, the plaintiff shall be entitled to judgment forthwith

The Court

In applying for leave to defend the suit

Judge

For sufficient cause shown by the defendant

In entering an appearance

May excuse the delay of the defendant in suit

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O. XXXVII- SUMMARY PROCEDURE

Court may

**R.4 After
the decree**

Set aside the decree

Stay/set aside the execution

May give leave to the def. to
appear to summons & defend**R.5 Order in any
proceeding u/0.37
to deposit**

Hundi

Bill

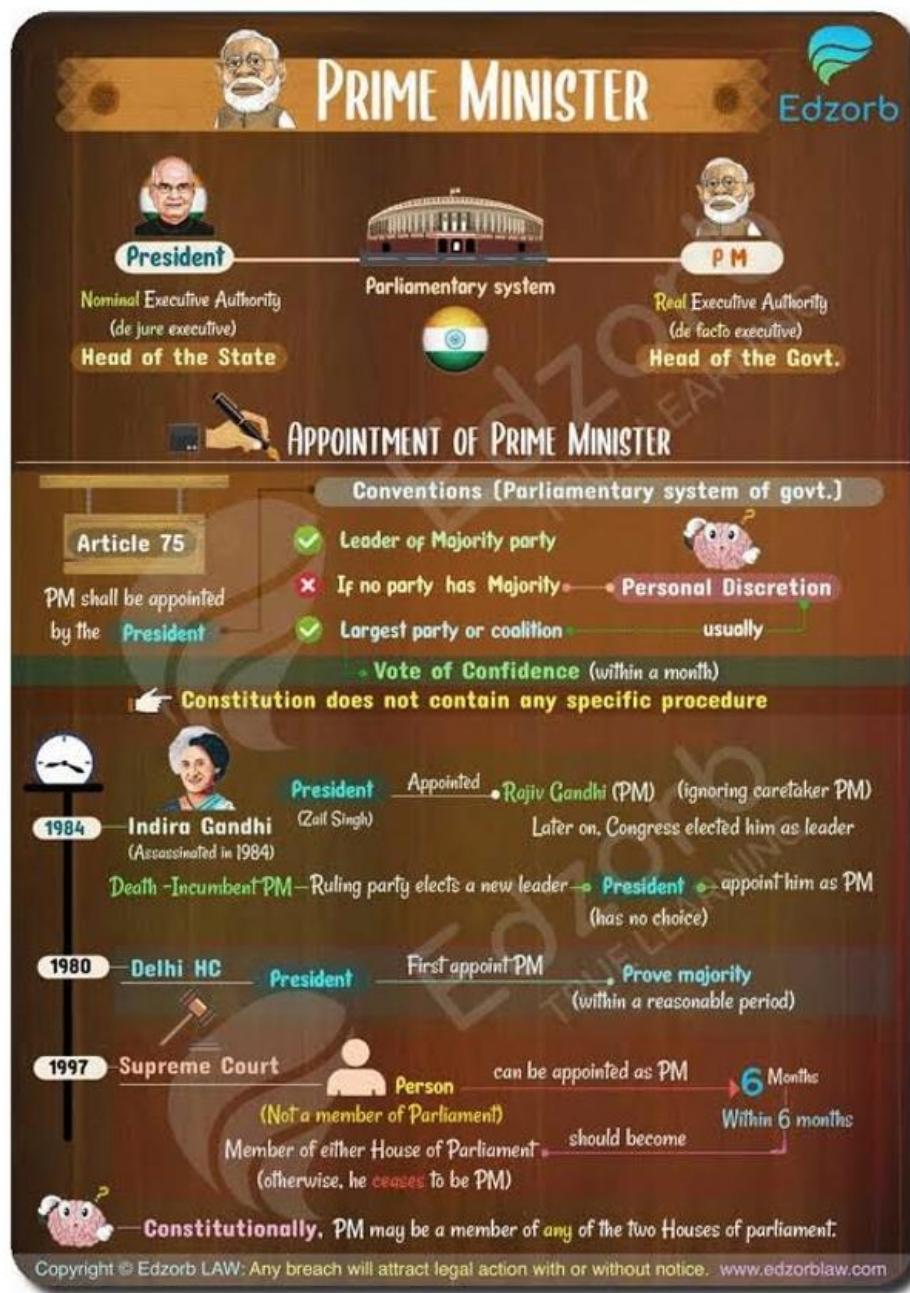
Note

On which suit
is foundedWith an officer
of Court**R.6 The holder has same remedies to
recover expenses incurred in noting
same for non acceptance/ non
payment by reason of dishonour**As he has for recovery of
amount of such bill/noteMay further order stay of all proceeding
till plaintiff gives security of costs**R.7 Procedure in summary suits shall be same as procedure in ordinary suits**

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HIGH COURT



HISTORY

Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3 common HC Delhi (UT)- own HC

ORGANISATION Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President
Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges	
President Misbehaviour Recomended by Parliament (Special Majority)	Appointed by President CJ —Absent Unable to perform duty	Appointed by President More work 2 years term	Appointed by President Judge Absent Unable to perform duty	Appointed by CJ of HC (Temporary)	

JURISDICTION & POWERS

<input checked="" type="checkbox"/> Highest court of appeal (In state)	Original Hear disputes (1st instance)	Writ Under Article 226
<input checked="" type="checkbox"/> Protector of FR	Appellate Appeal against judgements	Supervisory Superintendence
<input checked="" type="checkbox"/> Interpret Constitution	Control Subordinate courts	Judicial review Article 226
Original jurisdiction	Matters <ul style="list-style-type: none"> • Company laws • Court contempt Election disputes 	Enforcement <ul style="list-style-type: none"> • Marriage • Divorce Revenue matters
		Cases Fundamental Rights Transferred from Subordinate courts

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BIOME



- **EQUATORIAL REGION**

Tropical rainforest

Evergreen forest



10°N
0°
10°S

Broad leaves

Canopy formation

Very tall trees

Very dense forest

No shedding of leaves

- Hardwood
- Mahogany
- Ebony
- Rosewood
- Rubber
- Cinchona



ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm



Semang (Malaysia)



Kubus (Sumatra)



Dayaks (Borneo)



Pygmies (Congo)



Amazon Indians (South America)

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SUO MOTU LIMITATION



SC Allows Service Through Instant Tele-Messenger Services

Considering difficulty in visiting post offices amid pandemic, SC allowed service of summons & notices through instant tele-messenger services like whatsapp, email and fax. All these will prove valid service on a party.



SA Bobde, C.J.I.; AS Bopanna, J. & Subhash Reddy, J.

Reference: economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-email-fax-instant-messaging-apps-like-whatsapp-for-service-of-notices-summons/articleshow/76898274.cms?from=mdr



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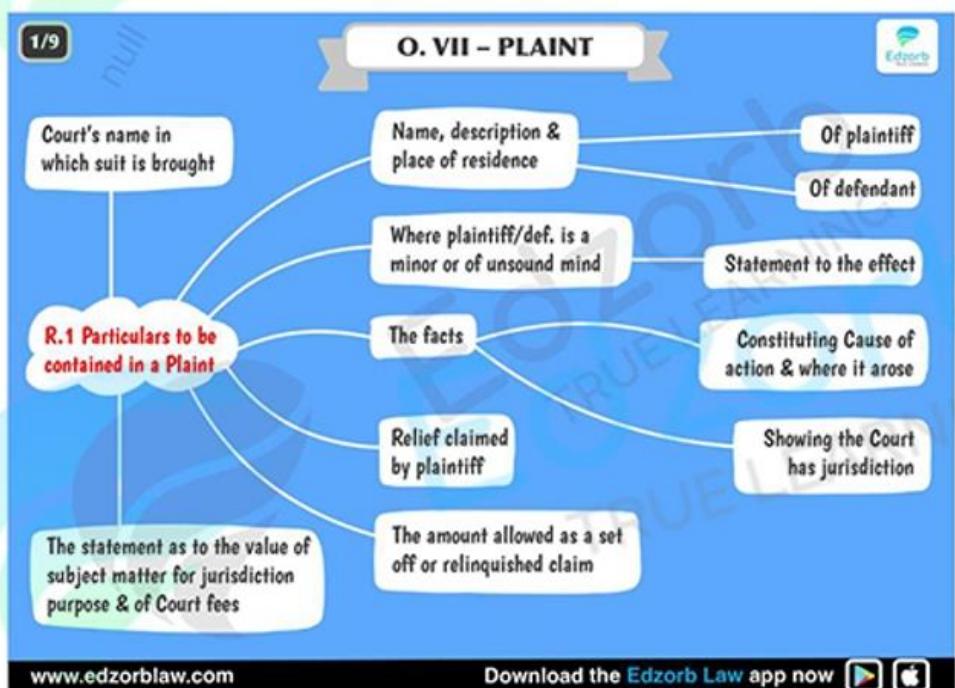
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Q.126) What are the considerations for deciding an application under Order 7 Rule 11?

- 1) Written statement only
- 2) Replication
- 3) Plaintiff, along with the documents of the Plaintiff
- 4) Written statement, along with the documents of the Defendant

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. VII

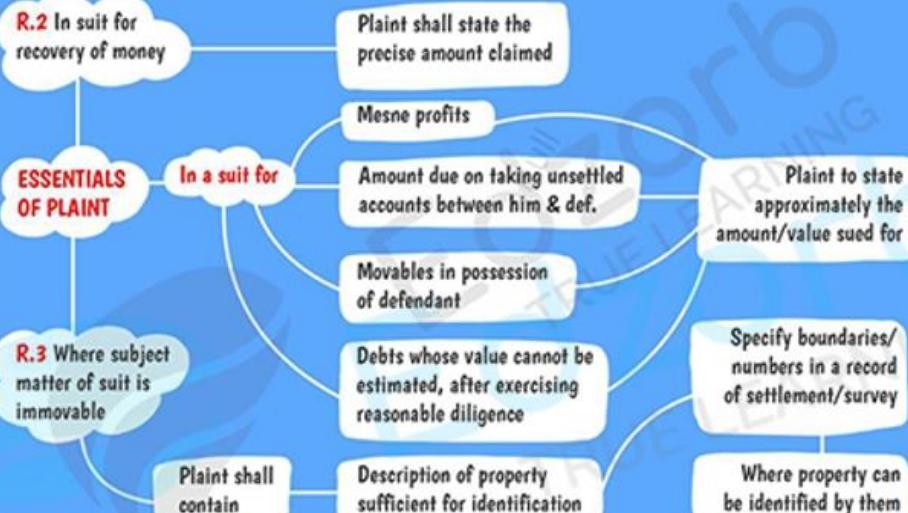


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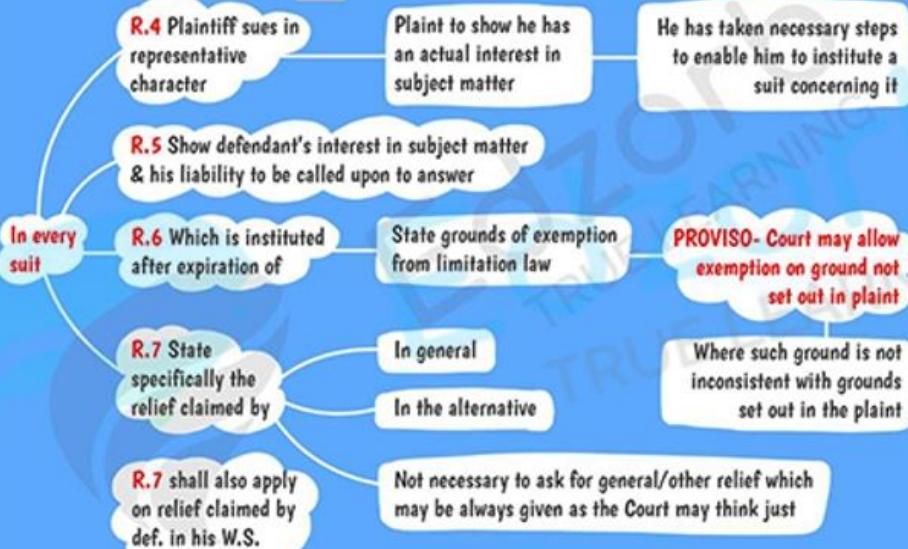
O. VII – PLAINT


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O. VII – PLAINT


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O. VII – PLAINT



R.8 Every
plaint to state

Claims/causes of action
separately & distinctly

Where plaintiff seeks relief in
respect of several distinct
claims/COA

Founded upon separate/
distinct grounds

R.9 Procedure on
admitting plaint

On Court's order for
service of summons
like in O.V R.9

Order to present copies
of plaint equivalent to
the no. of def.

Along with fees for
service of summons

Within 7 days

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O. VII – PLAINT



Suit is barred by
any law

Non disclosure
of COA

Relief claimed is
undervalued

Plaintiff failed to correct
the valuation within a
time fixed by Court

Plaint is not filed
in duplicate

R.9 is not
complied with

Plaint is on insufficiently
stamped paper

Time to be
extended only:

Judge to record
reasons

Plaintiff was
prevented by an
exceptional cause

Plaintiff failed to
supply required
stamp paper within
time fixed by Court

Plaintiff was
prevented by an
exceptional cause from

correcting
the valuation

Supplying the
requisite stamp paper

REMEDY: Plaintiff is
not precluded from
presenting fresh

+
Refusal to extend time would
cause grave injustice to plaintiff

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O. VII – PLAINT



In case of a Court of Revision/Appeal

Return to be made after setting aside the decree

R.10 A Where plaint is decided to be returned after appearance of defendant

Intimate this to plaintiff

When application allowed

Plaintiff not entitled to appeal against the order returning the plaint

UNLESS, Court for recorded reasons, directs otherwise

At any stage

To the Court in which it should have been instituted

Judge to endorse the date of presentation and return

After this plaintiff may apply to the Court

Court shall before return of plaint

Fix a date for appearance of parties

After this notice, not necessary to serve def. with summons

Specify the Court he proposes to present plaint on return

R.10 RETURN OF PLAINT

Name of the person presenting it

+ Brief reasons for return

Pray for fixing a date for appearance in that Court

Request a notice to be served on him + def. of the fixed date

Notice shall be deemed summons for appearance

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O. VII – PLAINT



On plaintiff's application

Subject to Limitation Act

Direction shall be without prejudice to the rights of parties to question Court's jurisdiction

R.10B Return of plaint on appeal

It may direct plaintiff to file the plaint in the right Court

Within the State

Fix a date for appearance of parties in such Court

No need to serve Def. with summons

During appeal Court confirms order

Without the State in which appellate Court is situated

UNLESS, Court in which appeal is filed, directs

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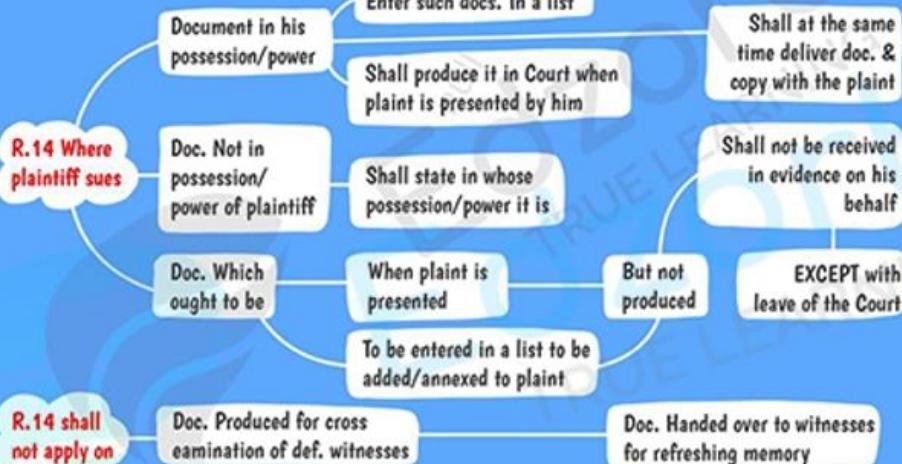
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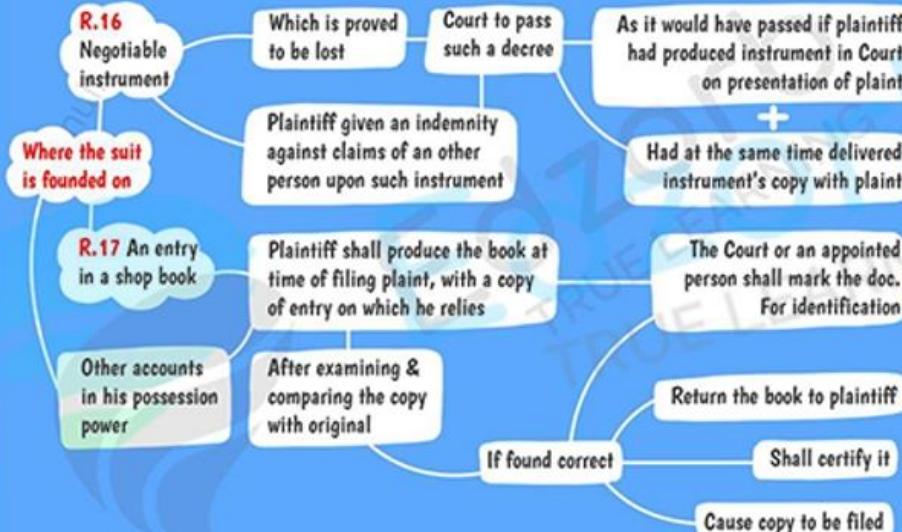
O. VII – PLAINT



Documents relied on in plaint



O. VII – PLAINT



Saleem Bhai & Ors Vs State of Maharashtra &Ors
(2003) 1 SCC 557

Held:

- For the purposes of deciding an application under **clauses (a) and (d) of Rule 11 of Order VII C.P.C.** the averments in the Plaintiff are germane; the pleas taken by the defendant in the Written Statement would be wholly irrelevant at that stage.



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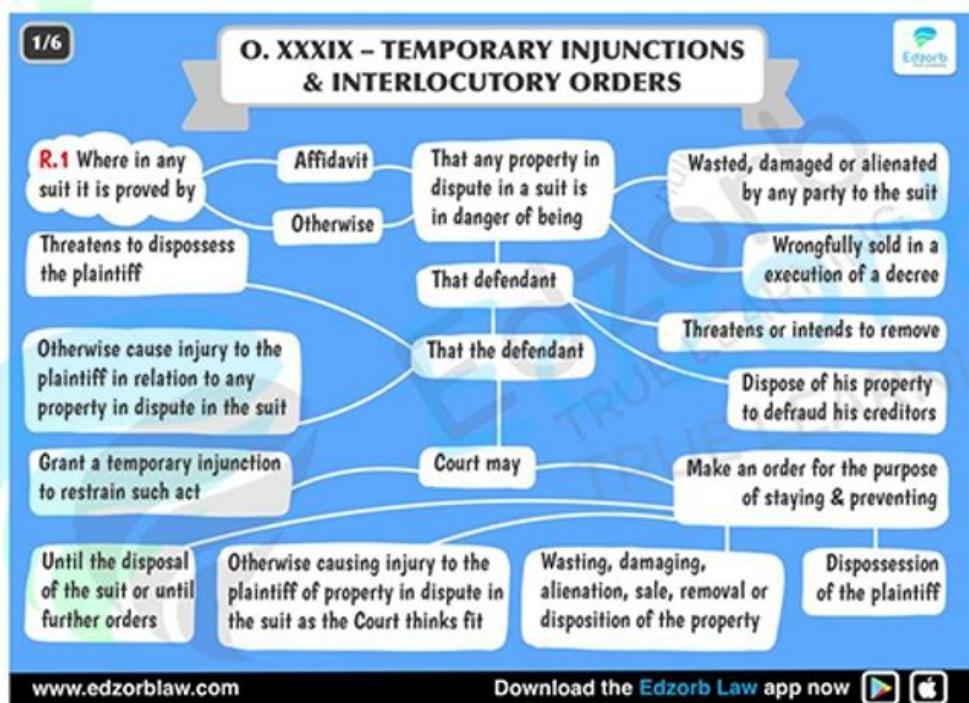


Q.127) Where temporary injunction is granted in favour of the Plaintiff, without giving notice of the application to the opposite party, the Plaintiff shall deliver to the opposite party

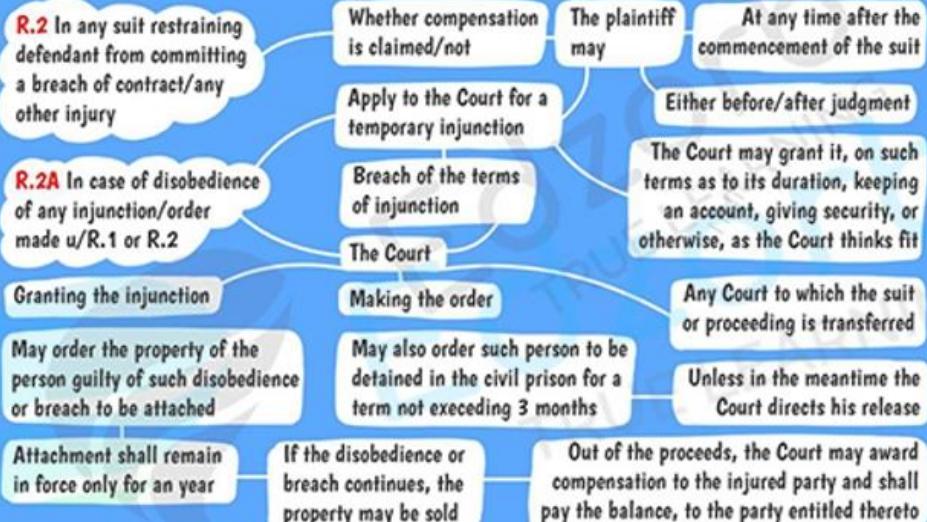
- 1) Copy of the application for injunction.
- 2) Copy of the plaint.
- 3) Copies of documents on which the Plaintiff relies.
- 4) All of the above.

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. XXXIX



O. XXXIX – TEMPORARY INJUNCTIONS & INTERLOCUTORY ORDERS



O. XXXIX – TEMPORARY INJUNCTIONS & INTERLOCUTORY ORDERS



O. XXXIX – TEMPORARY INJUNCTIONS & INTERLOCUTORY ORDERS



R.4 On application made by any party dissatisfied with order

Any order for an injunction may be discharged, or varied, or set aside by the Court

Court shall vacate the injunction UNLESS, for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice

PROVISO - application a party has knowingly made a false or misleading statement in relation to a material particular

The injunction was granted without giving notice to the opposite party

EXCEPT where such discharge, variation or setting aside has been necessitated by a change in the circumstances

PROVISO - Where an injunction has been passed after giving to a party an opportunity of being heard, the order shall not be discharged, varied or set aside

On the corporation

R.5 An injunction directed to a corporation is binding

On all members and officers of the corporation whose personal action it seeks to restrain

UNLESS the Court is satisfied that the order has caused under hardship to that party

O. XXXIX – TEMPORARY INJUNCTIONS & INTERLOCUTORY ORDERS



R.6 The Court may, on the application of any party to a suit, order the

By any person named in such order

Of any movable property being the subject-matter of such suit or attached before judgment in such suit

Which is subject to speedy and natural decay

In such manner and on such terms as it thinks fit,

Which for any other just and sufficient cause it may be desirable to have sold at once

On the application of any party to a suit

Court may

On such terms as it thinks fit

Make an order for detention, preservation or inspection of any property which is the subject-matter of such suit

For the purposes aforesaid authorize any samples to be taken, or observation or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information

For the purposes aforesaid authorize any person to enter any land or building in the possession of any other party

The provisions as to execution of process shall apply, mutatis mutandis, to person authorized to enter under this Rule



O. XXXIX – TEMPORARY INJUNCTIONS & INTERLOCUTORY ORDERS



R.8 An application may be made

By the plaintiff for an order u/R.6 or 7 at any time after institution of the suit

Court shall direct notice to be given to the opposite party

EXCEPT - where it appears that the object of making such order would be defeated by the delay

By the defendant for a like order at any time after appearance

R.9 Where land paying revenue to Government, or a tenure liable to sale

If the party in possession of such land or tenure neglects to pay

The Govt. revenue

The rent due to the proprietor of the tenure

Any other party to the suit claiming to have an interest in such land may, on payment of revenue/rent due be put in immediate possession of the land or tenure

Such land or tenure is consequently ordered to be sold

May charge the amount so paid, with interest, in any adjustment of accounts which may be directed in the decree

R.10 Where the subject-matter is money or some other thing capable of delivery

Any party admits that he holds money or other thing as a trustee for another party
That it belongs or is due to another party

The Court may order the same to be deposited in Court or delivered to such last-named party, subject to direction of the Court



Q.128) If a party who has obtained an order for leave to amend a pleading, does not amend accordingly within the time limited for the purpose by the order or if no time is limited then within 14 days from the date of the order he shall

- 1) Not be Permitted to amend the pleading unless the time is extended by the court.*
- 2) Be proceeded ex-parte.*
- 3) Be burdened with a cost.*
- 4) None of the above*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. VI



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O. VI - PLEADINGS GENERALLY



R.1 Pleading = plaint or written statement

Unless precise words of document are relevant

R.2(1) State concise statement of facts relied by the parties & not evidence

R.2(2) Divide it into paragraphs, numbered & each allegation in separate paras

R.9 Where content of document is material, stating its brief effect shall be sufficient

ESSENTIALS OF PLEADINGS

R.2(3) Express dates, sums & no. in figures + words

R.8 Denial of contact by other party means denying fact of express contract or material from which it is implied

R.6 Specify condition precedent whose performance is to be contested

R.3 Forms in Appendix A shall be used for

It is not a denial of legality in law of such contract

An averment of performance of such condition necessary for case shall be implied

R.4 State Particulara in case of fraud, breach of trust etc, wherever necessary

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O. VI - PLEADINGS GENERALLY



Not to state circumstances from which these can be inferred

R.10 Where malice, fraudulent intention, knowledge or other mental conditions are material

Sufficient to allege them as a fact

Presume by law in his favour

R.13 The party need not allege facts:

Sufficient to allege it as a fact

+
The BOP of which is on the opposite party

R.12 In case of implied contract/ relation from letters/ conversation/ other circumstances

Unless, form, precise terms & circumstances from which it can be inferred are material

Unless the same has first been specifically denied

Sufficient to allege it as a fact & refer to such letters etc. without detail

Relying on more contract/ relations from such circumstances, may state them in alternative

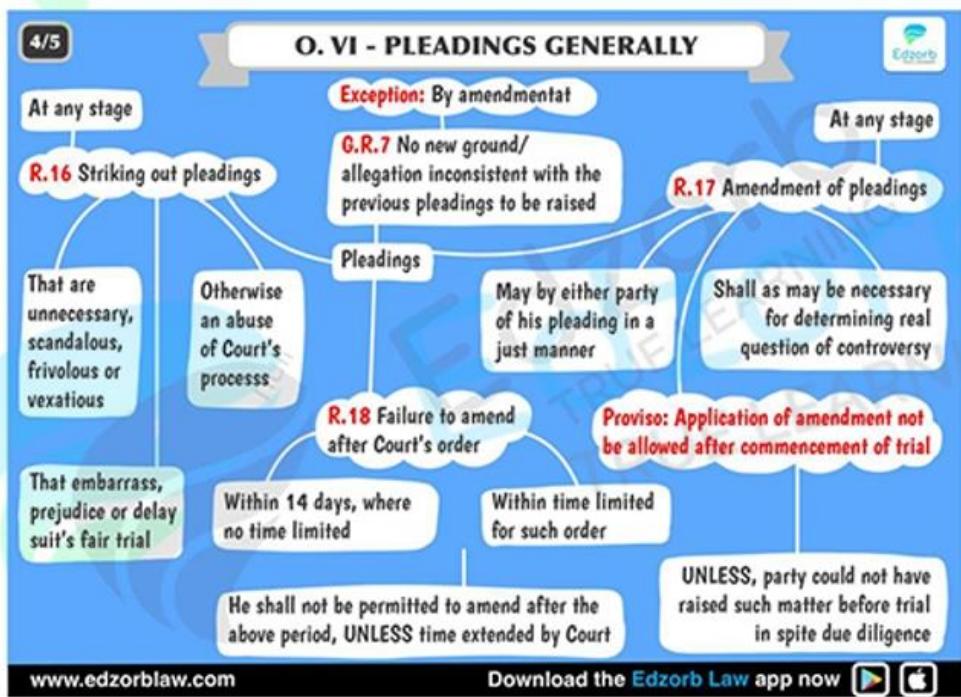
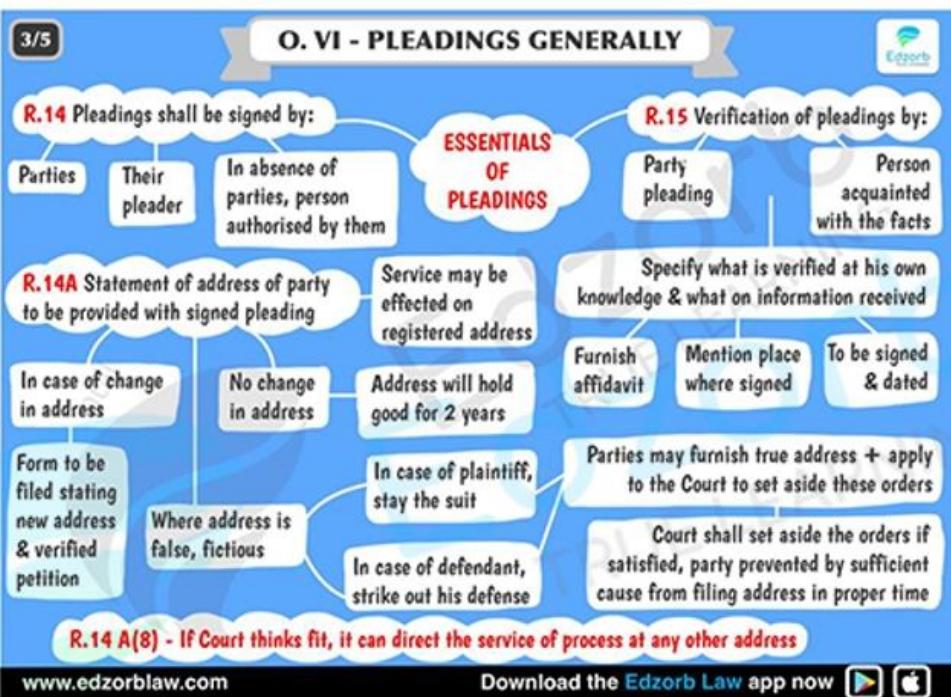
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O. VI - PLEADINGS GENERALLY

Pleadings In case of commercial courts

General rules of pleadings apply

By affidavit in manner & form as per Schedule

R.15A: Verification

R.3A in form as prescribed by HC Rules or Practice Direction

To be signed by party or duly authorised person who is acquainted with the case

Of Amended pleading

Pleading if not verified

Pleading to be strike out

Party not permitted to rely on it as evidence



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Q.129) Where a receiver appointed by the court fails to pay the amount due from him as the Court directs, the Court may

- 1) Direct attachment and sale of the property of the receiver
- 2) Issue notice of contempt against the receiver.
- 3) Direct imprisonment of the receiver.
- 4) None of the above

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. XL



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2/3

O. XL - APPOINTMENT OF RECEIVERS



R.3 Appointed receiver shall

Furnish such security duly to account for what he shall receive in respect of property

Pay amount due from him as Court directs

Submit his accounts at such periods and in such form as the Court directs

Be responsible for any loss occasioned to the property by his wilful default or gross negligence

R.4: Receiver fails to perform these duties or loss is occasioned due to his wilful default/negligence, court may direct

Balance paid to receiver

Apply proceeds to make good any due amount or loss

His property may be attached & sold

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O. XL - APPOINTMENT OF RECEIVERS



R.5 Collector may be appointed as receiver with his consent where

Property is land paying revenue to Govt.

Court considers that the interests of those concerned will be promoted by the Collector's management

Or

Land of which revenue has been assigned or redeemed

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Q.130) The Court may award costs:

- 1) at the time of final disposal of the suit.*
- 2) on the party which causes delay by not producing evidence.*
- 3) fails to take steps required to be taken on that date.*
- 4) All of the above*

Ans: 4

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
CPC – Sec. 35**



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Section 35: Costs

- It deals with **general costs** and provides that the **cost shall follow** the event,
- If the **costs are not following** the event the court must state reasons for doing so.
- **Levying of cost** is the discretionary power of the court and according to the direction of the court, wherein

Even if I don't have the jurisdiction to try the suit then also, I can determine the way of cost payment

The cost should be paid in quarterly basis and the same should be looked upon.

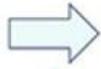


- The court also has **power to determine** as to who should **pay the cost** and how it should be paid.
- This **power of the court** may be exercised even if the court has **no jurisdiction to try the suit**.





The section must be read
with **Section 35A, 35B**



And **Order XXA** of the
first schedule.

Sanjeev Kumar Jain vs. Raghbir Saran Charitable Trust
2012 1 SCC 455

- If actual costs have to be awarded, it should be realistic which means what a "normal" advocate in a "normal" case of such nature would charge "normally in such a case".
- The actual realistic cost should have a correlation to costs which are **realistic and practical and not factual**.



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- In such circumstances the Court may **impose costs on the Plaintiff**, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

Reference: The Code of Civil Procedure, 1908, 2019 Edition
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Section 35A: Compensatory costs in respect of false or vexatious claims or defences

- This section is an exception to the general rule of **section 35** which is based on,
- Costs are only an **indemnity** and never more than indemnity.
- This section is intended to deal with those cases in which **Section 35 does not afford sufficient compensation.**

It applies to suits or other proceedings including an **execution proceeding** but **excludes an appeal or a revision.**

The Court may after recording its reasons make an order for the payment of costs by way of compensation

The following **conditions must exist** before this section can be applied



1

The claim or defence must be false or vexatious

2

Objection must have been taken by the other party that the claim or defence was false or vexatious to the knowledge of the party.

3

Such claim must have been disallowed or withdrawn or abandoned in whole or in part.

- The Court shall not make any such order for the payment of an amount **exceeding three thousand rupees (3,000)** or
- **Exceeding the limits of its pecuniary jurisdiction** (whichever is less).



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

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Q.131) Which of the following cannot be attached and realized in execution of decree?

- 1) Stipends and gratuity allowed to pensioners or payable out of family pension.*
- 2) Salary to the extent of 2/3rd*
- 3) The bank accounts.*
- 4) The house, lands or other buildings*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 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	
₹ 1,50,000	Mumbai, India January 15, 2019
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 15, 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 1 st of each month, beginning February 1, 2019 until the total debt is paid.	
IN WITNESS WHEREOF, I set my hand under seal this 15 th 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



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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....



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- 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**,

ATTACHMENT



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

31

SALARY

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;

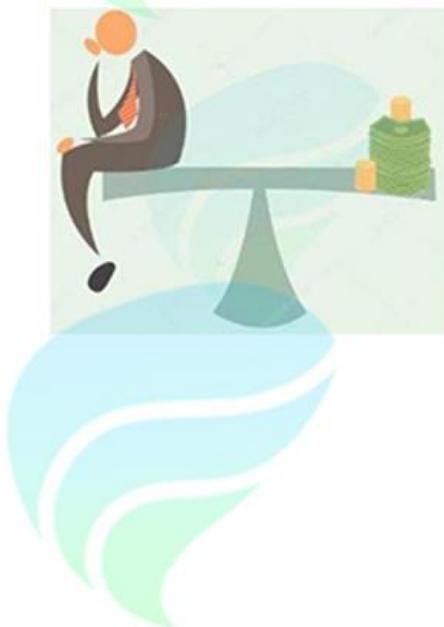


- As respects any other **servant of the Government or a servant of any other local authority**, the State Government.



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.132) The Court may compel the attendance of any person to whom the summons have been issued by:

- 1) issue of warrant of arrest*
- 2) attachment and sale of his property*
- 3) impose fine not exceeding Rs.5000/*
- 4) All of the above*

Ans: 4

Source: Edzorb Law Qbank Concept – CPC –Module 18 –

Q.30



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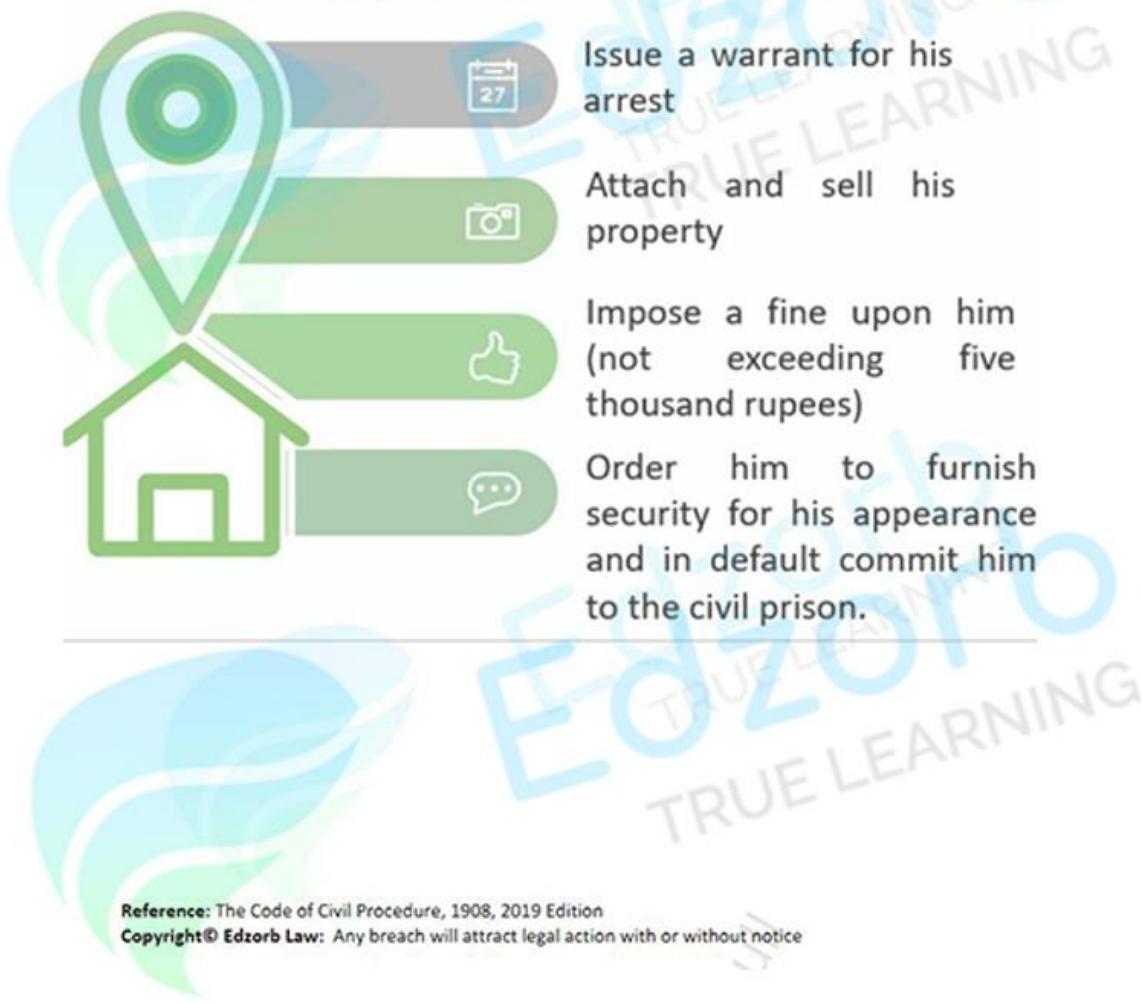


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Section 32: Penalty for default

- The Court may **compel the attendance** of any person,
- To whom a **summons has been issued** under **section 30** and for that purpose may



30.

MCQ Single Correct Question

Sec. 32 provides that the court may compel the attendance of any person to whom a summons has been issued by:

- I. Issuing an arrest-warrant
- II. Attaching and selling his property.
- III. Imposing a fine. -
- IV. Ordering him to furnish security for his appearance. Codes:

- a I and IV.
- b III and IV.
- c I, II, III and IV.
- d II and IV.



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(C)

Section 32: Court may compel attendance of a person to whom summons has been issued by:



Attach and sell



Arrest



Imposing fine



Furnishing security

Reference: Civil Procedure code, Section 32

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Q.133) 'A' files a suit for recovery of Rs. 1 lac for non-delivery of goods and interest @ 24% p.a. The court decrees the suit for 1 lac but is silent about the interest. Aggrieved 'A' must file:

- 1) an Appeal under Section 96 CPC.*
- 2) a Review as there is error apparent on the face of the record*
- 3) revision as there is jurisdictional error.*
- 4) seek correction under Section 152 CPC as it is an arithmetical or clerical error.*

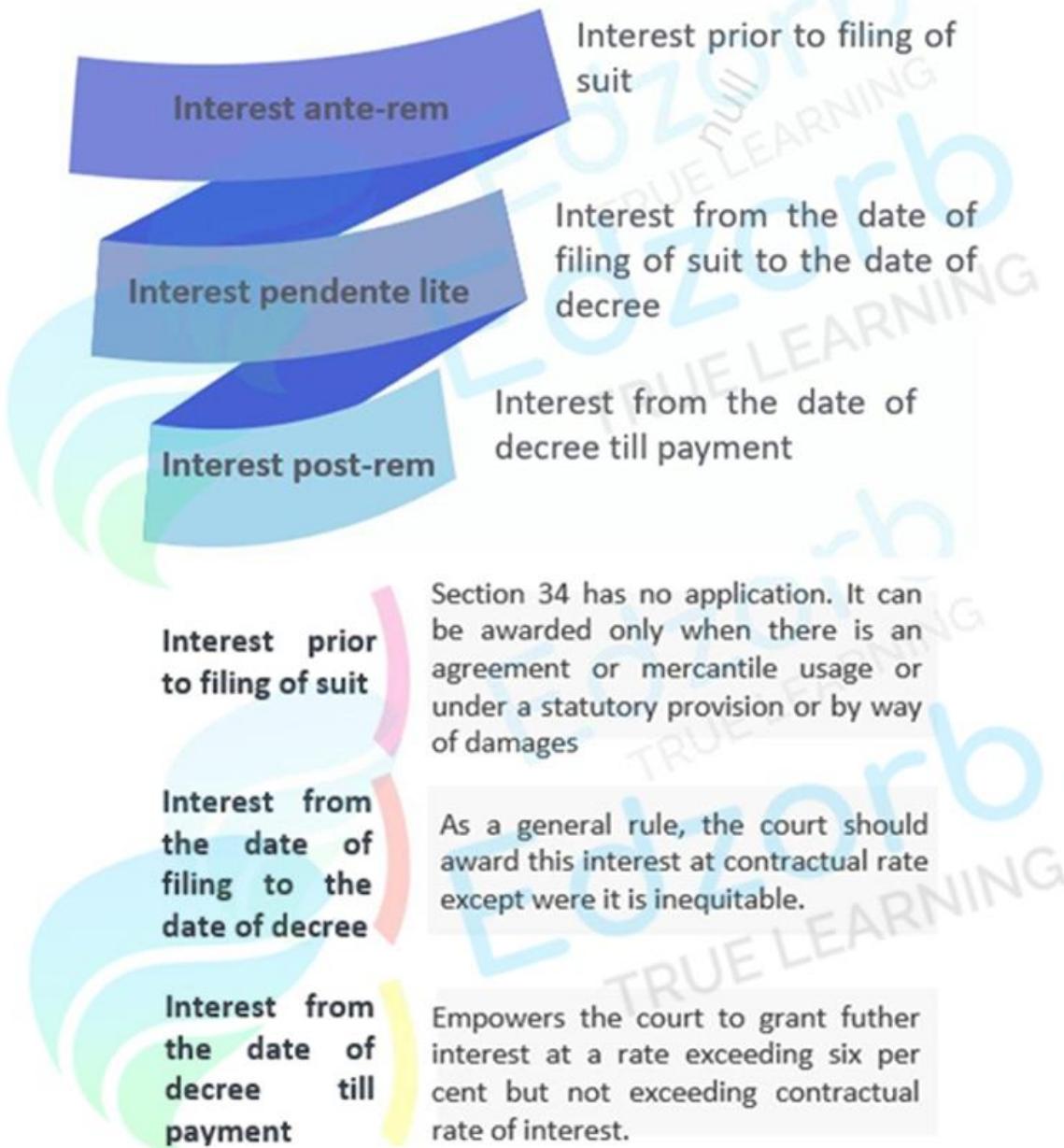
Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 96



Section 34: Interest

- Interest may be divided into following **three heads**



For Regular Transaction,
Interest can be

< 6%
> 6%

For Commercial
Transaction, Interest can be

N.M. Veerappa Vs Canara Bank
AIR 1998 SC 1101

- Section 34 does not apply to mortgage suits.
- Section 34 applies to simple monies decrees and payment of interest pending in such suit.

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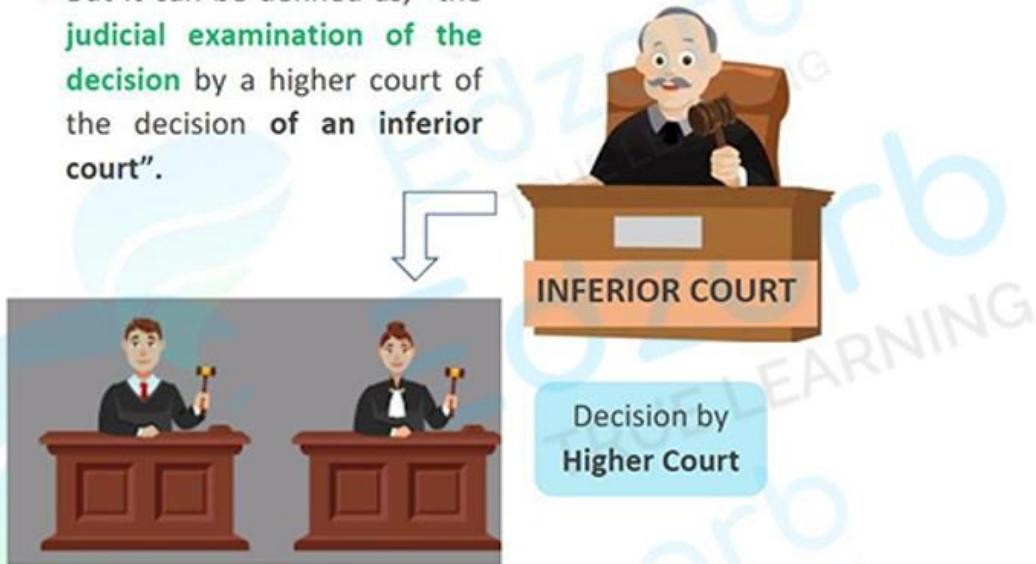


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Section 96: Appeal from original decree

- 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**





- 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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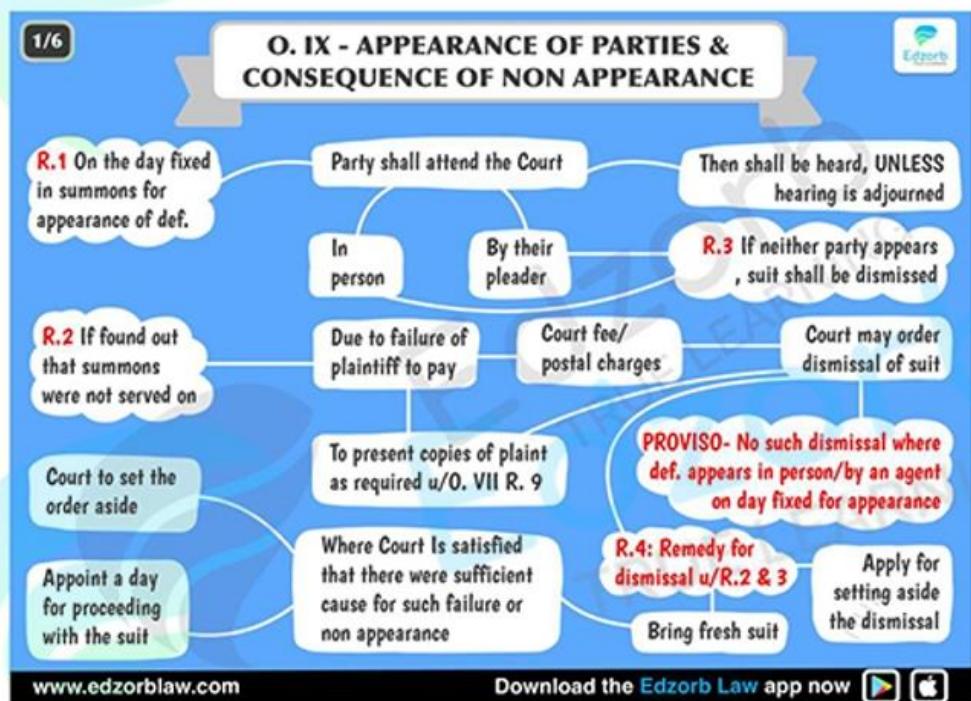
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Q.134) A decree passed ex-parte under Order VIII Rule 10 CPC can be assailed by way of:

- 1) appeal under Section 96 CPC
- 2) application under Order IX Rule 13 CPC
- 3) Revision as there is jurisdictional error
- 4) Both (1) and (2)

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. IX



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O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



Summons sent to defendant & returned unserved

R.5 Plaintiff fails to apply for fresh summons within 7 days from date of return made to court by serving officer

Suit be dismissed against such defendant

Exception: Court may extend if it is satisfied that

Plaintiff made all endeavours to discover the residence of unserved defendant

Defendant is avoiding service

There is any other sufficient cause

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O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



When summons duly served

R.6 Plaintiff appears, def. absent

Summons served but not in due time

Order ex parte hearing

When not duly served

Court shall postpone the hearing & give notice of such day to def.

R.7 Where def. appears on day of adjourned hearing or before it

Court shall direct re issuance & service

If it is due to plaintiff fault, plaintiff should pay the cost for postpone

He assigns good cause for previous

He may be heard as if he has appeared on the fixed day of hearing

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O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



O. IX - APPEARANCE OF PARTIES & CONSEQUENCE OF NON APPEARANCE



R.13 When an ex parte decree has been passed against def.

He may apply for setting it aside

Such order shall be made upon terms as to

PROVISO- A decree cannot be set aside

PROVISO- where a decree cannot be set aside against such def.

In case of appeal against such decree

Court shall make an order of setting it aside

If satisfied that summons were not duly served

Costs

Payment into Court

Otherwise as it thinks fit

Merely on the ground of irregular service of summons

Such appeal has been disposed off & not withdrawn

He was prevented by sufficient cause

Where def. had notice of date of hearing

No application shall lie for setting it aside u/R.13

R.14 Notice has to be served on opposite party when setting aside

Court to appoint a day for proceeding with the suit

Had sufficient time to appear & answer plaintiff's claim

It may be set aside as against all/any other def.



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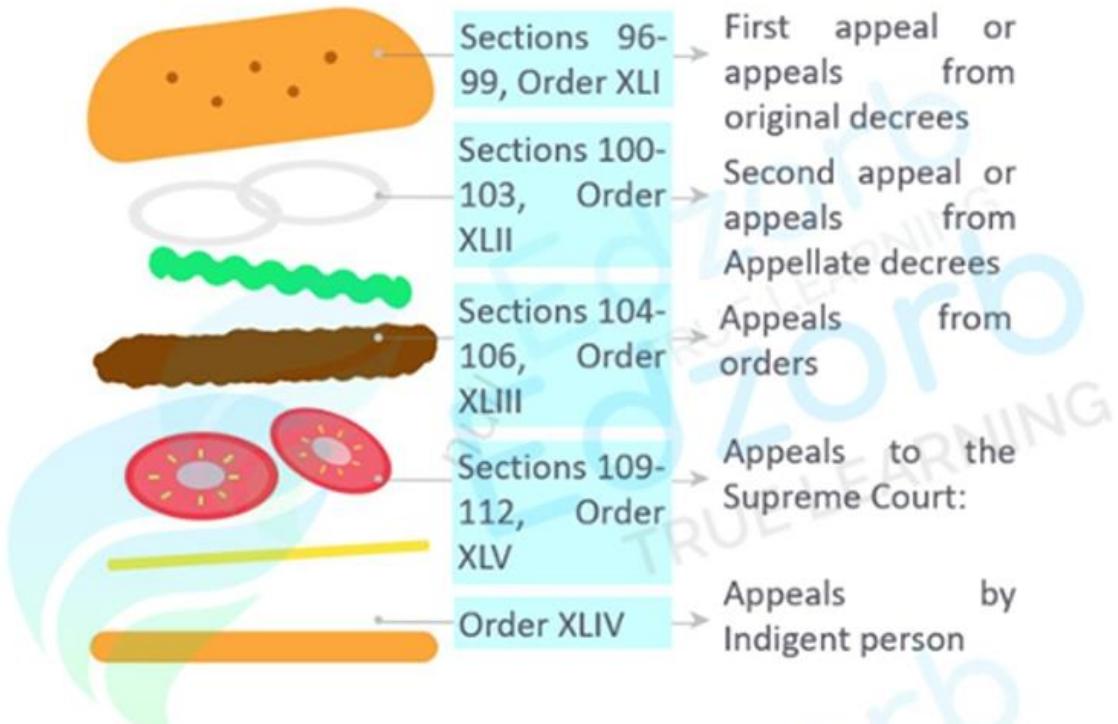
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- It is admitted **both on Question of Fact and Question of Law**
- In the Code of Civil Procedure, provision has been made for the **following kinds of appeal**





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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Q.135) Any Commissioner appointed by the Court under Order XXVII cannot do the following acts:

- 1) examine the parties and any witness whom they may produce.*
- 2) call for and examine documents and other things relevant to the inquiry.*
- 3) impose penalty on the parties.*
- 4) enter into any land or building at a reasonable time, as mentioned in the Order*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Mind Maps O. XXVI



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O. XXVI - COMMISSIONS



R.1 Any Court may issue a commission for the examination of person resident within the local limits of its jurisdiction

Who is exempted u/CPC from attending the Court

Otherwise

On interrogatories

PROVISO – It shall be issued when the Court, for reasons to be recorded, thinks it necessary so to

R.2 An order for issue of commission for the examination of a witness may be made by Court

EXPLN- The Court may, accept a certificate signed by a registered medical practitioner as evidence of the sickness/infirmity

Without calling the medical practitioner as a witness.

Either of its own motion

Supported by affidavit/otherwise

Of any party

On the application

Of the witness to be examined

R.3A commission for a person who resides within the local limits of the jurisdiction of the Court issuing the same

May be issued to any person whom the Court thinks fit to execute it

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O. XXVI - COMMISSIONS



R.4 Any Court may in any suit issue commission for the examination

PROVISO- To be issued, for reasons to be recorded, when Court thinks it necessary so to do

Residing beyond its jurisdiction

Such commission may be issued to

On interrogatories

Otherwise

Any person

About to leave such limits before the date when he is required to be examined in Court

Any pleader

Any Court, not a HC, within whose jurisdiction such person resides

In the service of the Govt. & cannot attend without detriment to the public service

The Court on issuing any commission shall direct whether the commission be returned

Other person whom the Court issuing the commission may appoint

PROVISO- where under O.XVI R.19, a person cannot be ordered to attend in person, a commission shall be issued for his examination

To itself
To any subordinate Court

If his evidence is considered interests of justice necessary

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O. XXVI - COMMISSIONS



R.4A Any Court may issue commission for the examination of any person resident within its jurisdiction

On interrogatories

Or otherwise

In the interest of justice

For the expeditious disposal of the case

For any other reason

The evidence so recorded shall be read in evidence

Court is satisfied that the evidence is necessary

The Court may issue commission

A letter of request

R.5 Where any Court to which application is made for the issue of commission

For a person residing at any place not within India,

R.6 Every Court receiving a commission for the examination of any person shall

Examine him

Cause him to be examined pursuant thereto

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O. XXVI - COMMISSIONS



R.7 Where a commission has been duly executed, it shall be returned

The commission & the evidence taken shall be subject to R.8

Govt. servant who cannot attend without detriment to the public service

Beyond the jurisdiction of the Court

Notwithstanding that the cause for taking such evidence by commission has ceased at the time of reading the same.

With the evidence taken under it, to the Court from which it was issued

It shall form part of the record of the suit

Where the order for issuing the commission has otherwise directed it shall be returned accordingly

It shall NOT be read as evidence without the consent of the party against whom it is offered

UNLESS

The person who gave the evidence is

Dead

Unable from sickness/infirmity to attend for personal examination

Authorizes the evidence being read as evidence

Exempted from personal appearance in Court

Court dispenses with the proof of the circumstances in clause (a)

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O. XXVI - COMMISSIONS



R.9 In any suit in which the Court deems a local investigation to be requisite

The Court may issue commission to such person directing him to make such investigation & to report to the Court

For the purpose of elucidating any matter in dispute

Of ascertaining the market-value

Damages

Of any property

Annual net profits

The amount of any mesne profits

By the Court

PROVISO: Court shall be bound by Rules, the State Govt. has made

R.10 The Commissioner shall return evidence, with his written report signed by him, to the Court

After reducing to writing the evidence taken by him

After such local inspection as he deems necessary

Examination of Commissioner personally in open Court on his report, or as to the manner of investigation

By the parties, with permission of Court

The Commissioner's report & the evidence taken by him

Shall be evidence in the suit

Shall form part of the record

Where Court is dissatisfied with the proceedings of the Commissioner, it may direct further inquiry to be made

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O. XXVI - COMMISSIONS



R.10A
Court may

Issue commission to inquire into question & report to the Court.

If it thinks it necessary

Where any question in a suit involves any scientific investigation which cannot, be conveniently conducted before the Court

R.10 shall, apply to a Commissioner appointed under this rule as they apply to a Commissioner appointed u/R.9

Expedient in the interests of justice so to do

R.10B Court may

Issue commission to perform ministerial act and report to the Court

Where any question involves the performance of any ministerial act which cannot, be conveniently performed before the Court

R.10C Where in any suit, it becomes necessary to sell any movable property

Court may, issue a commission to such person directing him to conduct sale & report to the Court

R.10 shall, apply to a Commissioner appointed under this rule as they apply to a Commissioner appointed u/R.9

Every such sale shall be held, according to the procedure prescribed for the sale of movable property in execution of a decree

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O. XXVI - COMMISSIONS

R.11 Court may issue commission to such person as it thinks fit directing him to make such examination/adjustment

In any suit in which an examination/adjustment of the accounts is necessary

Whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry

R.12 Court shall furnish the Commissioner with such part of the proceedings and such instructions as appear

The instructions shall distinctly specify

To report his own opinion on the point referred for his examination

The proceedings and report of the Commissioner shall be evidence in the suit,

Where the Court has reason to be dissatisfied with them,

It may direct such further inquiry as it shall think fit

O. XXVI - COMMISSIONS

R.13 Court may, issue a commission to such person to make the partition or separation according to the rights declared in such decree

In any case not provided for by S. 54,

Where a preliminary decree for partition has been passed

R.14 The Commissioner shall,

Shall after such inquiry as may be necessary, divide the property into as many shares as may be directly by the order under which the commission was issued

The commissioner shall then prepare and sign a report

Shall allot such shares to the parties

Commission shall prepare & sign separate reports appointing the share of each party & distinguishing each share by metes & bounds

Court, after hearing objections to the report shall confirm, vary or set aside the same

may, if authorised award sums to be paid for equalizing the value of the shares.

issue a new commission or make such other order as it shall think fit

It shall then pass a decree in accordance with the same as confirmed or varied

where the commission was issued to more than one person and they cannot agree

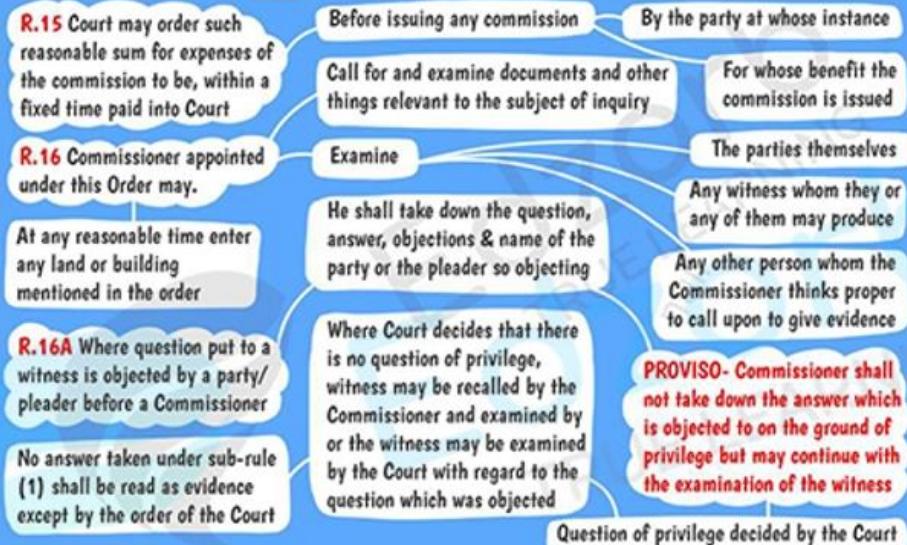
Report shall be annexed to the commission and transmitted to Court

where Court sets aside the report it shall either



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O. XXVI - COMMISSIONS


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O. XXVI - COMMISSIONS


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O. XXVI - COMMISSIONS



R.18 Where a commission is issued, Court shall direct that parties to the suit shall appear before the Commissioner

In person

By their agents

Pleaders

Where all or any of the parties do not so appear, the Commissioner may proceed in their absence

R.18A This Order shall apply to proceedings in execution of a decree or order

R.18B The Court issuing a commission shall

The date so fixed shall not be extended

Fix a date on or before which the commission shall be returned to it after execution

EXCEPT- where the Court, for reasons to be recorded, is satisfied that there is sufficient cause for extending the date

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O. XXVI - COMMISSIONS



R.19 If a High Court is

Foreign court situated in a foreign country wishes to obtain the evidence of a witness

Issue commission for the examination of such witness

The proceeding is of a civil nature

Witness is residing within the limits of the High Court's appellate jurisdiction, it may, subject to the provisions of the R.20,

Evidence may be given of the matters by

A certificate signed by the consular officer of the foreign country of the highest rank in India and transmitted to the High Court through the Central Govt.

A letter of request issued by the foreign Court

Produced before the High Court by a party to the proceeding

Transmitted to the High Court through the Central Govt.

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O. XXVI - COMMISSIONS

R.20 Commission u/R.19 may be issued by HC upon

An application by a law officer of the State Govt. acting under instructions from the State Govt.

R.21A commission under rule 19 may be issued to any Court

Application by a party to the proceeding before the foreign Court

Within whose jurisdiction the witness resides,

R.22 R.6, 15 16A(1), 17, 18 and **18B** shall apply to the issue, execution and return of such commissions,

The witness resides within the local limits of the High Court to any person whom the Court thinks fit to execute the commission

Court shall forward it to the Central Govt, with the letter of request for transmission to the foreign court

When any such commission has been duly executed it shall be returned, with the evidence taken under it, to the High Court,



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Q.136) A resides in Shimla, B at Calcutta and C at Delhi. A, B and C together go to Banaras and B & C make a Joint Promissory Note payable on demand and delivery it to A. B & C default in payment. A cannot file a suit for recovery at:

- 1) Banaras, where the joint promissory note was executed.*
- 2) Calcutta, where B resides.*
- 3) Delhi, where C resides.*
- 4) Shimla, where the plaintiff resides*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 20

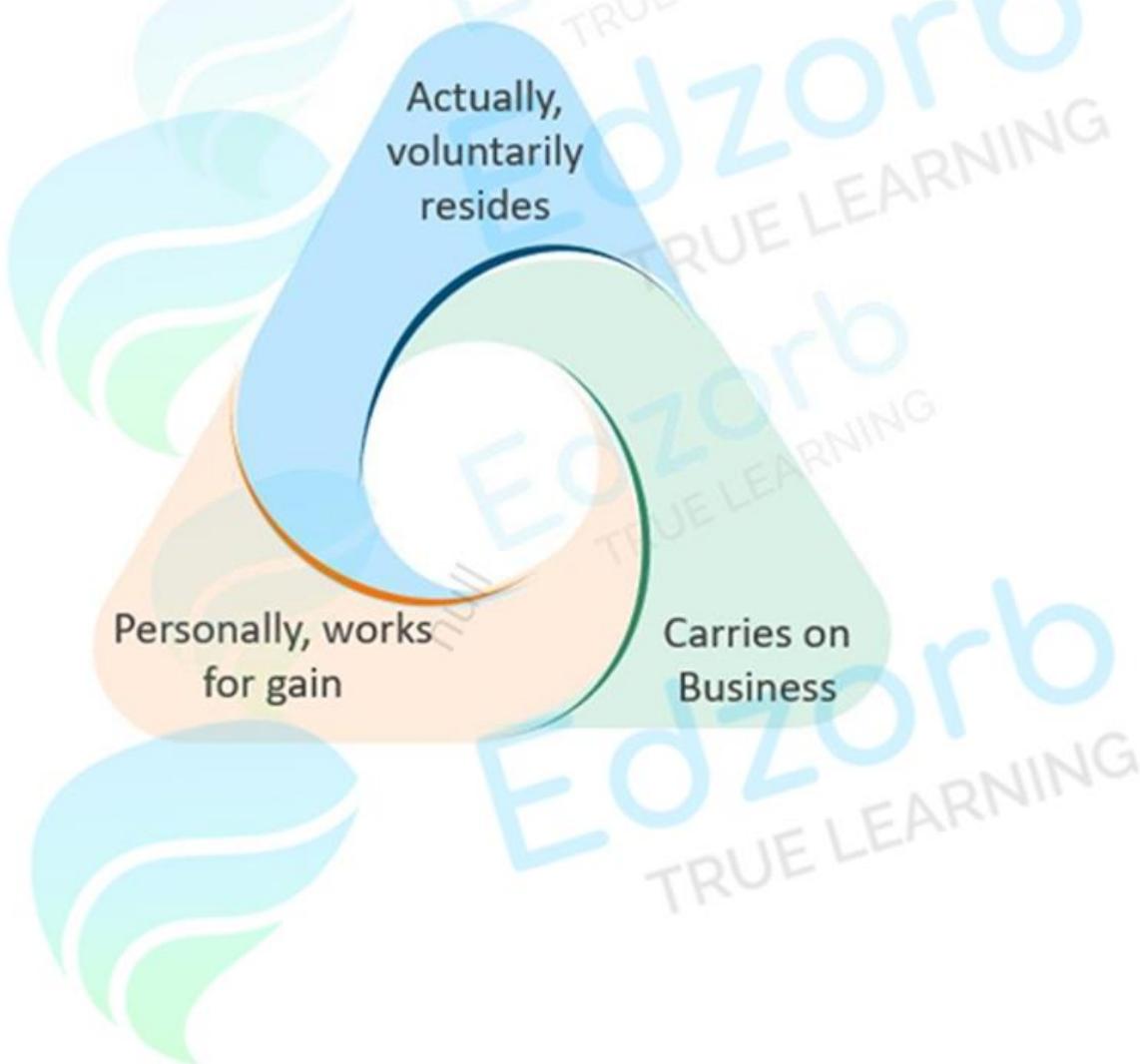


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Section 20: Other suits to be instituted where defendants reside or cause of action arises

- Generally, the plaintiff **can file the suit** in the following courts —
- Where the **defendant or each of defendants** (where more than one)



- Actually, or Voluntarily Resides



- Personally, works for Gain



- Carries on Business



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- In case there are **more than one defendant** against whom a suit is to be instituted,



- Either the **permission of the court** has to be obtained or



- The **assent of all the defendants** of assuming a particular jurisdiction **without objection** has to be proved,

Where cause of action **wholly or partly** arises



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- If the **defendant is a corporation** and the suit is attempted to be instituted at its **place of business**



- As of general rule the suit must be instituted at its **principal office or sole office** (if there is only one office) as its **place of business**.

Bakhtawar Singh Vs UOI

AIR 1988 SC 1003

Issue- Can the suit be maintainable against the government anywhere in the state?

Held- A distinction was drawn between commercial activities and sovereign function of the state.

- The nature of particular function will depend upon facts of each case,
- But the **object of the function** would be one of the main governing factors.

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

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Q.137) 'A' is dispossessed in a suit for possession filed by 'B'. In appeal, the decree of possession is set aside. The defendant may claim:

- 1) restitution of possession and damages by filing a separate suit.*
- 2) restitution of possession by moving an application before court which passed the decree in the first instance.*
- 3) restitution of possession by moving an application before the appellate court which set aside the decree.*
- 4) Interest, damages, cost, and mesne profits by moving an application before the appellate court which set aside the decree.*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 144



Section 144: Application for restitution.

- Restitution means **restoring**. The doctrine of restitution is based upon the maxim "**actus curiae neminem gravabit**", i.e., the act of Court shall harm no one.



- If the **execution of any decree is done** and the decree-holder gets any right or claim, then in an appeal against such decree,

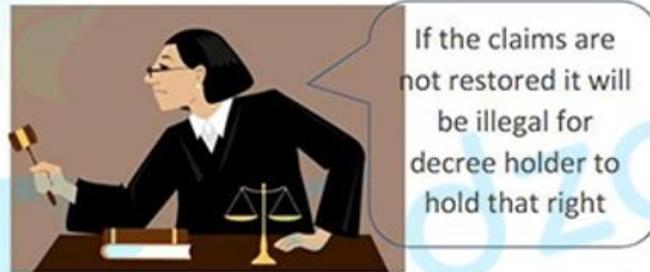
I have the decree and right to claim



- If it is ordered to be modified or reversed the things or acts which have been done in the execution of the respective decree must be restored to the judgment-debtor to the extent of modification or reversal.



- And it is also true that if the claim is not restored it would be illegal for the decree-holder to possess such claim i.e., to hold right against the decree passed in the appellate Court.



- Thus, when the **judgment-debtor** is made to come to its original position in law, it is termed as **restitution**.



- For the applicability of the provisions of Section 144, i.e., **Restitution**, **following conditions are necessary** to be satisfied:

The party applying for restitution must be **entitled to a benefit** under a reversing decree or order; and

The restitution sought must be in respect of the **decree or order** which had been varied or reversed;

The relief claimed must be properly **consequential** on the reversal or the variation of the decree or order.



Murty Bhawani Mata Mandir vs. Ramesh & Ors.,
AIR 2019 SC 679

Held:

- Section 144 applies to a situation where a **decree or an order is varied or reversed** in appeal, revision or any other proceeding or is set aside or modified in any suit instituted for the purpose.
- In that situation, the Court which has **passed the decree may cause restitution** to be made, on an application of any party entitled,
- So as to place the parties in the position which they would have occupied but for the decree or order or such part thereof as has been varied, reversed, set aside or modified.
- The Court is empowered to pass orders which are **consequential in nature** to the decree or order being varied or reversed.
- U/s 144(2) no separate suit shall be instituted for restitution.
- The question as to restitution determined under this section is a deemed decree u/s 2(2).

Reference: The Code of Civil Procedure, 1908, 2019 Edition
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Q.138) A' the landlord, files a civil suit for recovery of rent from the tenant, for 3 years @ Rs.7,000/- per month. 'T', the tenant, denies the arrears of rent and claims the rate of rent to be Rs.2,000/- per month and that suit is barred under Section 50 of Delhi Rent Control Act, 1956.

The court may:

- 1) frame a preliminary issue about maintainability and decide the suit.*
- 2) frame all issues of fact and law and treat the issue of jurisdiction as preliminary issue and decide the suit.*
- 3) frame all the issues of fact and law and pronounce the judgment on all the issues after recording evidence.*
- 4) reject the suit under Order VII Rule 11 CPC.*

Ans: 3



Q.139) The court while framing the issues may consider:

- 1) allegations made in pleadings.*
- 2) contents of the documents produced by either party.*
- 3) statements made on oath by the parties before the court.*
- 4) All of the above*

Ans: 4

Source: Edzorb Law Qbank Concept – CPC –Module 14 –

Q.27

27.

MCQ, Single Correct Question

The court may frame the issues from

- a. Allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties
- b. Allegations made in the pleadings or in answers to interrogatories delivered in the suit
- c. The contents of documents by either party
- d. All or any of the above



D

Order 14 Rule 1

Framing of Issues:

- When a material proposition of fact or law is affirmed by the one party and denied by the other.

The document and evidence that the court considers in framing of issues:

- Allegations made on oath.
- Allegations made in the pleadings or in answers to interrogatories delivered in the suit
- The contents of documents produced by either party.



Sitaram Vs Radha Bai
AIR 1968 SC 538

- The court has pointed out that the trial Judge should not determine an issue not arising on the pleadings of the parties.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 282
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Q.140) A person aggrieved by a decree or order from which an appeal is allowed, but not preferred may seek review on the ground:

- 1) error apparent on the face of record.*
- 2) was unable to produce evidence despite due diligence or was not in his knowledge.*
- 3) for any sufficient cause.*
- 4) All of the above*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 114



Section 114: Review.

- Any person considering himself aggrieved-

By a decree or order from which an appeal is allowed but from which no appeal has been preferred



By a decision on a reference from a Court of Small Causes



By a decree or order from which no appeal is allowed



- May apply for a review of judgment to the Court which passed the decree or made the order, and

So, you want to apply for a review of judgment.



- The Court may make such order thereon as it thinks fit

Lily Thomas & Ors. V. Union of India & Ors.,

AIR 2000 SC 1650

- The first and the foremost requirement for entertaining a review petition is that the order, the review of which is sought, **suffers from any error** apparent on the face of the order and permitting the order to stand will lead to failure of justice.
- What is an error apparent on the face of the record?
- It **cannot be defined precisely or exhaustively** because of an element of indefiniteness inherent in its very nature and should be determined judicially on the facts of each and every case.
- It is an error which is apparent on mere looking at the record and for which no long drawn process of reasoning is required.

- **Section 114** can be read with **O.XLVII-Review**
- Also, with **O.XX R. III** wherein judgments once signed shall not afterwards be altered except on review

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

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O. XLVII - REVIEW



By: Person aggrieved by

By decree or order from which appeal is allowed but no appeal preferred

Decree or order from which no appeal allowed

Decision on reference from Court of Small Causes

R.3 Form of review = Form of appeal

R.1 Application of review of judgment

Appeal preferred by other party does not affect party's right to review except

Ground of appeal common to applicant & appellant

Being respondent, he can present his case to AC on which review is applied

Grounds for review

Discovery of new & imp. matter/evidence which even after due diligence was not within his knowledge

Some mistake or error apparent on the face of the record

Other sufficient reason

Decision on ques. of law has been reversed by superior court in subsequent decision on which judgment is based is no ground for review

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O. XLVII - REVIEW



Decision on application of review

R.4 To be Rejected if no sufficient ground

Not to be granted w/o giving previous notice to opposite party & giving it right to be heard

R.6 Where decision is heard by one or more judge

R.4 To be Granted if court is of such opinion

Not to be granted on ground of discovery of new matter/evidence w/o strict proof that it could not be adduced earlier

Court equally divided, application to be rejected

Other case, according to majority

R.7 Application granted, note shall be made in register & court may rehear it at once or make order for re-hearing

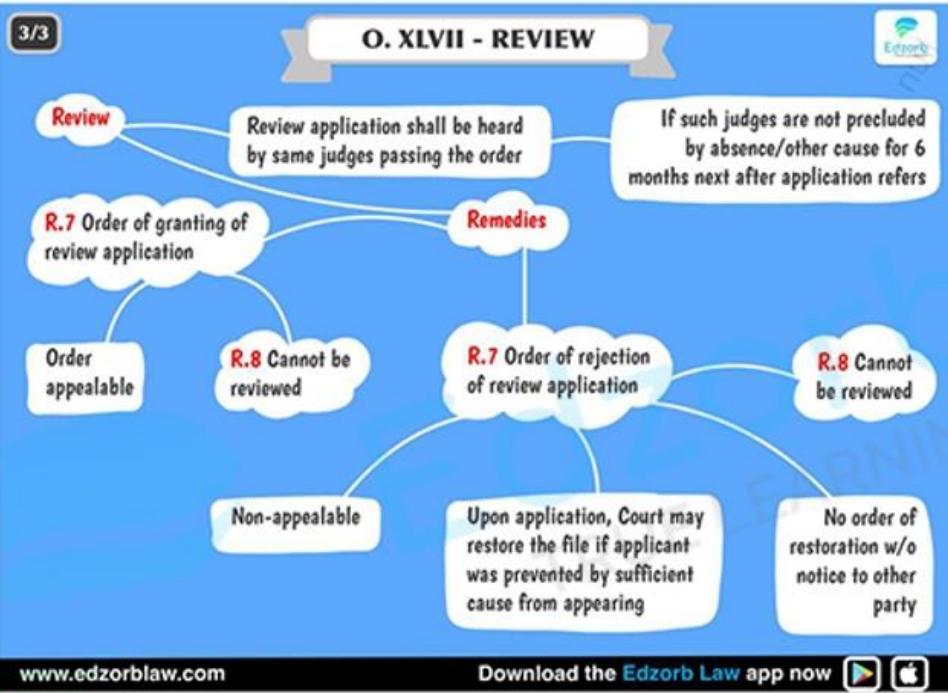
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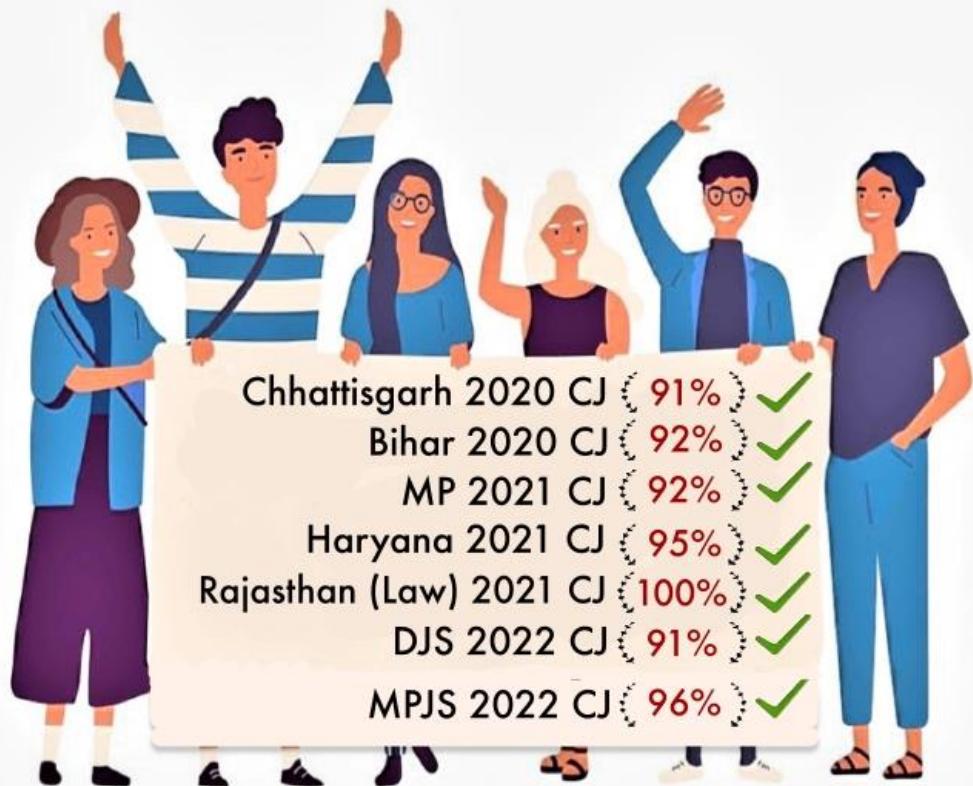


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Section - 11 Evidence



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Q.141) Which of the following is true? For deciding the question as to whether a document is a Will of Mohan:

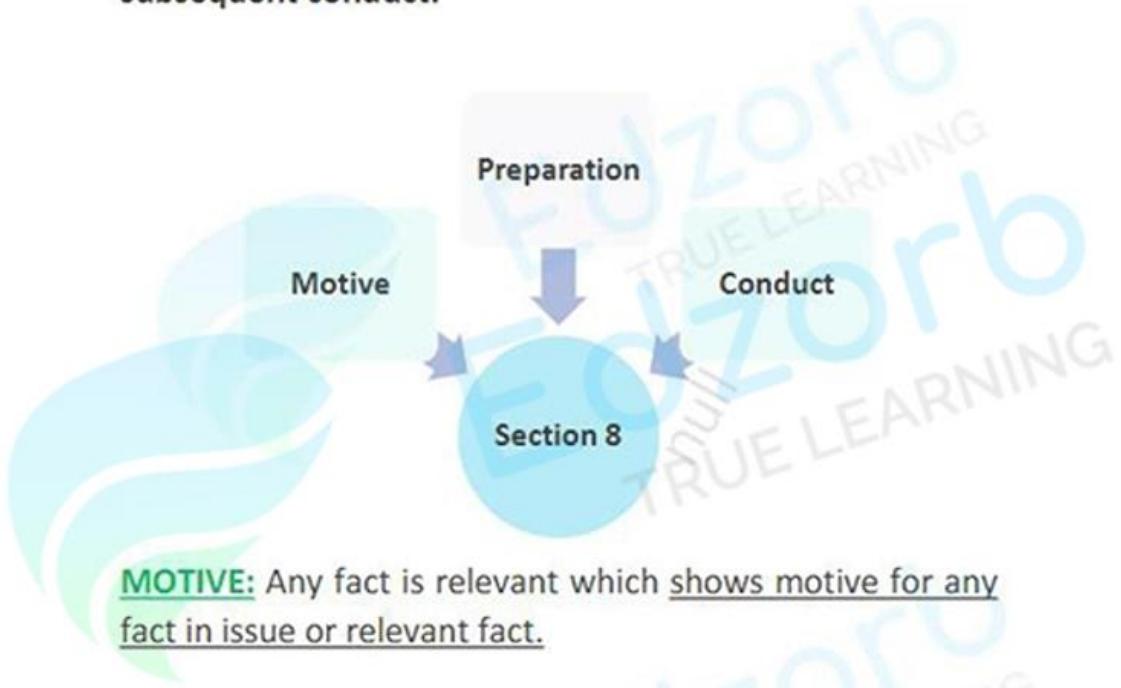
- 1) the fact that Mohan made inquiries from his friends into matters to which the provisions the will relate is irrelevant.*
- 2) The fact that Mohan consulted advocates in reference to making the will is irrelevant*
- 3) the fact that from Mohan's personal locker several drafts of other wills are found which he did not approve is irrelevant*
- 4) None of the above is true*

Ans: 4

**Source: Edzorb Law Premium + 2.0 - Simplified Notes –
Indian Evidence Act – Part 1 – S.8**



Section 8: Motive, preparation and previous or subsequent conduct:



You saw me killing my wife.



Here, the motive is clear i.e., to kill the man to destroy the evidence against him.



Significance of Motive:

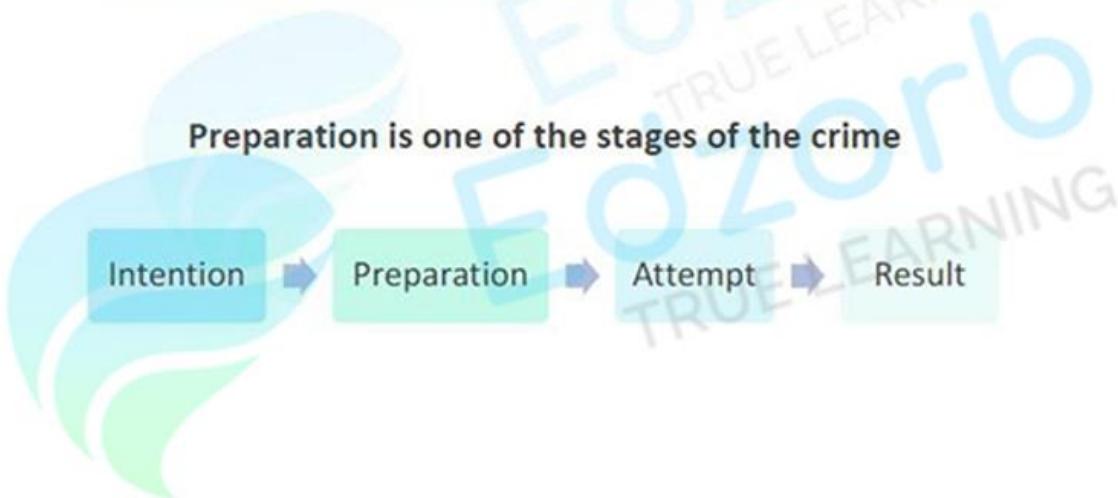
Direct Evidence	Circumstantial Evidence	Proof of Motive
✓	✗	Not significant.
✗	✓	Significant but not necessary.

**State of U.P. Vs. Kishanpal & Ors.
(2008) 16 SCC 73**

Motive loses all its importance where direct evidence is available, because even if there is strong motive to commit a crime, they cannot be convicted if the evidence of eyewitnesses is not convincing.



PREPARATION: Any fact is relevant which shows preparation for any fact in issue or relevant fact.



Conduct:

- I. The conduct of following is relevant



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- II.** The conduct must be in reference to suit or proceeding, or any fact in issue or relevant thereto.

Don't come
as witness
tomorrow.



- III.** The conduct is relevant if such conduct influences or is influenced by any fact in issue or relevant fact.



Here, the bribe does not let the truth come out. Hence, it is relevant fact



IV. The conduct can be previous or subsequent.

Previous Conduct: These are such conduct which are previous to the commission of crime.

Last Seen Theory - Previous Conduct

- The last-seen theory comes into play where the time-gap between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible.
- It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists.



If one of them is found murdered, the inference can be drawn against the other on the basis of last seen theory.



Subsequent Conduct: These are such conducts which are done after the commission of the crime.

- 1 Person absconding after the commission of the crime is also a relevant conduct.



Statement and Conduct

General Rule: Statements are irrelevant under **Section 8**.

Don't forget the exceptions



conduct.

Conduct accompanying and explaining statements (**Explanation I**):

1 A statement by a retiring partner, made immediately after his retirement, as the reason for his refusing to continue to guarantee the firm's account with a bank, may be admissible to explain his



Statements Affecting Conduct (Explanation II)

The conduct must be such as has a close nexus with a fact in issue or a relevant fact.

Police is coming
to investigate the
murder case



A: I must run
away; else I
will get
caught.

If A runs away, his conduct is affected by the statement. Hence, the statement will become relevant under **Section 8**.



Important Judgments on Section 8

Kansa Behra Vs State of Orissa

AIR 1987 SC

The conduct of being last seen with the deceased is relevant, but **not sufficient to support conviction.**



Nagesha Vs State of Bihar

AIR 1996 SC 119

Held: If FIR is given by accused himself, the fact of giving his information is admissible against him as evidence of his

conduct.

Food for Thought!

An **FIR** (First Information Report) is the first information of a **cognizable offence** recorded by an PO.



Reference: Indian Evidence Act, 1872, Section 8

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Q.142) Which of the following is true if Shyam is accused of a crime?

- 1) The fact that after the commission of the crime, Shyam absconded from his house is Irrelevant.*
- 2) The fact that, at the time when he left home, Shyam had sudden and urgent business at place to which he went, is irrelevant.*
- 3) The details of the business on which he left is not relevant even if it were to show that business was sudden and urgent.*
- 4) None of the above is true*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Evidence – Sec. 9



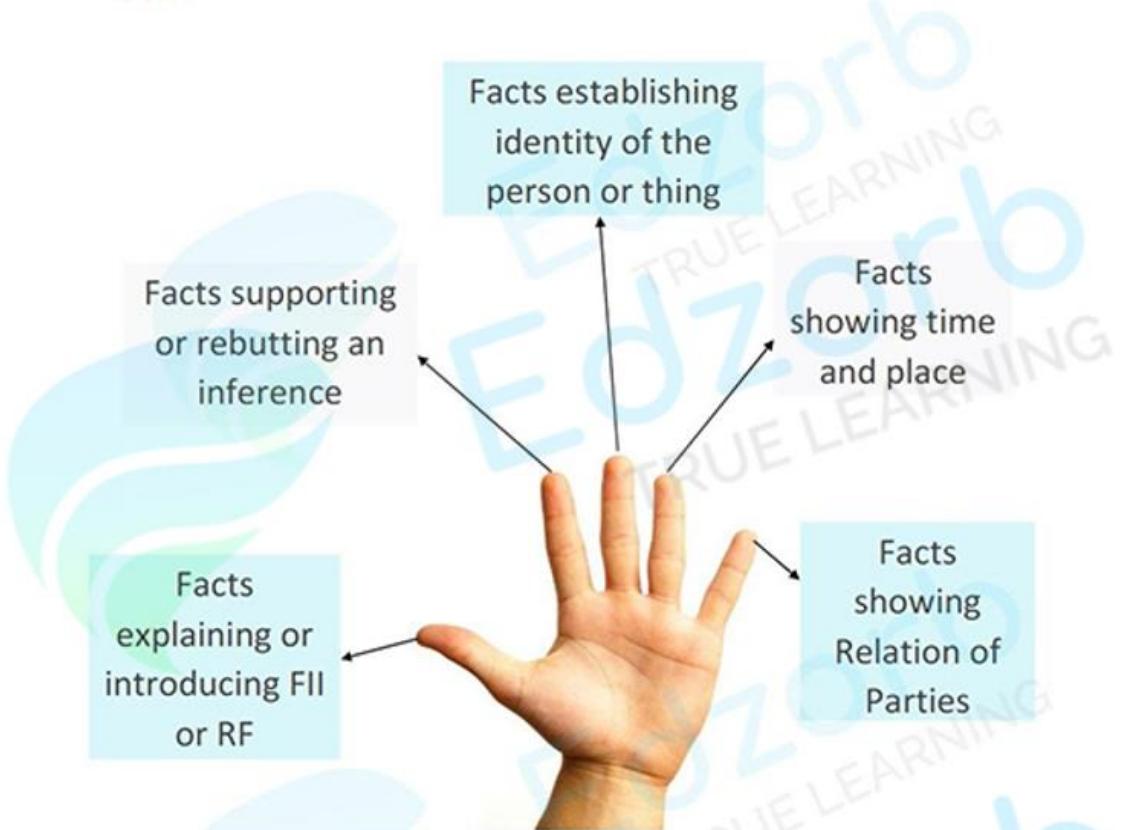
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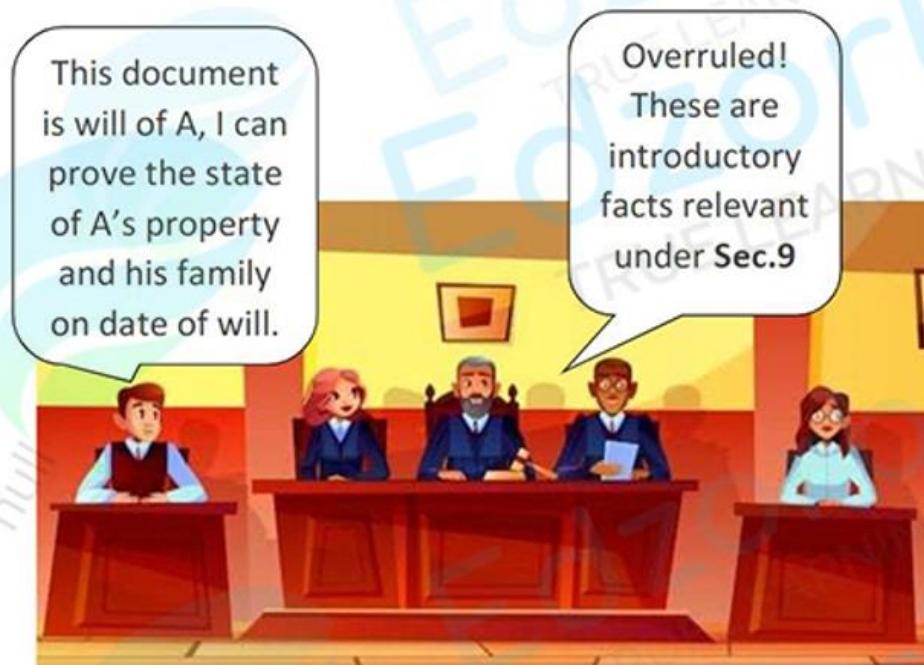
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Section 9: Facts necessary to explain or introduce relevant facts



- I. Facts which **introduce or explain fact** in issue and relevant facts:

Facts which **show the names and identity of persons, their background and position in life** and the circumstances in which transactions like a sale.



The state of A's property and his family at the date of the alleged will are introductory facts which are relevant under **Section 9**.



II. Facts which support or rebut an inference:

There are facts which support the inference suggested by the facts in issue or relevant fact or contradict the facts in issue or relevant fact:



The hospital bills can rebut an inference drawn by police officer, hence, relevant under **Section 9**

Test time!

The fact that person ran immediately after his wife's murder is relevant under which section?

Ans: Section 8



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III. Facts establishing identity of thing or person:

When the identity of thing is in question, every fact which will be helpful to identify the thing is relevant.

Test Identification Parade relevant under Section 9:

To obtain an identification of the suspect, police use several modes like visual, audio, scientific and test identification parade.



Evidentiary Value of TIP

Raju Majhi Vs State of Bihar
2018 SCC Online SC 778

The identification parade goes to the stage of the investigation. They are not considered substantive evidence but these are essentially governed by **Section 162** of CrPC.

Objective of TIP:

Ramkrishnan Vs State of Bombay
A.I.R. 1955 S.C. 104

What is the purpose of TIP?

It is for our satisfaction that the accused we suspect is really the one who committed crime.



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Mulla & Another Vs State of U.P.

8 February, 2010

The identification parades are not primarily meant for the Court. They are **meant for investigation purposes**. The object of conducting a test identification parade is two - fold.

- First, is to enable the witnesses to satisfy themselves that the accused whom they suspect is really the one who was seen by them in connection with the commission of the crime.
- Second, is to satisfy the investigating authorities that the suspect is the real person whom the witnesses had seen in connection with the said occurrence.

Identification regarding property:



Section 9 does not only apply to identification of person but also identification of property.



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IV. Facts fixing the time or place:

The facts which fix the time or place of any fact in issue or relevant fact where it happened is also relevant.



A boy was kidnapped. Facts that the boy was kept at certain place becomes relevant.



V. Facts which show the relation of the parties:

The facts which the relationship between the parties to the crime or suit are also relevant.



In case of defamation, the enmity between the parties can be shown.

Q.143) When the existence of a state of mind or body or bodily feeling is in issue, which of the following facts are relevant?

- 1) Intention and knowledge
- 2) Negligence and rashness
- 3) Ill will or goodwill
- 4) All of the above

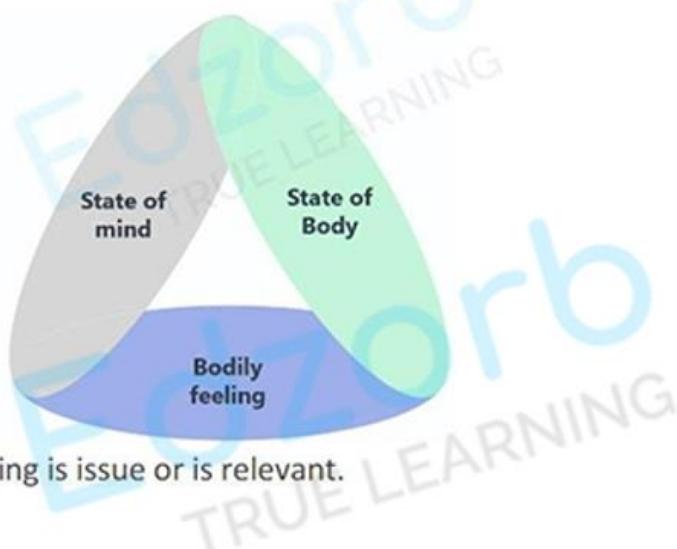
Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – CPC – Sec. 14

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

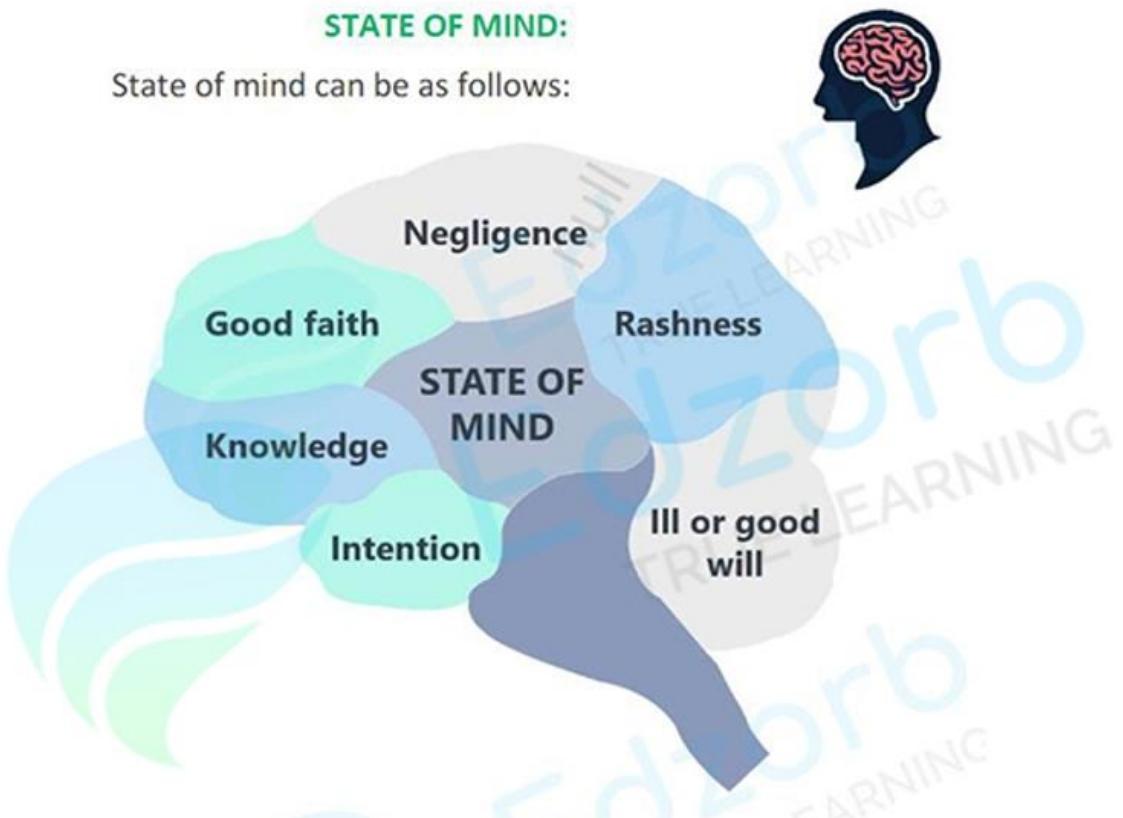
Facts showing the existence of following are relevant:

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.



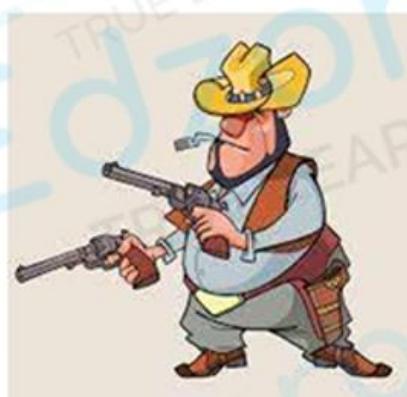
Explanation 1: NOT GENERALLY BUT TO PARTICULAR MATTER:

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.



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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.

Don't forget
the exceptions



- 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.



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what was the state of A's health at the time when an assurance on his life was effected?



Few days before only, he told me that he was not feeling well and might not live longer.



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.144) Statements of a person who is dead is admissible under Section 32 of the Evidence Act if

- 1) it relates to the cause of his own death.*
- 2) it relates to the cause of someone else's death.*
- 3) it relates to his own or someone else's death.*
- 4) Both (2) and (3) are correct*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.32(1)



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STATEMENTS ARE RELEVANT IN THE FOLLOWING CASES:

32(1): Statement relating to cause of death: (dying declaration)

- I. Statement is made by a person as:

To cause of death

To any circumstance
of transaction
relating to death

Pakala Narayan Swami Vs Emperor

AIR 1939 PC 47

Facts of the case:

I am going to
get the
money from
Narayan.

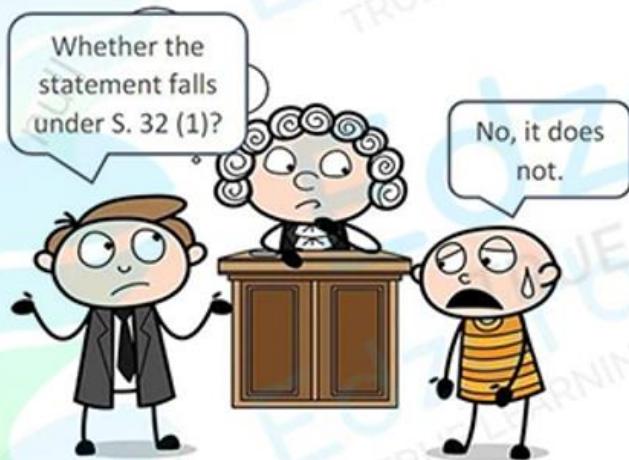


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- The deceased told his wife that he is going to get money from the accused given by him.
- Later on, his dead body was found in a trunk and his body had been cut into pieces.

Issue in the case:



Decision of the case:

- The statement falls under **Sec.32(1)**, the word “circumstances of the death” is wider than cause of death.
- As long as statement explains the circumstances of deceased's death, the statement is relevant.



II. Statement is relevant in cases:

In which the cause of that person's death comes into question, whatever may be the nature of proceedings.



In murder case, who killed the person?

III. Expectation of death: Statement relevant even if at the time when they were made, the person was not under expectation of death.

I will be fine. I was attacked by Himanshu.
You must inform PO.

If person dies, then also statement is relevant under **Section 32** even though person is not under expectation of death. **Pakala Naryan Swami case**



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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

Testing Time!

If a person does not die, the statement will be relevant under which section?

Ans: 21



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Reason for admissibility of Dying Declaration:

*Nemo moriturs
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.



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Sudhakar & another Vs State of Maharashtra,

July 17, 2000, SC

DD is admissible on the basis of principle of necessity as in many cases, victim is the only eye-witness and discarding their statement would defeat the justice.



Gestures and Sign form:

Queen-Empress Vs Abdullah

(1885) ILR 7 All 385

- **Facts:** The girl made affirmative and negative gesture through her finger while magistrate was taking several names to know who is murderer as she couldn't speak.
- **Held:** Dying declaration made through signs, gestures or by nods are admissible as evidence.

Did you Know?

In Nirbhaya case also, the deceased gave the dying declaration through gestures only.



149

Reference: Indian Evidence Act, 1872, Section 32
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Q.145) Under Section 45 of the Evidence Act, the opinion of the expert can be for

- 1) Handwriting or finger impression*
- 2) Foreign law, science or art*
- 3) Both (1) & (2)*
- 4) Neither (1) nor (2)*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.45



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Section 45: Opinions of experts:

When the Court has to form an opinion upon:



Foreign Law



Science and art



Identity of
handwriting



Identity of finger
impression



The opinions upon that point of persons especially skilled (called experts) are relevant facts.



"In my opinion, the three pigs did their share of huffing and puffing."

Evidentiary Value of Expert Witness:

Yogesh Singh Vs Mahabeer Singh and others

(2017) CRI. LJ.291 SC

The evidentiary value of a Medical evidence is only corroborative and not conclusive.



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Q.146) Shyam can be said to be acquainted with the handwriting of Ramesh if

- 1) Shyam has seen Ramesh write.*
- 2) Shyam has seen letters written by Ramesh to Uday.*
- 3) Shyam has seen applications purported to have been submitted by Ramesh to Shyam's boss.*
- 4) None of the above*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.47



Section 47: Opinion as to handwriting, when relevant:

- When the Court has to form an opinion as to the person by whom any document was written or signed,
- The opinion of any person acquainted with the handwriting of the person is a relevant fact.



I cheated from his answer sheets in all my exams, so don't tell me. I can read his worst handwriting.



Explanation:

He has seen
the person
write

He has received
doc. written by
that person in
ans. to doc.
written by him

In ordinary course
of business, doc.
written by person
was habitually
submitted to him.

A person is said to be acquainted with the
handwriting of another person

Fakhruddin Vs State of M.P.

AIR 1967SC 1326

Held: Handwriting may be proved by the evidence of a witness in whose presence the writing was done and this would be direct evidence and if it is available, then any other kind of evidence is rendered unnecessary.

Reference: Indian Evidence Act, 1872, Section 47
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Q.147) Court is obliged to take judicial notice of

- 1) all public Acts passed by the Parliament of United Kingdom.*
- 2) the course of proceedings of Parliament of United Kingdom.*
- 3) Both (1) & (2)*
- 4) Neither (1) nor (2)*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.57

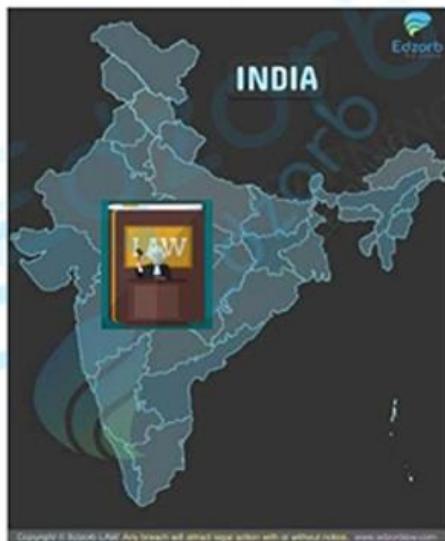
Section 57. Facts of which Court must take judicial notice:

The Court shall take judicial notice of the following facts:

- All laws in force in the territory of India;



- All public Acts passed by Parliament of the United Kingdom (local and personal Acts directed by Parliament of UK);



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- Articles of War for:

Indian Army,
Indian Navy or
Indian Air Force

Percentage of women in Army, Navy and Air force:



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- The course of proceeding of:



Constituent
Assembly of
India



Parliament
of UK



Legislature
established in India



Parliament



- The accession and the sign manual of the Sovereign of the United Kingdom;



- Seals of the following:

✓ English Courts;
✓ Courts in India and
✓ Courts out
of India established by
the authority of the Central Govt. or the Crown
Representative;



✓ Courts of Admiralty and Maritime Jurisdiction and
✓ Notaries Public, and
✓ Any person is authorised to use by the Constitution or an Act of Parliament of the United Kingdom or an Act or Regulation having the force of law in India;



- The accession to office, names, titles, functions and signatures of the persons filling any public office in any State if their appointment is notified in any Official Gazette;



IAS officer



- Existence, title, and National Flag of every state or Sovereign recognized by the Government of India;

- The divisions of time, the geographical divisions of the world,





- Public festivals, fasts and holidays notified in the **Official Gazette**;



- The territories under the dominion of the Government of India;



- The commencement, continuance and termination of hostilities between the Government of India and any other

State or body of persons;



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- The names of the
 - ✓ Members and officers of the Court and their deputies
 - ✓ Officers acting in execution of process,
 - ✓ Advocates and other persons authorised by law to appear or act before it;



- The rule of the road on land or at sea.



I know a lot but it is best to refer to the book once.

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



I don't agree, prove it via medical science book.

The knife is sharp and can kill anybody. You must take judicial notice of the fact.

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



Onkar Nath & Ors Vs Delhi Administration

1977 AIR 1108

- Section 57 enumerates facts of which the Court "shall" take judicial notice.
- The list of facts mentioned in section 57 of which the Court can take judicial notice is **not exhaustive**.
- Recognition of facts without formal proof is a **matter of expediency** and no one has ever questioned the need and wisdom of accepting the existence of matters which are unquestionably within public knowledge.

Reference: Indian Evidence Act, 1872, Section 57
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Q.148) Secondary evidence relating to documents may be given

- 1) when original is in possession of the opposite party.*
- 2) when the existence, condition or contents of the original have been admitted by the opposite party.*
- 3) original is in power of a person out of reach of the court.*
- 4) All of the above*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.65



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Section 65:

Secondary evidence may be **given of the existence, condition or contents of a document** in the following cases:

- a) When the original is shown or appears to be in the possession or power of the person:

Against whom
doc. is sought
to be proved



Person not
subject to
process -court

Person out of
reach of
court

Person legally
bound to produce-
doesn't after
notice u/s 66





I agree doc. exist
but you won't
get it.

b) When the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved;

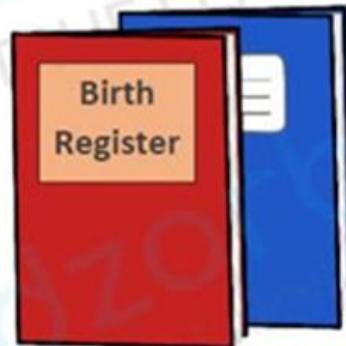
c) When the original has been destroyed or lost, or when the party offering evidence cannot produce it in reasonable time for any other reason not arising from his own default.



How much drunk I was that I wrote contents here.

- d) When the original is of such a nature as not to be easily movable;

- e) When the original is a public document within the meaning of **section 74**;



- f) When the original is a document of which a certified copy is permitted by any law in force in India to be given in evidence;





g) When the originals consist of numerous accounts which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.

Clauses (a), (c) and (d)	<ul style="list-style-type: none">Any secondary evidence of the contents of the documents is admissible.
Clauses (b)	<ul style="list-style-type: none">Written admission is admissible
Clauses (e) and (f)	<ul style="list-style-type: none">Only a certified copy of document is admissible.
Clauses (g)	<ul style="list-style-type: none">Evidence may be given as to the general result of the documents by person who is skilled in the examination of such documents and have examined the doc.



No application to Produce Secondary Evidence

Dhanpat Vs Sheo Ram (D) through LR

Appeal No. 1960/2020, SC



- There is no need to file an application seeking permission to produce Secondary Evidence.
- The Secondary Evidence cannot be ousted for consideration only because an application for permission to lead Secondary

Evidence was not filed.

Reference: Indian Evidence Act, 1872, Section 65
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Q.149) A print out of a photograph taken by a mobile phone is sought to be produced under Section 65B Evidence Act. Under which of the following conditions it would be admissible?

- 1) The digital file containing the photograph copied onto a pen drive from the original computer and print out taken from the advocate's computer.*
- 2) The original file is sent over email to the advocate and printed out by the advocate in his office.*
- 3) The file is sent over WhatsApp to the advocate and printed out by the advocate*
- 4) None of the above*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.65B



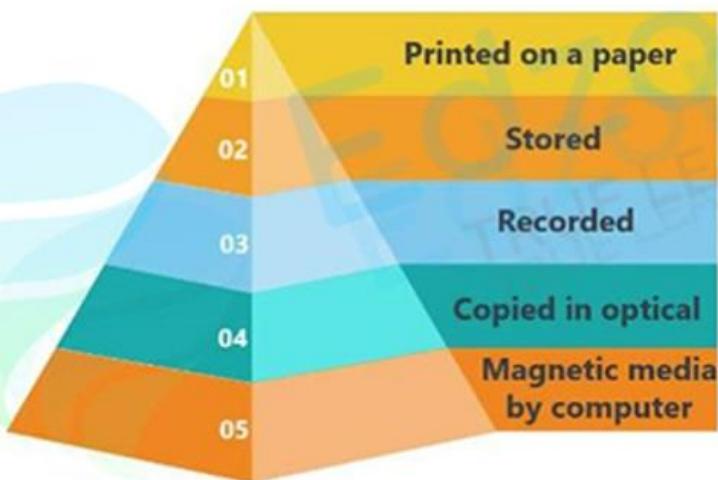
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Section 65B: Admissibility of electronic records:

65B (1): Electronic record as DOCUMENT:

Any information that is contained in an electronic record which is:



shall be deemed to be also a document.



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Q.150) To prove a registered document production of an attesting witness is not required if

- 1) the registered document is a Sale Deed:*
- 2) the registered document is a Will.*
- 3) the registered document is a Gift Deed.*
- 4) Both (1) and (3)*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.68



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Section 68:

I attested the document.



If document is required by law to be attested, one attesting witness shall be called if alive and subject to process of court.

REGISTERED

Exception: Doc. registered under Registration Act.

Exception to exception

Wills

Execution of document is specifically denied



H. Venkatachala Iyengar Vs B.N. Thimmajamm

AIR 1959 SC 443

Held: Where there are suspicious circumstances, the onus would be on the propounder to explain them to the satisfaction of the court before the Will could be accepted as genuine.

Govindbhai Chhotabhai Patel Vs Patel Ramanbhai

Mathurbhai

CA No. 7528/2019

Held: When the execution of gift deed was not specifically denied in the suit, it is not necessary for the donee to examine one of the attesting witnesses in terms of proviso to Section 68.

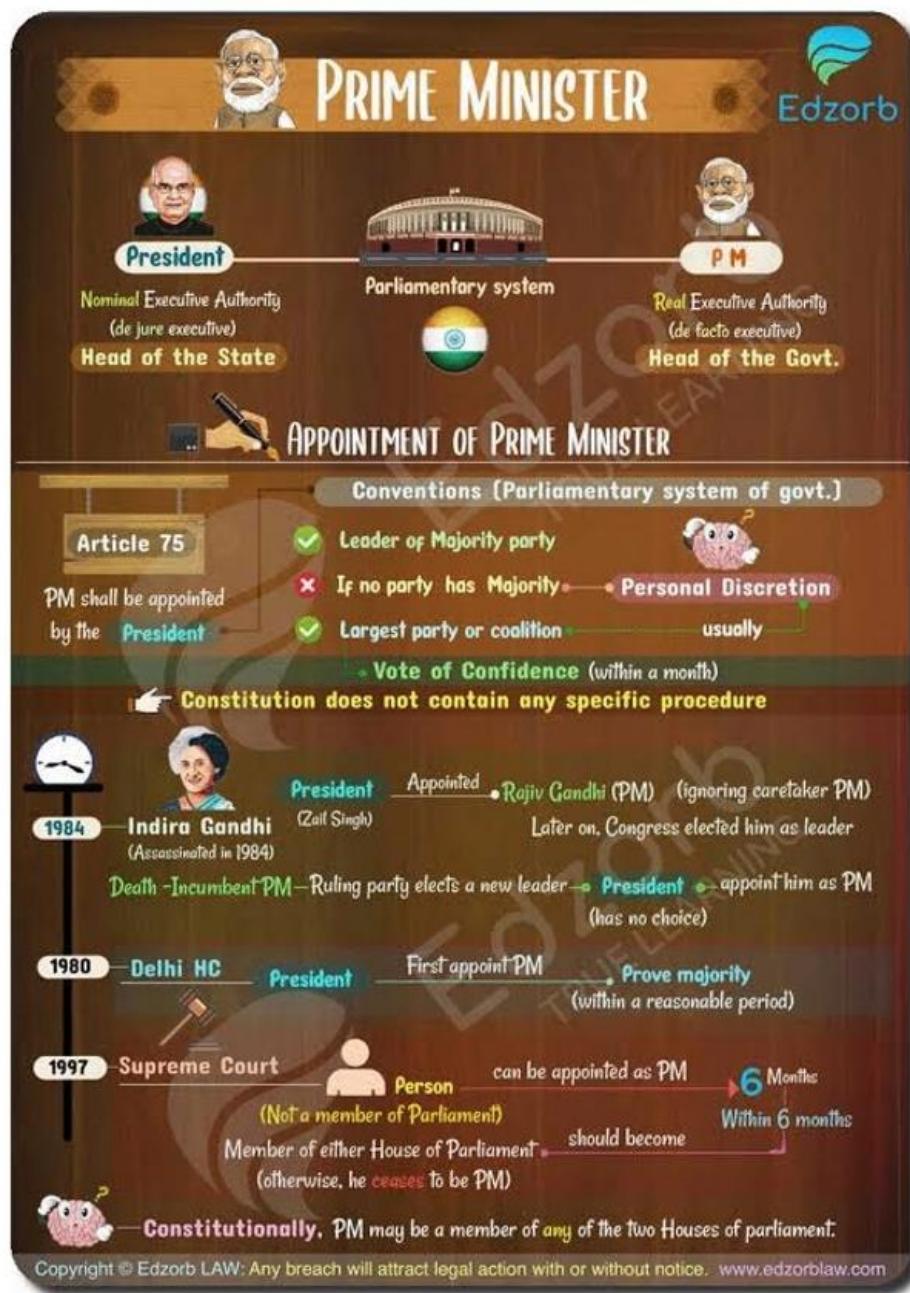
Reference: Indian Evidence Act, 1872, Section 68
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HIGH COURT



HISTORY

Article 214-231

1862	1866	>1950	1956 7th CAA	Present
High court • Bombay • Madras • Culcutta	Allahabad	HC of Province HC for State	Establish HC 2 or more States Or 2 or more States + UT	24 HC 3 common HC Delhi (UT)- own HC

ORGANISATION Strength Decided by President

Appointment	Eligibility	Oath	Tenure	Salaries	Transfer
President • CJ • Other Judges • Common HC Judges	Citizen Held Judicial office Or HC Advocate	Governor Or Nominated by	62 age	Determined by President	By President

Removal	Acting CJ	Additional Judges	Acting Judge	Retired Judges
President	Appointed by President	Appointed by President	Appointed by President	Appointed by CJ of HC
Misbehaviour	President	President	President	CJ of HC
Recommended by Parliament (Special Majority)	CJ — Absent Unable to perform duty	More work 2 years term	Judge Absent Unable to perform duty	(Temporary)

JURISDICTION & POWERS

✓ Highest court of appeal (In state) ✓ Protector of FR ✓ Interpret Constitution	Original Hear disputes (1st instance)	Writ Under Article 226
	Appellate Appeal against judgements	Supervisory Superintendence
	Control Subordinate courts	Judicial review Article 226
Original jurisdiction	Matters • Company laws • Court contempt • Election disputes	Enforcement Fundamental Rights Revenue matters
	• Marriage • Divorce	Cases Transferred from Subordinate courts

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BIOME



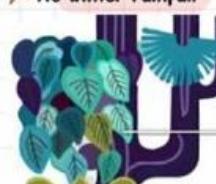
- **EQUATORIAL REGION**

Tropical rainforest

Evergreen forest



✓ Heavy precipitation
✗ No winter rainfall



10°N
0°
10°S

Broad leaves

Canopy formation

Very tall trees

Very dense forest

No shedding of leaves

- Hardwood
- Mahogany
- Ebony
- Rosewood
- Rubber
- Cinchona



ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm



Semang (Malaysia)



Kubus (Sumatra)



Dayaks (Borneo)



Pygmies (Congo)



Amazon Indians (South America)

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**ARTICLE
165**

ADVOCATE GENERAL OF THE STATE

Highest Law Officer in the State



Governor

Appoints Advocate Gen.
Determines remuneration



Entitled to appear before any court
of law within the state



DUTIES AND FUNCTIONS

✓ Can speak, take part in proceedings

State Legislature



- Both Houses
- Committee
- Without right to Vote

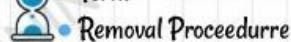
✓ Holds office during the pleasure of the Governor.

- Advice to the State Government on legal matters.
- Functions conferred by the Constitution/ Law.
- Other duties (legal) assigned by Governor.

CONSTITUTION do not specify



• Term



Removal

- By Governor at any time.
- **Resignation** to the Governor.
- Conventionally resigns when Govt. resigns or replaced.

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**PRE + MAINS
INTEGRATED
APPROACH**

Sample

Q. "Equal Pay for Equal Work" is not expressly a constitutional right, it has been read into the Constitution through the interpretation of which other articles?

- A. Article 14, 15
- B. Article 39, 14, 15, 16
- C. Article 21
- D. None of the Above

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(B)

Equal Pay for Equal Work:



- The **directive principle of State Policy** under **Article 39**.
- It is the concept of labour rights that individuals in the same workplace be given equal pay.
- Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances.



History of Equal Pay for Equal Work

As wage-labour became increasingly formalized during the Industrial Revolution, the principle of equal pay for equal work arose at the same part of first-wave feminism, with early efforts for equal pay being associated with nineteenth-century Trade Union activism in industrialized countries.

Principle of Equal Pay for Equal Work – Binding as precedent

State of Punjab Vs Jagit Singh

(2017) 1 SCC 148

- **Decision of Lower court:** Temporary employees were not entitled to the minimum of the pay-scale, as was being paid to similarly placed regular employees was challenged.
- **Decision of Apex Court:** Principle of "**equal pay for equal work**" expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India and is applicable to all temporarily engaged employees.

Did you Know?

The World Bank, which has tracked legal changes for the past decade, found **Belgium, Denmark, France, Latvia, Luxembourg or Sweden** were the only countries in the world to enshrine gender equality in laws affecting work.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 150.
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SUO MOTU LIMITATION



SC Allows Service Through Instant Tele-Messenger Services

Considering difficulty in visiting post offices amid pandemic, SC allowed service of summons & notices through instant tele-messenger services like whatsapp, email and fax. All these will prove valid service on a party.



SA Bobde, C.J.I.; AS Bopanna, J. & Subhash Reddy, J.

Reference: economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-email-fax-instant-messaging-apps-like-whatsapp-for-service-of-notices-summons/articleshow/76898274.cms?from=mdr



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Rajeev Kourav v. Baisahab & Ors.

Crl.A. No .232/2020



Criminal proceedings not to be quashed on the basis of statement made under S. 161 CrPC



S.161 of CrPC, S. 482 CrPC

Statements recorded under S.161 are inadmissible in evidence and are not a valid ground for allowing a petition under S.482. Courts not to appreciate evidence while dealing with the quashing petition filed under S. 482 CrPC.



Bench: L. Nageshwar Rao, J. & Deepak Gupta, J.

Reference: <https://main sci.gov.in/supremecourt>

2017/2075/2075-2017-11-1502-20472-Judgement-11-Feb-2020.pdf



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BIOME

LAURENTIAN TYPE

ST LAWRENCE TYPE

COOL TEMPERATE EAST MARGIN



HELLO SUMMER

Short



60°N

45°N

0



Winter



Westerlies bring cold influences
interior of the continent

Cold current, reduces warming
Influence from sea

Vegetation consists mostly of coniferous forests



Northern Japan covered with dense Coniferous
made up of Spruce, Fir, Larch, Pine

ECONOMIC ACTIVITIES

- Fruits
 - Pear
 - Peach
 - Plum
 - Apple
 - Orange
- Fishing
 - Fish
 - Prominent
- Mixed Cropping

Mountains in Manchuria

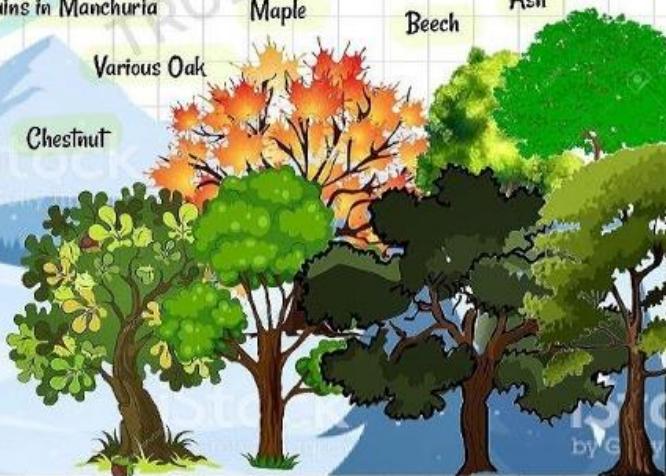
Maple

Beech

Elm

Various Oak

Chestnut



Extreme South East, Deciduous trees flourish

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Q.151) Under Section 82 of the Evidence Act, when a document is produced before a court, the court has to presume

- 1) that the seal, stamp and signature is genuine.*
- 2) that the person signing it held that judicial or official character that he claimed.*
- 3) Both (1) and (2)*
- 4) Neither (1) nor (2) and the same has to be proved*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 1 – S.82



Section 82:



Document admissible
in court without
proof of seal or
stamp or sign
authenticating it, or
of official character
by whom it purports
to be signed

Court shall presume
such seal, stamp or
signature is genuine
and the doc shall be
admissible for **same**
purpose as
admissible in
England.



Q.152) When a document is produced from any custody which the Court in the particular case considers proper, the Court may presume such document to be genuine if it is proved that the document is

- 1) 25 years old
- 2) 30 years old
- 3) 50 years old
- 4) None of the above

Ans: 2

Source: Edzorb Law Qbank – Indian Evidence Act – Unit 1
– Q.22

22.



MCQ, Single Correct Question

Thirty years old document if produced from a proper custody

- a May be presumed as properly executed
- b No Presumption
- c Shall be presumed as properly executed
- d None of the above



Section 90

- 30-year-old document presumed genuine.
- Signature or writing on the document will be presumed genuine purporting to be of any person



Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 315
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Q.153) Mohan sues sohan for money due on a bond. The bond was kept in the custody of Shyam. The execution of the Bond is admitted by sohan but he states that the bond was obtained by fraud. The Burden of proof would lie on

- 1) Mohan*
- 2) Sohan*
- 3) Both of them*
- 4) Shyam*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – S.102



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Section 102: On whom burden of proof lies:

The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.



Here, the **burden of proof** lies on prosecution as if no evidence is adduced the prosecution will be one who will fail



Category	Criminal Law	Civil Law
Burden of Proof	Prosecution	Plaintiff
Standard of Proof	Beyond reasonable doubt	Balance of probability

Concept of Benefit of doubt in law:

Where the case is evenly balanced, the accused gets the benefit of doubt and is acquitted as the criminal law works on the principle that "*it is better that 100 guilty persons should escape than one innocent person should suffer*".



The **benefit of doubt** is given to the accused when:

Prosecution is failed
to prove his case
beyond reasonable
doubt.

Or

Prosecution proves his
case, however, the **accused**
through his defences raises
doubt.



Benefit of doubt



The Salman Khan was given benefit of doubt in the Arms Act case in which he was accused of killing black bucks 18 yrs ago

To know more:

<https://www.news18.com/news/movies/salman-khan-acquitted-in-arms-act-case-by-jodhpur-court-1337290.html>

Reference: Indian Evidence Act, 1872, Section 102

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Q.154) For Presumption as to abetment of suicide by married women to arise it must be shown that

- 1) she committed suicide after 7 years of marriage.*
- 2) her husband and his relatives subjected her to cruelty.*
- 3) Both (1) and (2)*
- 4) Neither (1) nor (2)*

Ans: 2

Source: Edzorb Law Qbank – Indian Evidence Act – Unit 13 – Q.26

26.



MCQ, Single Correct Question

Presumption as to abetment of suicide by a married woman is contained in

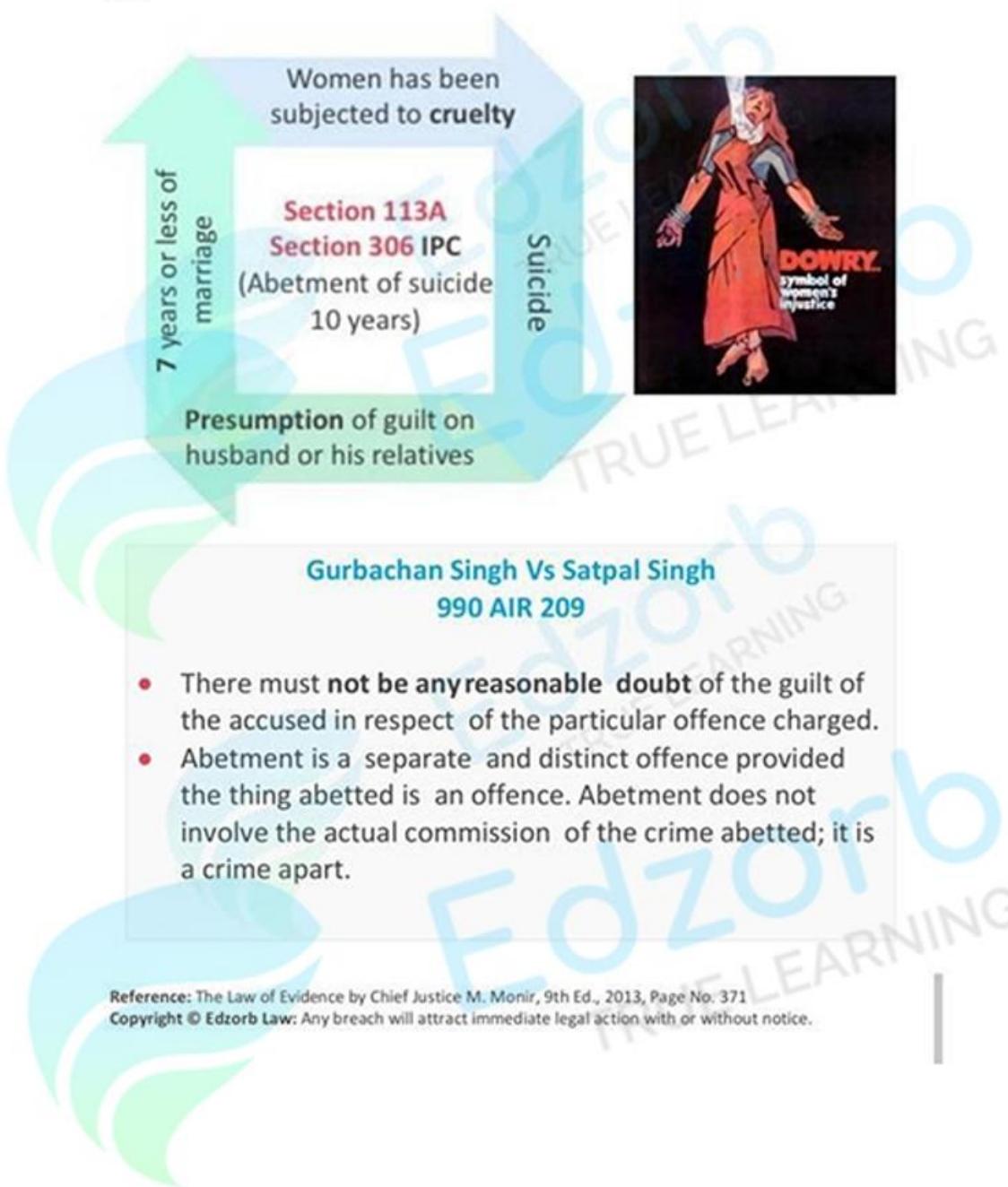
- a) Section 113
- b) Section 113B
- c) Section 113A
- d) Section 112A



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(C)



**Gurbachan Singh Vs Satpal Singh
990 AIR 209**

- There must **not be any reasonable doubt** of the guilt of the accused in respect of the particular offence charged.
- Abetment is a separate and distinct offence provided the thing abetted is an offence. Abetment does not involve the actual commission of the crime abetted; it is a crime apart.

Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 371
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Q.155) Which of the following is not true?

A shopkeeper is found in possession of a marked stolen 100 rupee note which he cannot account for.

- 1) The court will presume that he is 'a thief.'*
- 2) The court will presume that he has received the currency knowing it to be stolen.*
- 3) Such presumption will not arise if he continually receives money in the course of his business.*
- 4) None of the above*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – S.114



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Section 114:

The Court **may presume** the existence of any fact which it thinks likely to have happened, regard being had to



Common course
of natural
events



Human
conduct



Public &
private
business

in their relation to the facts of the particular case.

The Court may presume:

Illustrations:

- (a) A man, who is in possession of stolen goods soon after the theft:





He is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession.

- (b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars



- (c) that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration

- (d) that a thing which has been shown to be in existence within a period shorter than that within which such things usually cease to exist, is still in existence





(e) that the judicial and official acts have been regularly performed



(f) that the common course of business has been followed in particular cases



I can't produce true will.

(g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it.



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(h) that if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him



(i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

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Before raising any presumption, **the court should have regard to the following:**

As to illustration (a)	A person is shopkeeper and has till marked coin but is receiving the same in course of his business.
As to illustration (b)	A and B, persons of high character did something due to common negligence.
As to illustration (c)	The acceptor of bill of exchange was young or under the influence of person.
As to illustration (d)	River might have changed its course due to flood or natural event.
As to illustration (e)	A judicial act was performed under exceptional circumstances.
As to illustration (f)	The usual course was interrupted.
As to illustration (g)	A man refused to produce document, though it will have small bearing in court proceedings but



	will have bigger impact on reputation of his family.
As to illustration (h)	A man is not compelled by law to answer such question.
As to illustration (i)	An obligor might have stolen the bond.

Mohan Lai Vs Ajit Singh

AIR 1978 SC 1183

Held: In order to give rise to the presumption under illustration (a) the possession of the accused must be exclusive.

Supposing articles were found in house or in a room in which he lived jointly with others or in an open box to which others have access, no definite presumption of guilt can be made since the possession was not exclusive.

Reference: Indian Evidence Act, 1872, Section 114
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Q.156) Who out of the following is not competent to become a witness?

- 1) Lunatic who is not prevented by his lunacy from understanding the questions put to him and giving a rationale answer*
- 2) An Adult whose body and mind are not functioning*
- 3) A Child who is sufficiently developed to answer*
- 4) A deaf and dumb person*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Evidence Act – Part 2 – S.118



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Section 118: Who may testify:

General rule: All persons shall be competent to testify.



Exception to the General Rule:

The Court considers that

- They are prevented from understanding the questions put to them, or
- From giving rational answers to those questions, by:



Tender age



Extreme old age



Disease (mind or body)

Or any other reason of same kind.



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Explanation:

A **lunatic** is competent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.



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Q.157) The Order and production and examination of witnesses in Civil Suits is the following:

- 1) First the plaintiff then the defendant*
- 2) First the defendant and then the plaintiff*
- 3) At the discretion of the parties*
- 4) As per law and practice*

Ans: 4

**Source: Edzorb Law Qbank – Indian Evidence Act – Unit 2
– Q.33**

33.

MCQ, Single Correct Question

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

- (a) Prosecutor
- (b) Defence
- (c) Discretion of the court**
- (d) None of the above



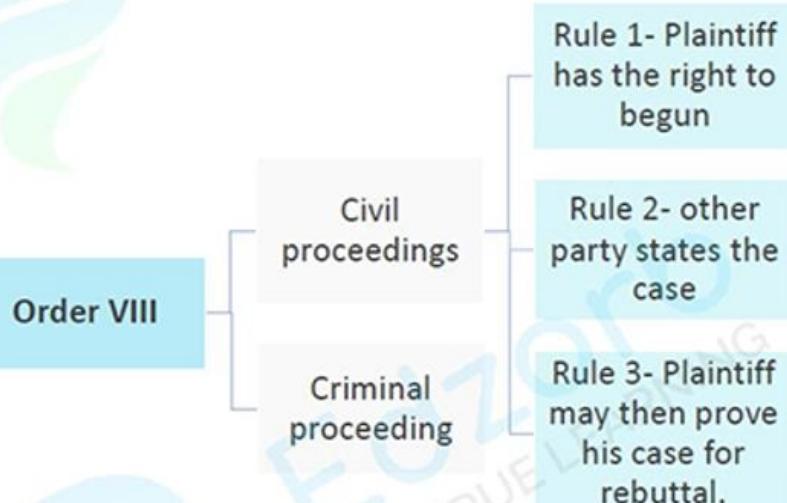
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(C)

Section 135: Order of production and the examination of witnesses.

- The order is decided by the discretion of the court in the absence of any law.
- Similar provision is provided under **Order VIII** of CPC.



**Ram Singh Vs State of MP
1989 Cr LJ (NOC) 206 (MP).**

The discretion given under this section must be fairly exercised.

Reference: the law of evidence, Ratanlal & Dhirajlal 27th Edn, Page No.821.

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Q.158) Which Of the following is a leading question?

- 1) What did you see on the day of the incident?*
- 2) How did you reach the spot of the incident?*
- 3) Ajay confessed to you that he killed Pankaj?*
- 4) What time did you leave home on 01st January?*

Ans: 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Indian Evidence Act – Part 2 – S.141**



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Section 141: Leading questions:

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

Sir, I have court fear,
can't come as
witness. I won't know
what to answer.

Don't worry, I will be
there for you. Listen
my question carefully,
you will get ans. in it.



I You know he was at Hotel Palace on the day of
the murder. Am I right?

Reference: Indian Evidence Act, 1872, Section 140 and 141
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141



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Q.159) Leading questions can be asked freely in:

- 1) Examination in Chief**
- 2) Cross-Examination**
- 3) Re-Examination**
- 4) All the above**

Ans: 2

Source: Edzorb Law Qbank – Indian Evidence Act – Unit 2

– Q.45

45.



MCQ, Single Correct Question

A leading question, without the permission of the court, may be asked during.....

- a Examination-in-chief
- b At any time
- c Cross examination
- d None of the above



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In cross-examination **leading questions** may be asked without the permission of the court.

- **Section 141:** leading questions: Any question suggesting the answer.
 - **Section 142:** when they must not be asked.
 - **Section 143:** when they may be asked in cross-examination.
- leading Questions

Introductory

Undisputed

Sufficiently Proved

Did you Know?

The prosecution cannot put leading questions on the material part of the evidence.



Reference: the law of evidence, Ratanlal & Dhirajlal 27th Edn, Page No.842.
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Q.160) Questions unrelated to the subject matter of dispute and beyond examination in chief can be put

- 1) to test his veracity and shake his credit*
- 2) discover who he is and what is his position in life*
- 3) Both (1) and (2)*
- 4) Neither (1) nor (2)*

Ans: 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Indian Evidence Act – Part 2 – S.146**



Section 146: Questions lawful in cross-examination:

When a witness is cross-examined, he may be asked any questions which tend:

To test his veracity

To discover who he is and what is his position in life

Questions that can be asked

To shake his credit, by injuring his character

Although the answer to such questions might:



Criminate, or may tend to criminate him or

Expose, or tend to expose him to a **penalty or forfeiture.**



Provided that in a prosecution for an offence,

section 376,
section 376A, AB
section 376B,
section 376C,
section 376D, DA
section 376DB
section 376E

Where the question of consent is an issue in mentioned section, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to

- The general immoral character, or
- previous sexual experience of such victim.

Reference: Indian Evidence Act, 1872, Section 146
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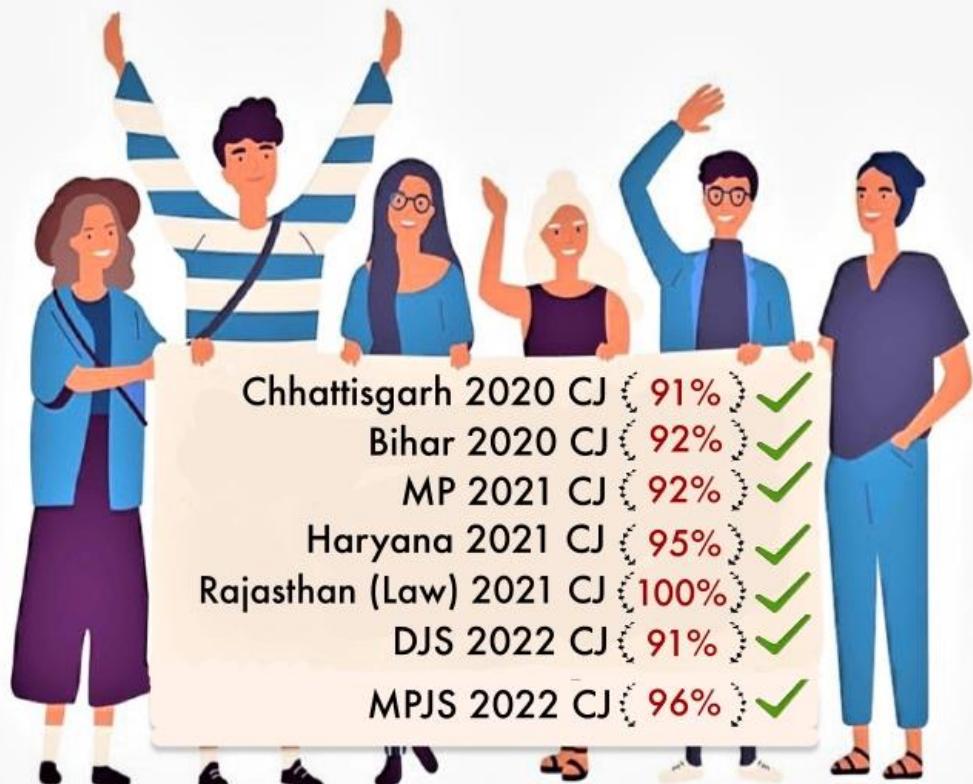


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Section - 12 SRA



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Q.161) A plaintiff files a suit for specific performance of a contract that involves the performance of a continuous duty which the court cannot supervise. Will the court grant specific performance of such a contract?

- 1) Yes, the defendant cannot be permitted to wriggle out of the contract*
- 2) No specific performance of such a contract can be granted.*
- 3) A specific performance can be granted of such a contract subject to terms and conditions that the court may impose on the parties.*
- 4) None of the above is correct.*

Ans: 2

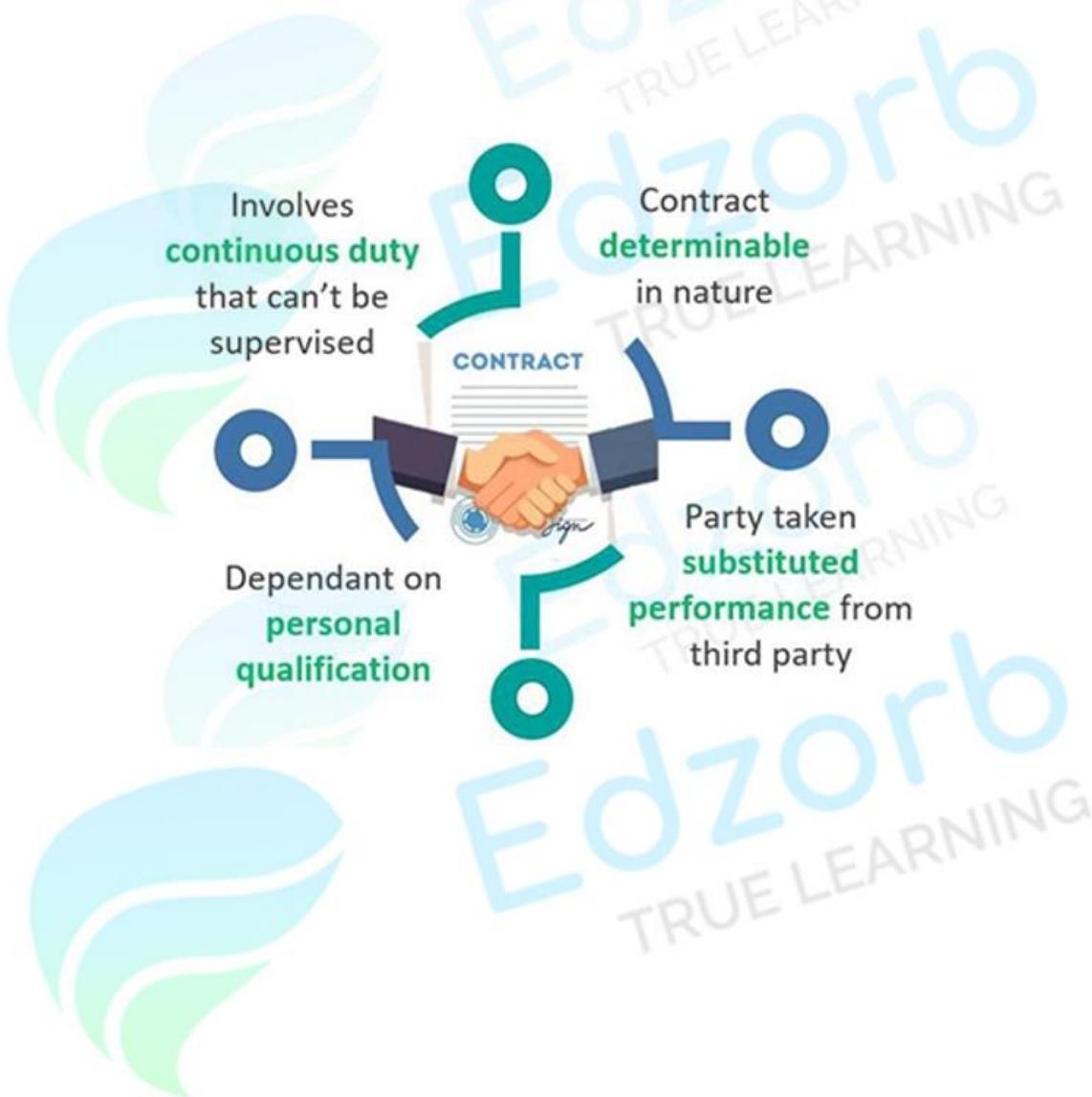
Source: Edzorb Law Premium + 2.0 – Simplified Notes – Specific Relief Act – S.14



CONTRACTS WHICH CANNOT BE SPECIFICALLY ENFORCED

Section 14:

Contracts which are not specifically enforceable:



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Contract which is determinable in nature:

- The term determinable is where the parties can immediately revert to their original position,
- Thereby, making such enforcement futile.



A and B contract for partnership without providing a defined duration, the partnership cannot be enforced as it could easily be dissolved at once.



Turnaround Logistics (P) Ltd. Vs Jet Airways (India) Ltd.

CS(OS) 574/2006

- All revocable deeds and voidable contracts are determinable contracts.
- Specific Performance of such agreement would not be granted because the court will not go through the idle ceremony of ordering the execution of deed or instrument, which is revocable and ultimately cannot be enforced.
- Also held that not only voidable contracts, but even contracts which provide termination on happening of particular event would be determinable in nature.



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**Narendra Hirawat & Co. Vs Sholay Media Entertainment
Pvt. Ltd.**

2020 SCC OnlineBom 391

- Bombay HC held different view and held that:
 - Agreements which contain a termination clause must be treated as being determinable by their very nature.
 - A contract which is in its nature determinable in S.14(d) means that the contract is determinable at the *sweet will* of the parties i.e., without reference to other party, or to any breach committed by the other party or to any eventuality or circumstance.

Om Prakash Malik Vs Virendra Kumar Malik

2016 SCC 3238

- A contract may be terminated as result of cause, convenience, expiry of term or other events agreed.
- If contract does not provide for unilateral termination, such an agreement cannot be said to be determinable.



Substituted Performance:

- Where the party to the contract has enforced performance from the third party and has taken expenses from the defaulting party,
- They cannot specifically enforce the contract.



If Ranveer won't
repair my house,
I will get it done
from Akash

Substituted Performance:

Option to affected party to avail performance from third party and claim damages from defaulting party.



Contract dependent on the personal qualification of the parties:

- The contract which requires personal skills and learning cannot be specifically enforced.



Contract to make painting requires personal skills and cannot be specifically performed.



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Continuous duty:

- The court won't enforce contract which requires continuous supervision from court

Joseph Vs National Magazine Co Ltd.

[1958]

- A writer refused to have his name published as the author which had been re-edited and altered by a magazine expressing other opinions in a different style.
- He was not entitled to specific performance of his contract as that would require supervision by the court of editing the article though he would be entitled to damages.

Reference: Specific Relief Act, 1963, S.14A
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Q.162) A plaintiff, who is not in possession, files a suit for declaration of title without seeking possession of the property. Would the court grant such a declaration?

- 1) Yes, such a declaration can be granted.*
- 2) yes, such a declaration can be granted provided the plaintiff agrees to file another suit for possession of the property.*
- 3) No, such a declaration cannot be granted.*
- 4) Yes, such a declaration can be granted subject to the imposition of cost on the plaintiff.*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Specific Relief Act – S.34



CHAPTER VI
DECLARATORY DECREE

Section 34:

Discretion of court as to declaration of status or right:

Any person

May institute a suit against



The court may in its discretion make therein a declaration that he is so entitled

Entitled to any legal character
Or to any right as in property

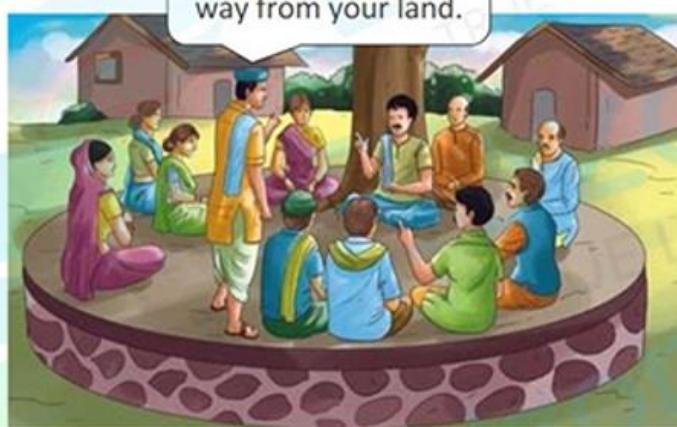
Any person denying or Interested in denying

His title to such character or right



Declaratory decree:

- Declaratory decree is decree that declares the right which is doubtful or which requires to be cleared.



Here, a person can claim that the villagers do not have right to way from his land.



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Legal Character:

- Legal character is attached to an individual's legal status which shows the person's capacity.
- Legal character by names itself denotes character recognized by law.



Marital status of person.



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Hiralal Vs Gulab

10 CPLR, 1

Held:

- A man's status or legal status or 'legal character' is constituted by attributes, which the law attaches to him in his individual or personal capacity, the distinctive mark or dress as it were, with which the law clothes him.
- Legal character means *a position recognized by law.*

Person Entitled to a Right to any Property:

- A right in Holland's proposition is a man's capacity of influencing the acts of another, by means, not of his own strength, but of the opinion or the force of society.



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Moharala Pitchayya Vs B. V. Krishnaiyya

A.I.R., 1943 Mad 497

Held:

- The courts have made a distinction between "*right to property*" and "*a right in property*" and it has been held that in order to claim a declaration the Plaintiff need not show a right in property.
- An agreement to sell certain property in favour of a person certainly gave him a right to property but not a right in the property.

Did you know...?

The plaintiff should have an existing right in any particular property. He cannot approach the Court for a declaration on a chance or a mere hope entertained.



Consequential Relief:

- In suit of declaration, the plaintiff need not ask for any further relief.
- **Provided:** No court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.



Aman, is the owner of the house and thrown out of his house by Deep. Aman files suit for declaration of owner against Deep. The suit won't succeed as Aman is also entitled to relief of possession and he hasn't claimed so.



Main section and Proviso:

Main Section	Proviso to Section 34
The main section (Section 34) purports that the plaintiff is <u>not to claim further relief if the same has not been claimed in the main suit.</u>	The proviso (to Section 34) requires the court to, not to grant, a <u>decree of declaration, if the further relief has not been claimed.</u>

Dukhan Ram And Ors. Vs Ram Nanda Singh And Ors.

1961 CriLJ 662

- Where it is not open to the plaintiff to pray for possession also as against the defendant, injunction is further relief within the meaning of the Proviso."
- It is, therefore, manifest that as in that suit there was also a prayer for injunction against the defendants, which their Lordships held, to be 'further relief', the suit was held maintainable and not hit by it.



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When a Suit for Injunction and Declaration would lie?

Anathula Sudhakar Vs P Buchi Reddy & Ors

AIR 2008 SC 2033

Held:

When a mere suit for permanent injunction will lie and when it is necessary to file a suit for declaration and or possession with injunction as consequential relief:

- When a Plaintiff is in lawful or peaceful possession and such possession is disturbed or threatened by the defendant, a suit for injunction simpliciter will lie. A person has a right to protect his possession against any person who does not prove a better title by seeking a prohibitory injunction.
- Where the title of the Plaintiff is not disputed, but he is not in possession his remedy is to file a suit for possession and seek in addition, if necessary an injunction. A person out of his possession cannot seek the relief of injunction simpliciter, without claiming the relief for possession.



- Where the plaintiff is in possession but his title to the property is dispute, or under a cloud, or where the defendant asserts title thereto and there is also threat of dispossession from the defendant, the plaintiff will have to sue for declaration of title and consequential relief of injunction. Where the title of the Plaintiffs is under cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will have to file a suit for declaration, possession and injunction.



Explanation:

- Trustee of property is a "person interested to deny"
 - A title adverse to the title of someone who is not in existence, and for whom,

Sopanrao Vs Syed Mehmoor

AIR 2019 SC 3113

Held:

- The limitation of filing a suit for possession on the basis of title is **12 year**
- Therefore, the suit is within limitation.
- Merely because one of the relief sought is of declaration that does not mean that the outer limitation of 12 year lost.



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Venkataraja Vs Vidyane

(2014) 14 SCC 502

Held:

- The purpose of proviso to S.34 is to avoid multiplicity of proceeding.
- However there is prohibition upon the parties from seeking amendment in the plaint to include the unsought relief.

Ram Saran Vs Ganga Devi

(1973) 2 SCC 60

- The defendant was in possession of some of the suit properties and the plaintiffs in their suit did not ask for the possession of those properties.
- They merely prayed for a declaration that they were the owners of the suit properties.
- It was held that the suit was not maintainable and was hit by Section 42 of the Act of 1877 [now S. 34 of the Specific Relief Act, 1963].



Relief of Declaration- not a matter of right

- Even though if the essential elements are established, yet it is a discretion of the court to grant the relief.
- The relief of declaration cannot be **claimed as a matter of right**.



It is my discretion to give you declaratory decree or not, don't argue non-sense. Ok

Ram Tawaklal Tewari Vs Dulari

AIR 1934 All. 469

- Under Section 34, the discretion which the court has to exercise is a judicial discretion.
- That discretion has to be exercised on well-settled principles. The court has to consider the nature of obligation in respect of which performance is sought.



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**State of Madhya Pradesh Vs Khan Bahadur Dhiwan
Diwala and Co.**

Air 1971 M.P.65

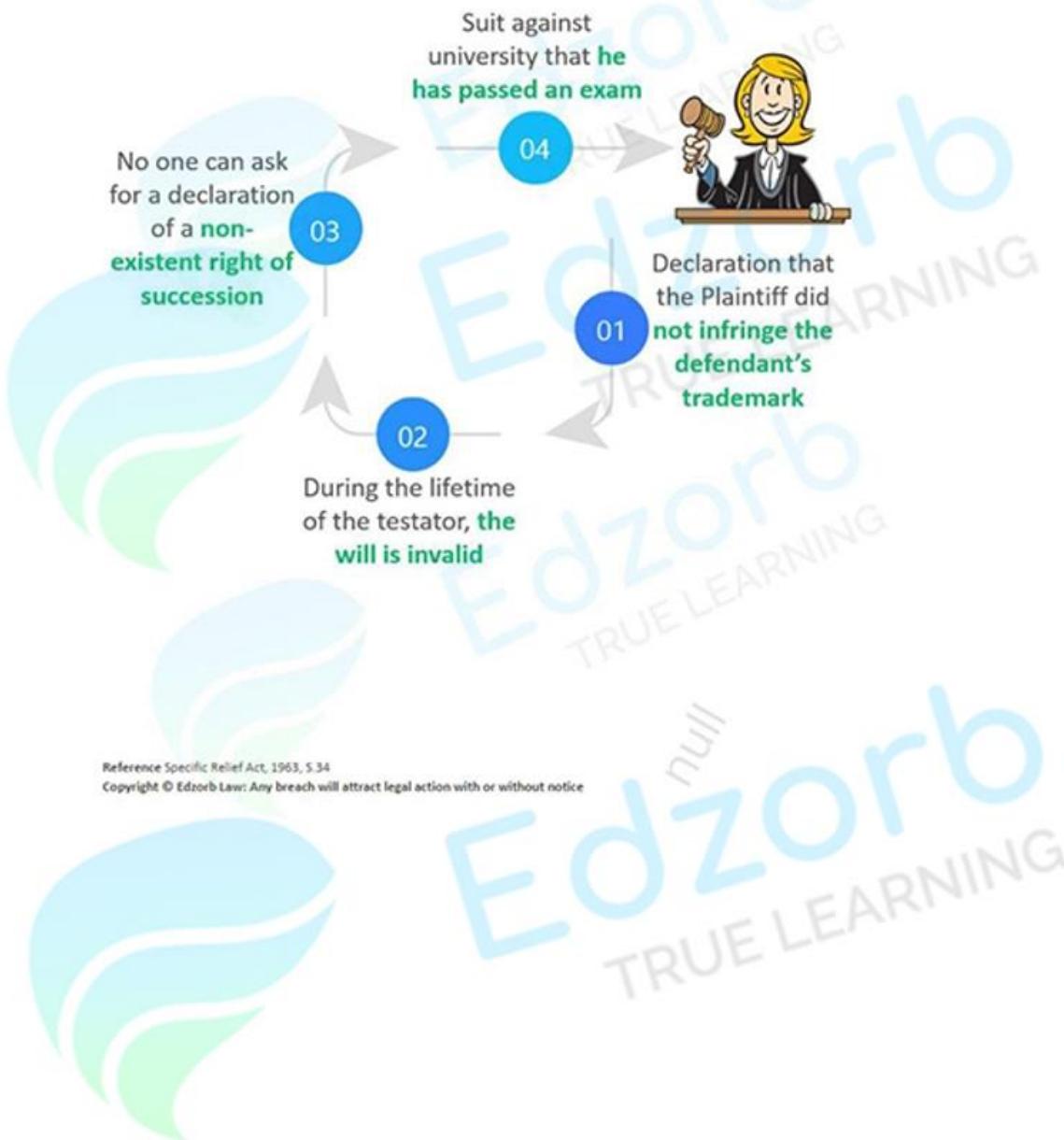
The Hon'ble court observed that in order to obtain the relief of declaration the plaintiff must establish that:



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Cases in which suit for Declaration is not maintainable:



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Q.163) A temporary injunction under Section 37 of the Specific Relief Act, 1963 can be granted by the court.

- 1) Only immediately after filing of the suit.*
- 2) It can be granted at any stage of the suit.*
- 3) It can be granted at any stage of the suit and even after the suit is disposed of.*
- 4) No such injunction can be granted.*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Specific Relief Act – S.37



Section 37:

Temporary Injunction and Perpetual Injunction:

Category	Temporary Injunction	Permanent Injunction
Definition under Section 37	<ul style="list-style-type: none">Temporary injunctions are such as are to continue until a specific time, or until the further order of the court, and they maybe granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908.	<ul style="list-style-type: none">A perpetual injunction can only be granted by the decree; the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.
Meaning	<ul style="list-style-type: none">It is granted for a specified period of time, or as adjudged by the court. It may be	<ul style="list-style-type: none">It is granted by the decree of the court, and upon the examination of the facts and merits of the case.

CHAPTER VIII



	granted at any point during the suit.	
Governed by	<ul style="list-style-type: none"> Order 39 (Rules 1 to 5) of CPC. 	<ul style="list-style-type: none"> S. 38 to 42 of SRA, 1963.
Nature	<ul style="list-style-type: none"> A temporary injunction is non-conclusive. 	<ul style="list-style-type: none"> It deals with the finality of a judgment, thereby providing a conclusive and long term solution to the dispute at hand.
Basis of Decision	<ul style="list-style-type: none"> It is decided on the basis of one side. 	<ul style="list-style-type: none"> It is on the basis of both the sides.
Order or Decree	<ul style="list-style-type: none"> A temporary injunction is simply an order by the court. 	<ul style="list-style-type: none"> A permanent injunction is a decree (i.e., an official order by a court of law).



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*Q.164) A plaintiff files a suit for a permanent injunction.
Under Section 40 of the Specific Relief Act, 1963:*

- 1) The plaintiff cannot claim damages in addition to relief of injunction.*
- 2) The plaintiff can only claim damages in substitution for such injunction.*
- 3) The plaintiff can claim both injunction and damages.*
- 4) Where the plaintiff claims both injunction and damages, the suit is bound to be dismissed.*

Ans: 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Specific Relief Act – S.40**



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Section 40:

Damages in lieu of, or in addition to, injunction

- (1) In suit for perpetual injunction u/s.38 and Mandatory Injunction u/s.39, plaintiff may claim:



The court may award such damages.



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Q.165) Mr. 'A' makes an allegation that Mr. 'B' assaulted him and physically injured him. Mr.'B' states that the allegation is mischievous and false. He seeks to file a. suit to restrain Mr. 'A' from instituting or prosecuting any proceedings in a criminal matter. In view of Section 41 of the Specific Relief Act, 1963, which one of the following is true?

- 1) The court can restrain Mr. 'A' from instituting or prosecuting any proceedings in a criminal matter*
- 2) The court can pass a restrain order provided it is proved that Mr. 'A' is making a false*
- 3) The court can pass a restrain order in favour Of Mr. 'B'? provided he deposits appropriate security in court.*
- 4) No such injunction can be granted.*

Ans: 4

**Source: Edzorb Law Qbank – Specific Relief Act – Unit 3
– 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 subordinate,
- 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,
- The plaintiff has no personal interest in the matter.



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.





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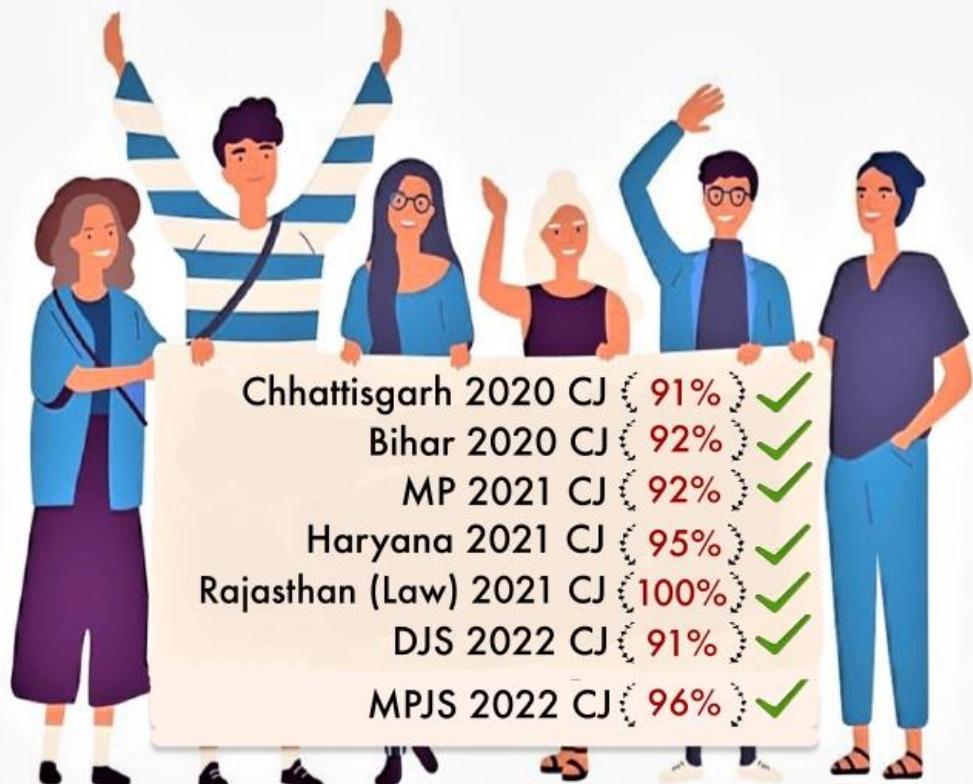


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Section - 13 Limitation



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Q.166) A plaintiff on account of his illness is unable to file the civil suit within the period of limitation prescribed under the Limitation Act, 1963. He files the suit along with an application for condonation of delay on the ground of his illness. Can the court condone the delay in filing of the suit under Section 5 of the Limitation Act?

- 1) Yes, the court could condone the delay.*
- 2) No, the court cannot condone the delay.*
- 3) The plaintiff would have to prove his illness. Thereafter the delay can be condoned.*
- 4) None of the above.*

Ans: 2

Source: Edzorb Law Qbank – Limitation Act – Unit 2 – Q.9

9.



MCQ, Single Correct Question

Which of the following sections of the Limitation Act, 1963 deals with 'extension of prescribed period in certain cases'?

- a 2
- b 3
- c 4
- d 5



(D)

Section 5: Extension of prescribed period in certain cases:

The appeal or application may be admitted **after the prescribed period if the sufficient cause is shown.**

'Sufficient Cause': The term 'sufficient cause' used here has not been defined in this Act. It can be defined as a cause, which is beyond the control of the party invoking the aid of this Section.

Example:



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University of Delhi Vs Union of India and others

2019, SC

- **Facts:** There was a delay of 916 days
- **Held:** The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies.

Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective.

While considering condonation of delay, *the routine explanation would not be enough* but it should be in the nature of indicating “sufficient cause” to justify the delay which will depend on the backdrop of each case.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 773
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Q.167) What is the limitation period for filing a suit for recovery of goods sold and delivered where fixed period of credit is agreed upon to make payment for the goods?

- 1) One year from the date of placing the order for purchase of the goods.
- 2) Three years from the date of placing the order for purchase of the goods.
- 3) Three years from the date of delivery of goods
- 4) One year from the date of delivery of goods.

Ans: 3

Source: Edzorb Law Qbank – Limitation Act – Unit V – Q.19

19.

MCQ, Single Correct Question

The period of limitation for a suit for the price of goods sold and delivered when no fixed period of credit is agreed upon is _____ years from the date of delivery of goods

- a) One year
- b) Two years
- c) Three years
- d) Five years

Explanation

(C)

Description of suit

For the price of goods sold and delivered where no fixed period of credit is agreed upon.

Period of limitation

Three years.



Time from which period begins to run

The date of the delivery of the goods.

Payment has
already been
done!



Reference: Limitation Act, 1963; FIRST SCHEDULE

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Q.168) What is the limitation period for a suit for possession of immovable property based on title?

- 1) Three years from the date of dispossession of the plaintiff.*
- 2) Six years from the date of dispossession of the plaintiff.*
- 3) Twelve years from the date of dispossession of the plaintiff.*
- 4) Twelve years from the date when the possession of the defendant becomes adverse to the plaintiff.*

Ans: 4

Source Edzorb Law Qbank – Limitation Act – Unit V



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Article 65:

The limitation period

- For a suit for possession of immovable property or any interest based on the title

- 12 years from the date of possession of the defendant became adverse to the plaintiff

Reference: Limitation Act, 1963, FIRST SCHEDULE
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Q.169) Before the expiry of the prescribed period Limitation for filing a suit for recovery of money the defendant acknowledges his liability in writing signed by him. Then under Section 18 of the Limitation Act 1963, the period of limitation will start from which date?

- 1) From the date of default in payment of money by the defendant.*
- 2) From the date of acknowledgment of the debt in writing and signed by the defendant.*
- 3) From the date of contract which gave rise to the claim for recovery of money in favor of the plaintiff.*
- 4) From the date the original limitation period was to expire under the Schedule to the Limitation Act.*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Limitation Act – S.18



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Section 18: Effect of acknowledgment in writing:

(1) Acknowledgement of right or liability:

Before the expiration of
prescribed period for a
suit or application in
respect of any property
or right

An acknowledgment of
liability in respect of
such property or right
has been made in
writing and signed

By party against whom
such property is claimed
or by any person
through whom he
derives his title

A fresh period of limitation shall be computed from the
time when the acknowledgment was so signed





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(2) Where the writing containing the acknowledgement is undated:

- Oral evidence may be given of the time when it was signed.
- However, it is subject to the provisions of the Indian Evidence Act, oral evidence of its contents shall not be received.



Q.170) The limitation period for suit for an account and a share of profits of a dissolved partnership firm is three years from:

- 1) The date of the partnership.*
- 2) The date the share of profits is denied to a partner.*
- 3) The date of dissolution of the partnership.*
- 4) The date partnership refuses to give accounts to a partner.*

Ans: 3

Source: Edzorb Law Qbank – Limitation Act – Unit V



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Article 5

The limitation period for an account & a share of the profits of a dissolved partnership



Reference: Limitation Act, 1963; FIRST SCHEDULE
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Q.171) What is the limitation period to have the legal representative of a deceased plaintiff made a party under the CPC, 1908?

- 1) 30 days from the date of death the plaintiff*
- 2) 60 days from the date of death the plaintiff*
- 3) 90 days from the date of death the plaintiff*
- 4) 120 days from the date of death the plaintiff*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Qbank Concept – Limitation Act – Unit – Q.

THE SCHEDULE

(PERIODS OF LIMITATION)

[See sections 2(j) and 3]

FIRST DIVISION—SUITS

Description of suit	Period of Limitation	Time from which period begins to run
---------------------	----------------------	--------------------------------------



THIRD DIVISION APPLICATIONS

PART I – APPLICATIONS IN SPECIFIED CASES

118. For leave to appear and defend a suit under summary procedure	Ten years	When the summons is served.
119. Under the Arbitration Act, 1940 (10 of 1940),— (a) for the filing in court of an award;	Thirty days	The date of service of the notice of the making of the award;
120. Under the Code of Civil	Ninety days	The date of death of the plaintiff, appellant,



<u>Procedure,</u> 1908 (5 of 1908), to have the legal representative of a deceased plaintiff or appellant or of a deceased defendant or <u>respondent</u> , made a party.		defendant or respondent, as the case may be.
121. Under the Sixty days same Code for an order to set aside an abatement.	Thirty days	The date of abatement
122. To restore a suit or appeal or application for review or revision dismissed for default of appearance or	Thirty days	The date of dismissal.

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Q.172) Where the prescribed period for filing of a suit expires on a day when the court is closed, then the suit must be filed:

- 1) One day before the court is closed.*
- 2) On the day when the court is closed after taking permission from the concerned officer of the Registry*
- 3) On the day when the court reopens.*
- 4) Within two days of the reopening of the court*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Limitation Act – S.4



Section 4: Expiry of prescribed period when court is closed.

- If the **court is closed** on the day when the prescribed period for suit, appeal or application expires.
- Then, same can be made **when court reopens**.



The suit can be filed next day when court reopens.



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Explanation: A court shall be deemed to be closed on any day within the meaning of this section if during any part of its **normal working hours** it remains closed on that day.

Ajay Gupta Vs Raju

(2016) 14 SCC 314

Held:

- When there is not a holiday for registry, even if the court is generally closed.
- The same would not attract S.4.

Section 4 during Covid 19:



High Court of Delhi in the office order dated 23.03.2020 wherein following directions were passed:

"Lockdown/Suspension of work of Court shall be treated as "Closure" within the meaning of Explanation appended to Section 4."

Reference: Limitation Act, S.4

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Q.173) Under Section 6 of the Limitation Act, 1963, the limitation for a person who is entitled to institute a suit is extended if:

- 1) A person is a pauper.*
- 2) A person is ignorant of his legal rights/legal remedies.*
- 3) A person is seriously ill.*
- 4) A person is a minor, or insane or an idiot.*

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Limitation Act – S.6



Section 6: Legal disability

Legal disabilities are as follows:



Legal disability exists	Institution of suit or making of application
Suffering with Single disability	<ul style="list-style-type: none"> When disability ceases.
Suffering with two disabilities simultaneously or one after the other	<ul style="list-style-type: none"> When both the disability ceases.
Disability continues up to death	<ul style="list-style-type: none"> Legal representatives can make within the same period after the death as otherwise be allowed.
Legal representative suffers disability	<ul style="list-style-type: none"> When his disability ceases.
Person under disability dies after disability ceases	<ul style="list-style-type: none"> His legal representative can make the same within the same period as available to
	<ul style="list-style-type: none"> deceased person (Remaining period)



Q.174) The period of limitation for filing a suit for specific performance of the contract is as follows:

- 1) One year from the date of the contract.*
- 2) One year from the date fixed for performance or if no such date is fixed, when the Plaintiff has notice that performance is refused.*
- 3) Three years from the date of the contract.*
- 4) Three years from the date fixed for performance or if no such date is fixed, when the plaintiff has notice that performance is refused.*

Ans: 4

**Edzorb Law Premium + 2.0 – Simplified Notes –
Limitation Act – A. 54**



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Description of the Suit	Period Limitation	Time from which period begins to run
51. For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years.	When the profits are received.
52. For arrears of rent.	Three years.	When the arrears become due.
53. By a vendor of immovable property for personal payment of unpaid purchase-money.	Three years.	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
54. For specific performance of a contract.	Three years.	The date fixed for the performance, or, if



		<p>no such date is fixed, when the plaintiff has notice that performance is refused.</p>
55.	For compensation for the breach of any contract, express or implied not herein specially provided for.	<p>Three years.</p> <p>When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.</p>



Q.175) A suit is filed by the plaintiff after the expiry of the period of limitation. The defendant does not set up a defence that the suit is barred by limitation. In such circumstances:

- 1) The court will proceed with the matter and adjudicate the same on merits.*
- 2) The court can direct the defendant to raise the plea of limitation and amend the pleadings.*
- 3) The suit, even though the defendant had not set up defence of limitation, is liable to be dismissed.*
- 4) None of the above is correct.*

Ans: 3

**Edzorb Law Premium + 2.0 – Simplified Notes –
Limitation Act – S.3**



Section 3: Bar of limitation:

- Subject to the provisions contained in **Sections 4 to 24**,
- Every suit instituted, appeal preferred, and application made after the prescribed period **shall be dismissed although limitation has not been set up as a defence.**



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Craft Centre and Ors. Vs Koncherry Coir Factories

AIR 1991 Ker 83

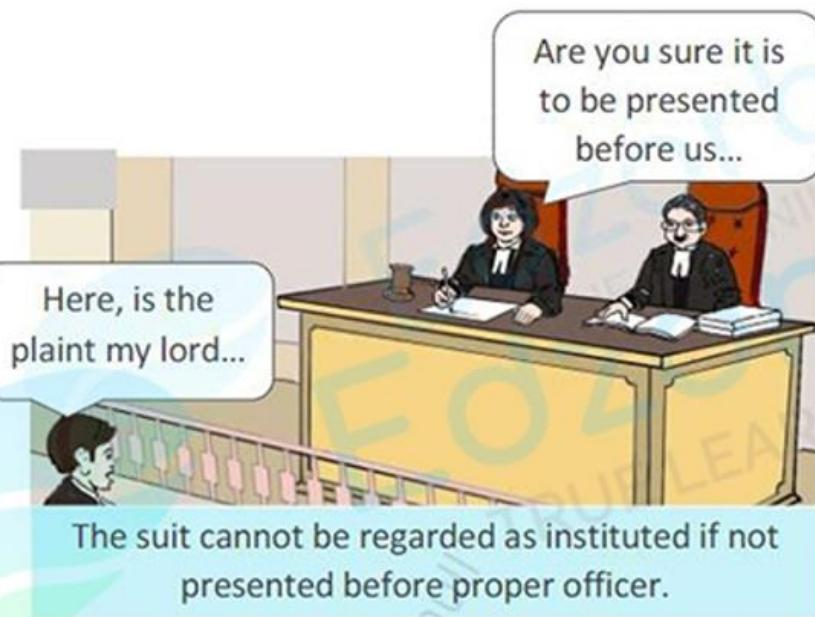
Held:

- It is the duty of the plaintiff to convince the Court that his suit is within time.
- The provision of **Section 3** is absolute and mandatory and if a suit is barred by the time the court is under a duty to dismiss the suit even at the appellate stage though the issue of limitation may not have been raised.

When suit is regarded as instituted:

- **Ordinary Suit:** When the plaint is presented to the proper officer.





Sivishi Associates and Ors. Vs Jagadeeshwari Agencies

AIR 2006 AP 186

Facts: The plaint has been presented on 16-1-1998 with a Court fee of Rs. 500/- On 2-3-1998 i.e. undervalue of the court fees and later, a Court fee of Rs. 1700/- was paid.

Held: Section 149 of CPC empowers the court to allow the plaintiff to pay fees at any stage and hence, it does not affect the limitation period within which the plaint is presented.



Did you know?

Magistrate, Clerks and Bailiffs
are the officers of the court.



- **In case of pauper:** When application to sue as pauper is made.

- Pauper is also known as “Indigent person”.
- A person is said to be indigent
 - when he has no sufficient means to pay prescribed fees for the suit; or
 - if no fees is prescribed, he does not have property worth Rs.1000/- (Order 33 R1)



- In the case of a claim against a company which is being wound up by the court: When the **claimant first sends in his claim to the official liquidator.**

Who is a liquidator?

A person appointed to carry out the winding up of the company is called liquidator. If the winding up of the company is through the court, the term used is official liquidator.



- Any claim by way of **set off or counter claim**:

- Regarded as separate suit.
- Shall be deemed to have been instituted:

Set off	Counter claim
On the date <u>when the suit in which set off is pleaded is filed</u>	On the date <u>on which counter claim is made</u>

In Example A: The set off will be deemed to be instituted when the plaintiff filed suit.

In Example B: The counter claim will be deemed to be instituted when the plaintiff raised the contention.



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Set off: It is the reciprocal debt made by the defendant. Set-off can be used only under the suit for recovery of money. **(Order 8 Rule 6 CPC).**



A: Here, the amount of 4lacs can be set off and the suit can be decreed for Rs.1lac.

- Here, if suit had been filed on 02.02.2020.
- However, the set off was filed on 02.06.2020.
- The set off will be deemed to be filed on 02.02.2020.



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Effect of the same:

- Even if the set off would have become time barred on 02.05.2020.
- Still, the court will entertain the set off as it is deemed to be filed on 02.02.2020.

Counter Claim: Counterclaim means a claim made by the defendant in a suit against the plaintiff. (**Order 8 Rule 6A CPC**).



B: Counter claim is something for which a different suit had to be filed. However, the defendant pleads that too in a suit filed against him.

Decree is illegal but not a nullity:

Ittyavira Mathai Vs Varkey Varkey

AIR 1964 SC 907

- Decree is illegal but not a nullity - Even if it is true that it is the duty of the court to dismiss a suit when suit is found barred by limitation, then if the court decides a suit on merits without taking limitation into account, the decree is illegal but not nullity.
- It is merely an error of law which can be rectified in the manner provided by the CPC.

Reference: Limitation Act, S.3

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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: -

10

- a) उच्च न्यायालयों का अधिकार सेवा भी दीक्षानी और फौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंपनी द्वारा बिना अनुमति लिये उसके कानून के डाटा को कॉपी करना या उसे साझा करना डाटा घोटी अपराध के तहत माना जाता है।
- c) दरअसल कोई की अवमानना की समूही व्यवस्था न सिर्फ जनतां, बल्कि नायिक प्रणाली के भी प्राकृतिक नियमों को संरोग किये जाने की मांग करती दिखती है।
- d) जिन दीक्षानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्राप्त अंतर्गत है, उनकी अधीन उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्व न्यायालिका और एक ही मौलिक विधयों के समूह ली व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंदी-प्रत्यक्षीकरण, परमादेश, प्रतिवेद, अधिकार-पूछा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में छाँकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कनून में प्राक्यानित कारबाहों और कास्तविक कारबाहों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को प्राप्त एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपर्क बांड जमा कर रिहाई प्राप्त की जाती है।

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1

Incorrectly
Marked

Q. 3

4/10

- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *extends upto* अन्तिम
- (b) Without seeking permission *when* unauthorised person of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.
- (c) Actually the proper system of contempt of court not only seeks to suspend democracy, rather *but* also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- *is involved* can be appealed before the High Court.



(c) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A2ZT)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been restored the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (SC21PG) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

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~~of real prisons.~~ huge

- (ii) Bail is such a ~~restored~~ right for * any accused
- (i) Bail, is ~~such~~ a legal system available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

Q.5

The question was about summary trial and not translation.

~~This~~ ~~Shivaji~~, while judicial ~~the~~ decisions tallied about ~~restriction~~ ~~reform~~ ~~carefully~~ wrackers and also the ~~government~~ ~~had~~ also declared to put ~~question~~ ~~answering~~ ~~question~~ on them; the public mocked all ~~these~~ factors and burnt wrackers ~~before~~ the whole night. This is the lowestmost step of decency and the man standing on this step, environment, his own health or the convenience or

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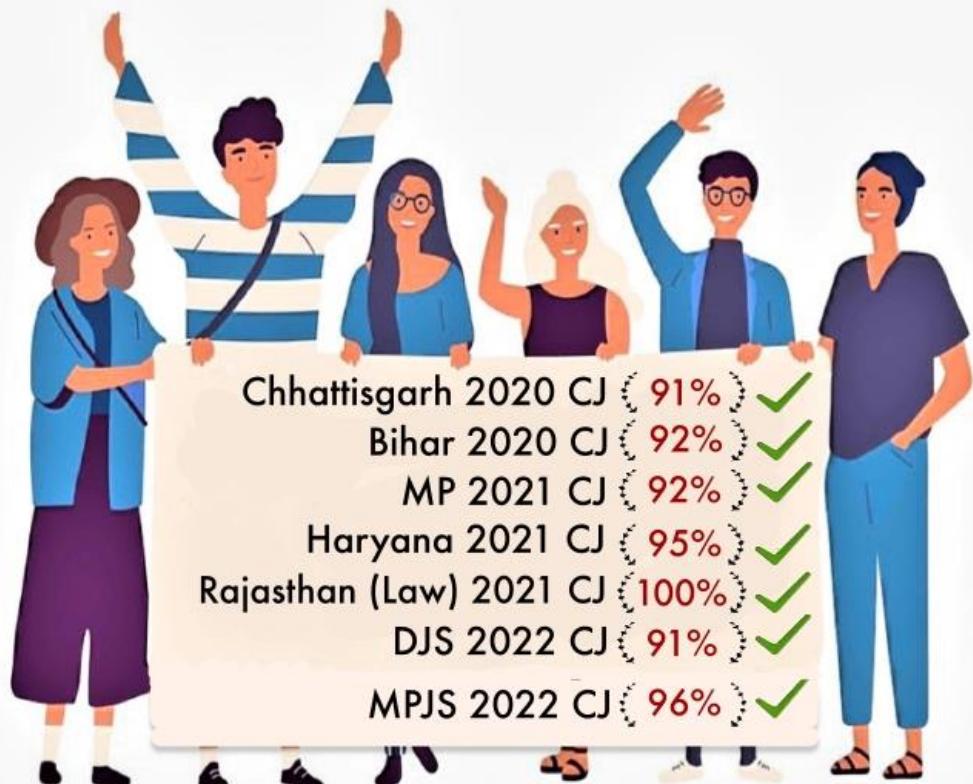


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Section - 14 IPC



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Q.176) A, a jailor has charge of Z, a prisoner. Intending to cause his death, A illegally omits to supply Z with food. This causes Z's strength to reduce and causes him weakness. Y, a prisoner, who is unaware of his weakness, gets into a fight with Z which results in the, death of Z, which may not have happened if Z was given adequate nutrition. Keeping Section 37 and 300 of the Code in mind, which of the following is true?

- 1) A and Y have both committed murder.*
- 2) A has committed attempt to murder, and Y has committed culpable homicide not amounting to murder.*
- 3) A has committed attempt to murder, and Y has committed murder.*
- 4) A is not guilty of any offence, Y has committed culpable homicide not amounting to murder.*

Ans: 2

Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code - Part I & II – S.37 & 299

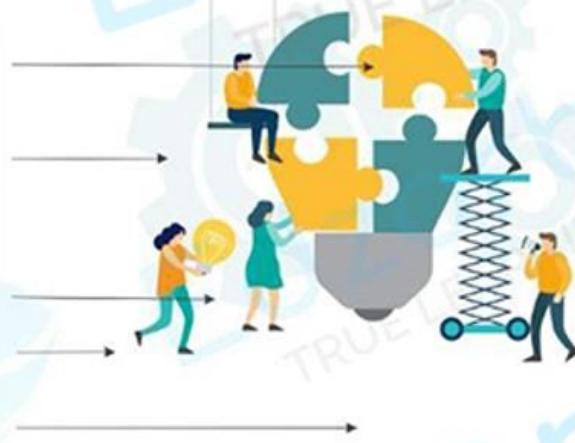


Section 37:

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

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

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



Reference: Indian Penal Code, 1862 s 37
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Section 299

Explanations:



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Explanation 1:

- A person who causes bodily injury to another.
- This other person is **labouring under a disorder, disease or bodily infirmity**, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Person laboring
under bodily
infirmity.

If I hit him
now, he will
surely die.

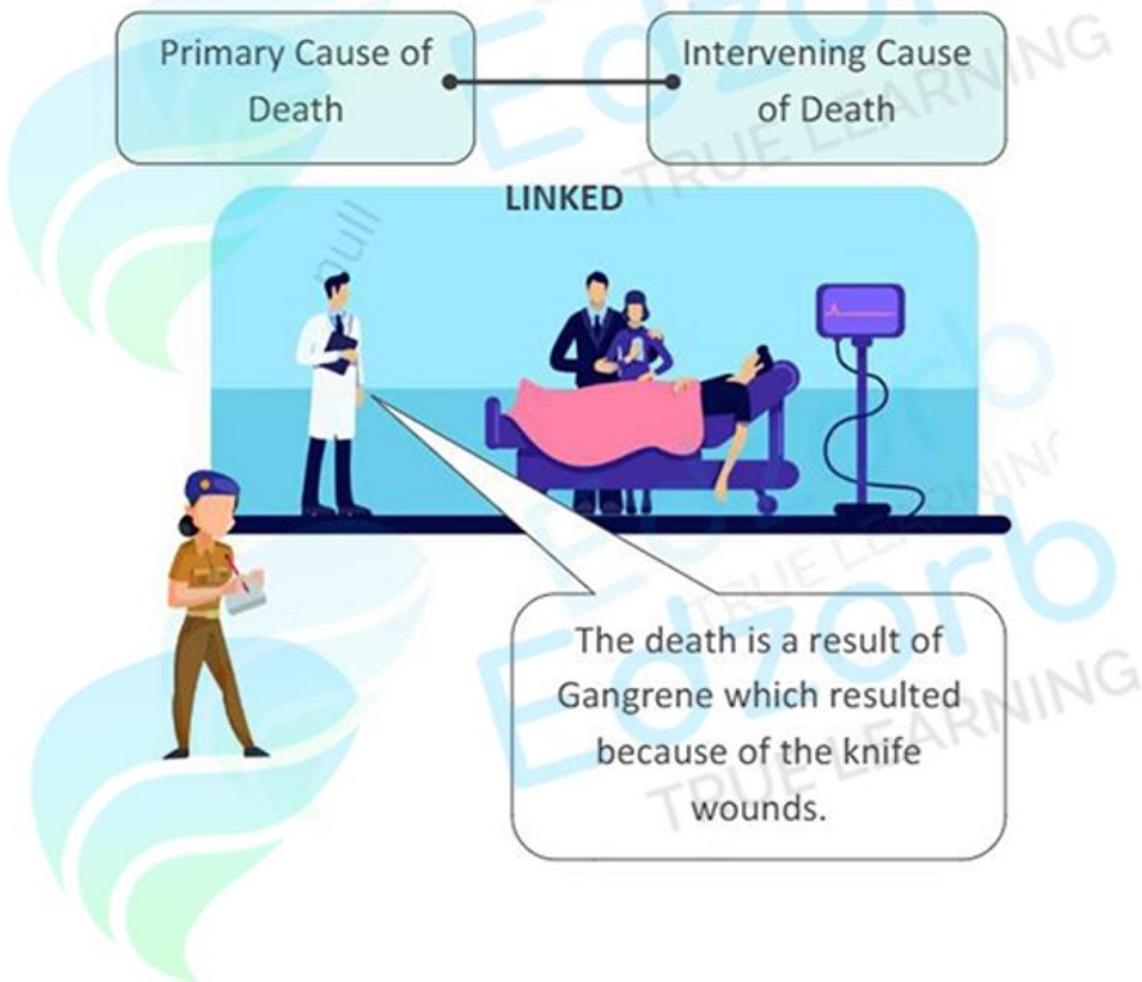


Causing more
bodily injury.



Explanation 2:

- Where death is caused by bodily injury
- The person who causes such bodily injury shall be deemed to have caused the death
- **Although** by resorting to proper remedies and skilful treatment the **death might have been prevented.**





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Explanation 3:

- The causing of the death of a child **in the mother's womb is not homicide.**
- But it **may amount to culpable homicide** to cause the death of a living child, if **any part of that child has been brought forth**, though the child may not have breathed or been completely born.

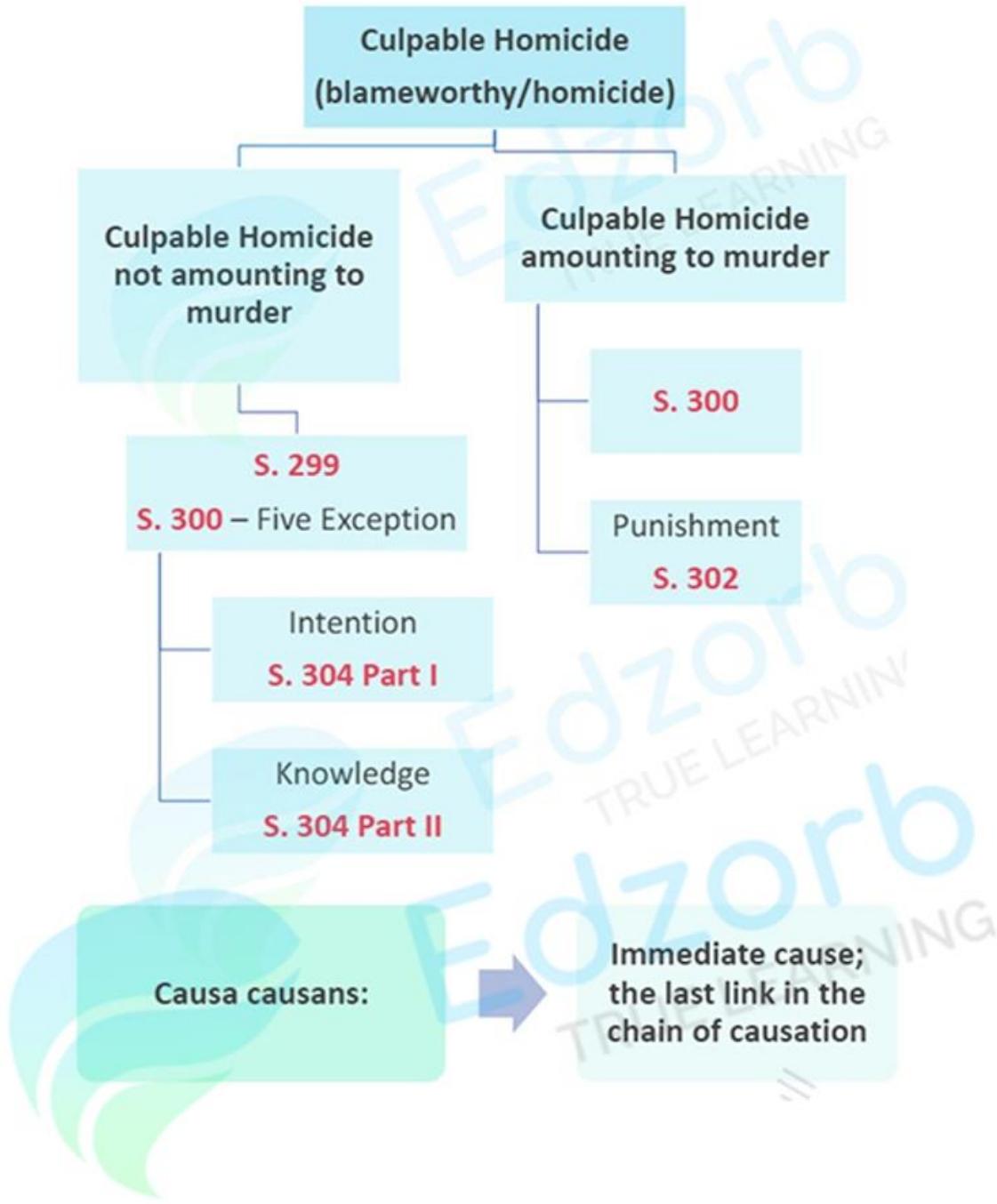


Culpable homicide is genus and murder is a species.



All 'murder' is 'culpable homicide' but not vice versa.





Palani Goundan Vs Emperor
(1919) ILR 547 (Mad).

Facts:

- Palani Goundan [Husband] struck a violent blow on the head of his wife (Ramayee) making her senseless.
- He believed her to be dead. He **wanted to show she committed suicide. So, he hung her by rope.**
- **Cause of death** came out to be asphyxiation which was due to hanging.
- The accused **did not intend** to cause death.
- **He intended to cause bodily injury.**
- It was not shown that the blow was likely to cause death.

Ratio –

- It follows that a man is not guilty of culpable homicide if his intention was directed only to what he believed to be a lifeless body.
- Palani **was not convicted for culpable homicide**
- Palani had **committed offence under Section 326 and Section 201.**

Reference: Indian Penal Code, 1862 s 299

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Q.177) Z's actions give A circumstances of grave and sudden provocation, and A starts attacking Z. B happens to chance upon the fight, and decides to assist A in attacking Z. As a result, Z dies. Which of the following is true?

- 1) A and B have both committed Murder.*
- 2) A has committed Murder and B has committed culpable homicide not amounting to murder.*
- 3) A and B have both committed culpable homicide not amounting to murder.*
- 4) A has committed culpable homicide not amounting to murder' and B has committed murder.*

Ans: 4

Source I: Edzorb Law Premium + 2.0 – Qbank Concept – Indian Penal Code – Unit XIV – Q.38

Source II: Edzorb Law Premium + 2.0 – Simplified Notes – Part II - Indian Penal Code – S.299 & S.300

38.

Mcq. Single Correct Question

"P gives grave and sudden provocation to M. M on this provocation, fires a pistol at P, neither intending nor knowing himself to be likely to kill Q, who is near him but out of the sight, M kills Q". Taking the view of this illustration give the correct answer.

- a It is murder
- b It is not a murder but culpable homicide
- c It is neither a murder nor a culpable homicide
- d It is a culpable homicide



(B)

GRAVE AND SUDDEN PROVOCATION

EXCEPTION 1

Section 300

- | | |
|--------|---|
| First | Provocation is not voluntarily
Should not be an excuse for
killing or doing harm to any person. |
| Second | No provocation by anything done by a
public servant |
| Third | No provocation in the lawful exercise of
the right of private defence |



NOTE: GRAVE AND SUDDEN PROVOCATION IS A QUESTION OF FACT



Question: Whether Nanavati shot Ahuja in “**the heat of the moment**” or whether it was a **premeditated murder**.

Test: Whether a **reasonable man**, belonging to the same class of the society as the accused, placed in the same situation would be so provoked as to lose his self-control.

- The High court convicted him holding that the murder was premeditated.



How to determine who is a reasonable man?

Test is of "right-thinking member of society, or **The man on the Clapham omnibus**



Reference: The Indian Penal Code by Ratanlal & Dhirajlal 33rd Ed., 2013, Page No. 518
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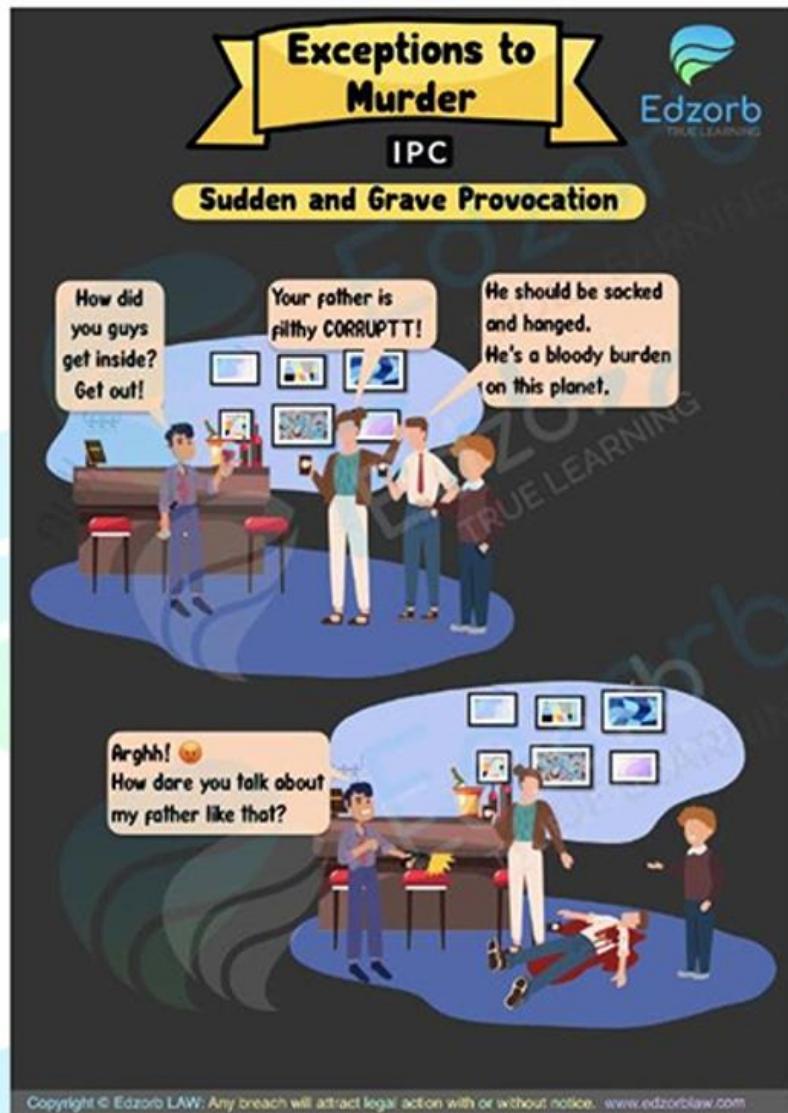
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Exception 1:

- 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.





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- 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 not 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 started hitting Minto.
- **Minto took out the pistol and killed Chintu.**
- Here, the provocation was voluntarily sought.



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Q.178) A, with the intent of causing mischief on B, sets fire to his house Unknown to A, X was sleeping in the house at the time. X narrowly escapes the fire and suffers serious burn injuries, and is hospitalized for 3 weeks. A did not have enmity against X' and displayed great remorse for the fact that X got hurt. Which of the following is true?

- 1) A has voluntarily committed attempt to murder and grievous hurt of X.*
- 2) A has involuntarily committed attempt to murder and grievous hurt of X.*
- 3) A has not committed any offence as there was no men's rea and A Was remorseful.*
- 4) A has voluntarily committed attempt to murder, but has not committed grievous hurt.*

Ans: 1

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part II - Indian Penal Code – S.307 & S.322**



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Section 307:

Part I:

Attempt to murder:

- Whoever **does any act**
- The act is done with:
 - Such **intention or knowledge**

Situation #1 :

- If the offender causes death by this, then offender would be guilty of murder.
 - The offender shall be **punished**
 - Imprisonment up to **10 years + Fine.**



Situation #2:

- By this act if **hurt** is caused to any person,
 - The offender shall be liable either to:
 - Imprisonment for life, or
 - To such punishment as is hereinbefore mentioned → Imprisonment up to **10 years + Fine.**



Ready or not!!

Here I come to kill youuu...



BUT missed it.



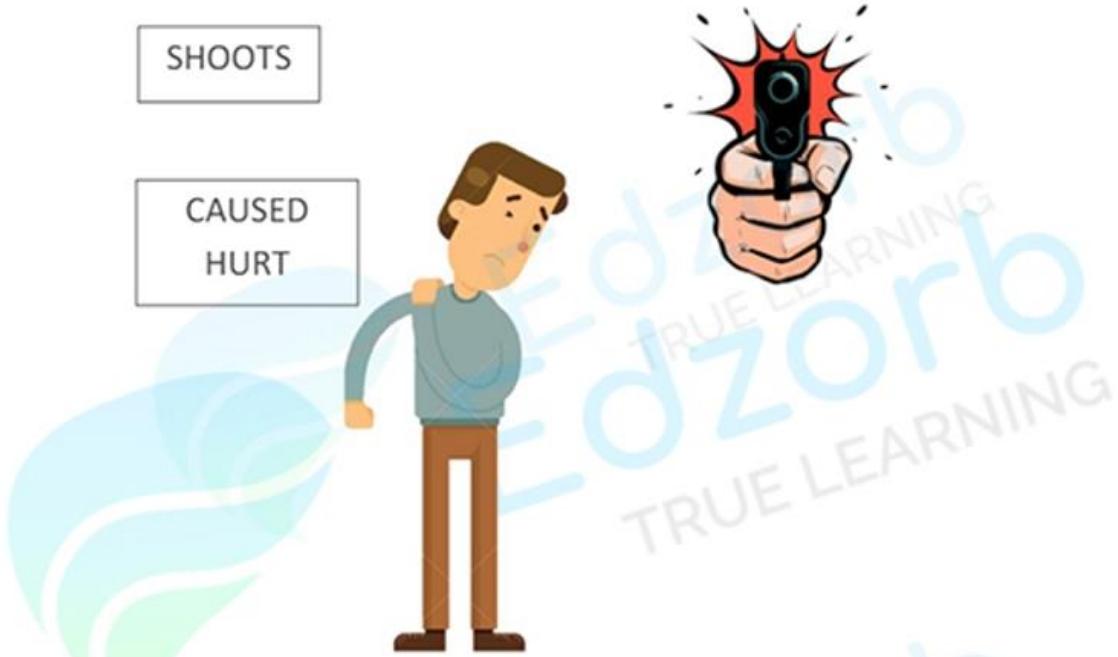
- Here, shooting is done with intention to kill.
- If, the person shoots, he has committed the offence of attempt of murder.

BUYS A GUN



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- Then, Situation #2 will be attracted.

Section 307 – Part II:

Attempts by life-convicts:

- Offender who attempting to cause murder is already under **sentence of imprisonment for life**.
- And the offender as a result of this attempt causes hurt **to the target**.
 - Then the punishment will be of **DEATH**.



Reference: Indian Penal Code, 1862 s 307

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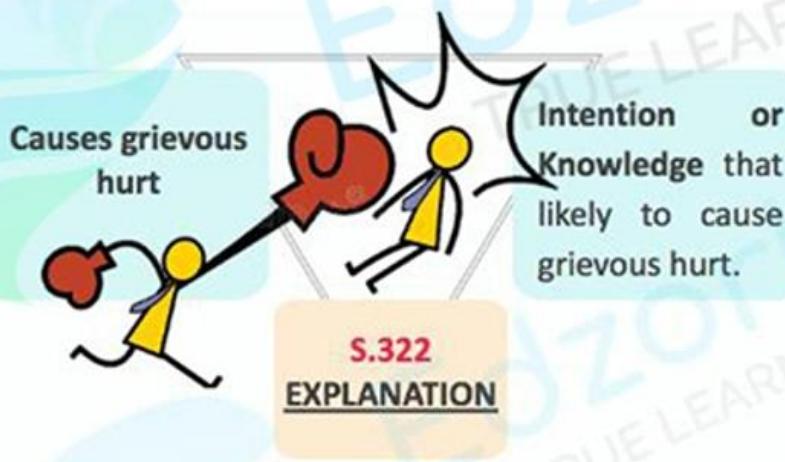
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Section 322

Voluntarily causing grievous hurt:

- **Act:** When a person voluntarily causing hurt and if the hurt which the person causes is **grievous hurt**
- **Intention:** **Causing grievous hurt**
- **Knowledge:** That the person by that act is **likely to cause grievous hurt** to any person



Explanation:

A person is not said voluntarily to cause grievous hurt
except:

- **Voluntarily to cause grievous hurt** → Intention + Knowledge



Oh no, I didn't mean to break your leg. I wanted to chop your arm!!



- It is considered voluntarily causing grievous hurt if the person knew they will cause grievous hurt of one kind, but that person actually causes grievous hurt of another kind.



Reference: Indian Penal Code, 1862 s 322
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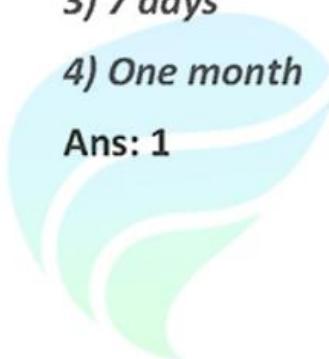
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Q.179) What is the maximum period of imprisonment which can be imposed on a person who in a state of intoxication enters in any public place and causes annoyance to other persons?

- 1) 24 hours
- 2) 4 hours
- 3) 7 days
- 4) One month

Ans: 1



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Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part IV - Indian Penal Code – S.510

Section 510

Misconduct in public by a drunken person

- Person in a **state of intoxication**
- Appears in any **public place** OR
- Appears any **place which it is a trespass** in him to enter
- After that, the **conduct is to cause annoyance** to any person
- Punishment =
 - Imprisonment 24 hours or Fine (Rs. 10) or Both.





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Q.180) X administers poison to Y, with the intent to cause hurt to Y. X is found guilty and is sentenced to imprisonment of 7 years. Which of the following is true about the nature of imprisonment that may be imposed on him?

- 1) X must be sentenced to 7 years rigorous imprisonment.*
- 2) X must be sentenced to 7 years simple imprisonment.*
- 3) X may be sentenced to either 7 years simple imprisonment or 7 years rigorous imprisonment but the judge must at the time of sentencing decide, the nature of imprisonment.*
- 4) X may be sentenced to any combination of years to be served as partly rigorous and partly simple imprisonment*

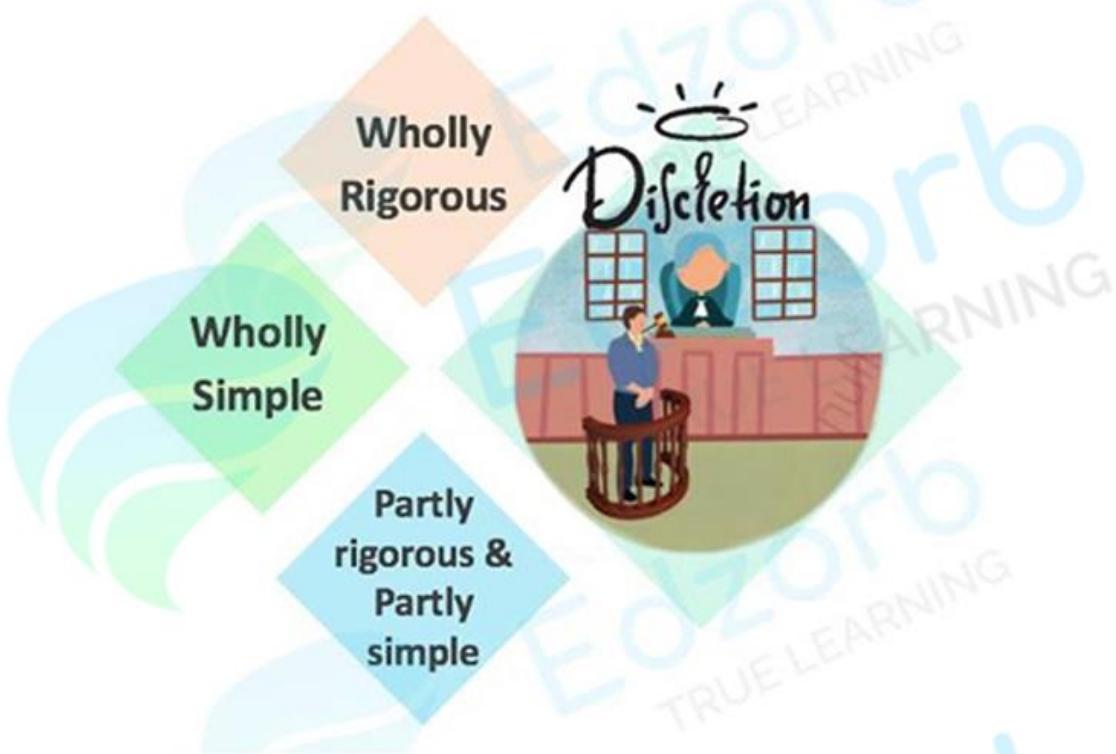
Ans: 4

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.60**



Section 60:

Discretion of the court which passes the sentence:



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**Shivaji Narayan Shinde Vs The State Of Maharashtra
(1971) 73 BOMLR 215**

- The nature of the imprisonment to be undergone by an accused must, therefore, be specified in the judgment itself.
- It cannot be specified for the first time in the warrant which the trial Court issues to the jailor under Section **420** of Criminal Procedure Code for the execution of the sentence.
- That warrant has to be in conformity with the final orders embodied in the judgment of the trial Court.

Reference: Indian Penal Code, 1862 s 60
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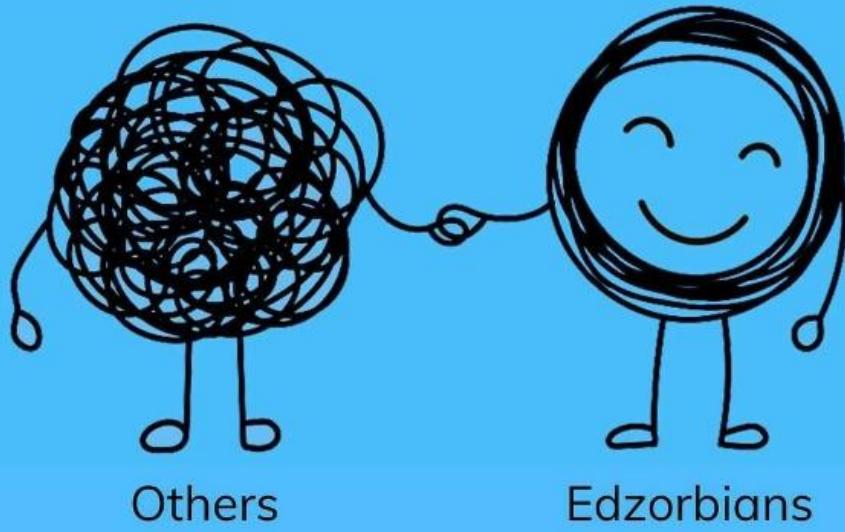
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Q.181) X is caught by the police, counterfeiting Indian Coin. Since it was his first offence, and in view of the fact that a very small number of coins were recovered, the Sessions Judge convicted X of offences under Section 232 of the IPC and sentenced him to imprisonment only for a period of 10 months. 4 years after his release, X was apprehended by the police and eventually convicted of offences under Section 420 of the IPC. For the purposes of sentencing X, which of the following is true?

- 1) X can be sentenced for maximum of 7 years imprisonment.*
- 2) X must be sentenced for a minimum of 7 years imprisonment, extendable up to life imprisonment.*
- 3) X must be sentenced to a minimum of 10 years imprisonment, extendable up to life.*
- 4) X's sentence can be up to life imprisonment*

Ans: 4

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.75**



Section 75

Aggravated punishment for repeat offenders:

- Whoever is convicted by Indian Courts of an offence punishable under:
 - Chapter XII [OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS]
 - Chapter XVII [OF OFFENCES AGAINST PROPERTY]
- With imprisonment of three years or more, shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term.
- Every subsequent offence will make the person liable for:
 - imprisonment for life, or
 - To imprisonment to ten years.



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In Re: Nattayyan Vs Unknown

(1970) 2 MLJ 668

- This section enables the Court to impose enhanced sentence up to the maximum of **Imprisonment for life** or to imprisonment of ten years
- It is when any person had been previously convicted for the like offence irrespective of the maximum sentence provided for such offence.
- No minimum sentence is provided under this section.



Reference: Indian Penal Code, 1862 s 75
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Q.182) Z is involuntarily un intoxicated and left at A's house by unknown criminals. Z enters A's house in the intoxicated state-and attempts to rape A. A, during the attempt of Z to rape her, hits Z with heavy object causing his death. Which of the following is therefore true?

- 1) Since Z is involuntarily intoxicated, his actions are not offences, and thus A had no right of private defence, and has committed culpable homicide amounting to murder.*
- 2) Since Z is involuntarily intoxicated, his actions are not offences, and thus A had no right of private defence, and has committed culpable homicide not amounting to murder.*
- 3) Irrespective of Z's state of intoxication, A only exercised her right of private defence, and therefore has not committed any offence.*
- 4) None of the above*

Ans: 3

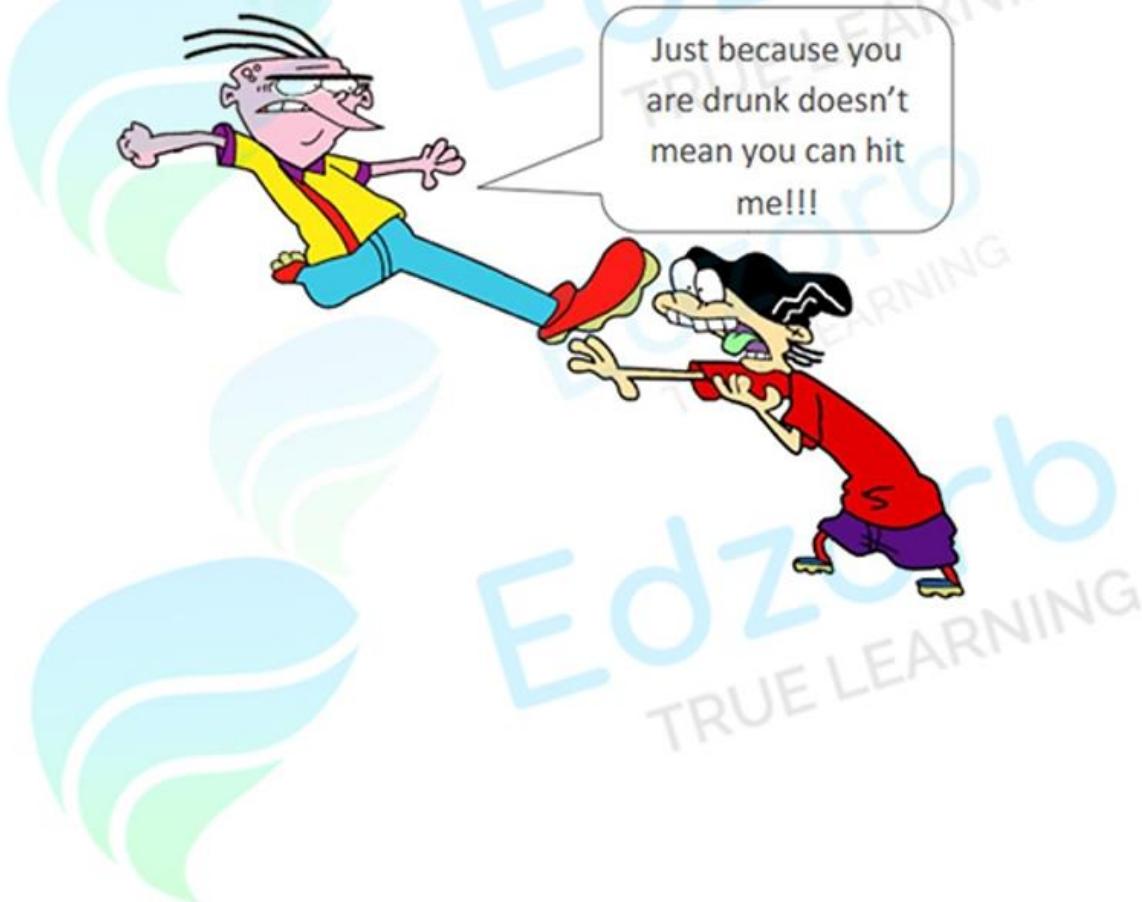
**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.98 & S.100**



Section 98:

Right of private defence extends against –

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



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Remember:

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

S. 85. Act of a person incapable of judgment

– involuntary intoxication

S.84 : Act of person of unsound mind



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



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



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

Reference: Indian Penal Code, 1862 s 98
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Section 100:

Note: This section is subject to the restrictions of **S.99**.

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



Q.183) A, offers B to murder C. B does not murder C, but instead decides to steal C's imported car and is apprehended by the Police. During his interrogation, B reveals his conversation with A to the police. Since B did not even attempt to murder C, which of the following is true?

- 1) A has not committed any offence,*
- 2) A is guilty of abetting B only to commit theft,*
- 3) A is guilty of abetting B to commit murder.*
- 4) A is guilty of abetting B to commit both theft and murder.*

Ans: 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.108**



Section 108

Abettor:

- Person who **abets** the **commission of an offence**.
- Person who abets



commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.



- **Abettor** should **substantially assist** the principal culprit towards the commission of the offence

Explanation 1:

The abetment of the illegal omission of an act may amount to an offence although the **abettor may not be bound to do that act themselves.**





- Abetment was done by Raju.
- Here, Raju did not do the act himself.
- He made Sanju to do data theft from his company.

Explanation 2:

To constitute the offence of abetment **it is not necessary that the act abetted should be committed**, or that the effect requisite to constitute the offence should be caused.



- The offence of abetment is a **substantive offence**.
- **Conviction of abettor is independent** from the conviction of principal offender.

Abetment

Susbstantive Offence

Independent
convction



Explanation 3:

- It is **not necessary**:
 - That the person abetted should be **capable by law of committing an offence**,
 - Or that the person abetted should have the same **guilty intention or knowledge** as that of the abettor, or any guilty intention or knowledge.



Explanation 4:

The abetment of an offence being an offence, the **abetment of such an abetment** is also an offence.



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She also commits
the offence of
abetment of murder

Jamuna Singh Vs State of Bihar

AIR 1967 SC 553

- The accused asked the naïve doctor for supplying medicine to poison her son-in-law.
- The medicine was so provided and offence was committed.
- The offence committed be treated as **instigation** under **Explanation 4**.



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- In the light of **Explanation II of Section 108** of IPC, **Jaggu has committed** the offence of **abettment** as soon as the letter reached Suresh. [So, what he didn't read it]



- In the light of **Explanation IV of Section 108** of IPC, **Mani has also committed** the offence of **abettment**.



Gurbachan Singh Vs Satpal Singh

1990 AIR 209

- Abetment is a separate and distinct offence provided the thing abetted is an offence.
- Abetment does not involve the actual commission of the crime abetted.
- **Circumstantial evidence** as well as the prosecution witnesses in the instant case clearly **prove beyond** doubt that the accused instigated and abetted Ravinder Kaur, deceased in the commission of the offence by committing suicide by burning herself



Explanation 5:

- For the commission offence of abetment by conspiracy it is not necessary that the abettor should concert the offence with the person who commits it.
- It is sufficient if the person engages in the conspiracy in pursuance of which the offence is committed.



My plan to kill Joffrey
will be successful as
soon as Littlefinger will
put poison in the pie!



- Little finger had asked a maid to put poison.
- After consuming some poisoned wine, Joffrey began to choke and died.
- Here, Olena and the amid did not conspire together.
- Yet there was conspiracy.
- Maid is liable for murder.



Reference: Indian Penal Code, 1860 s 108

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Q.184) What is maximum duration of sentence of imprisonment that can be imposed on persons found to have committed the offence of affray?

- 1) 1 month
- 2) 2 months
- 3) 3 months
- 4) 6 months

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.159 & 160

Section 159:

Affray:



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- **Fight** between **two or more** persons
- Fighting is in a **public place**
- The fighting **disturbs the public peace**



Section 160:

Punishment for committing affray:



- Imprisonment can extend to **1 month**,
- OR with **fine** = Rs 100/-, or with both.

Reference: Indian Penal Code, 1860 s 159 s 160

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Q.185) A proclamation is published under section 82(a) of crpc, against X, who is required to appear before a Sessions Judge at the specified time at a specified place. X however does not show up, to such proceedings. What is the maximum period of imprisonment that can be imposed on X on account of his failure to appear?

- 1) 6 months
- 2) 1 year
- 3) 3 years
- 4) 7 years

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.174A



Section 174A

Non-appearance in response to a proclamation under S. 82

- Failure to appear as required by a proclamation published under Section 82 of CrPC, 1973.
- Person not appearing shall be punished.



- Imprisonment up to **3 years**
- Or, with fine or with both.



Proclamation of summons pasted outside the house of offender.



Oh no! I must run away!!



Where is the offender!!!



- When a person is a proclaimed offender



- Such person shall be punished.
 - Imprisonment up to **7 years**
 - And shall also be liable to fine.

Section 82: Proclamation for person absconding.

- Warrant issue against a person
- Such person absconded or concealing self
- Court publishes a **written proclamation** requiring appearance of such person in thirty days from proclamation.



Mahender Kumar Vs State of Himachal Pradesh

CrMP (M) No.1682/2020

Court held:

- Declaration of an accused as an "absconder" under **Section 82** of CrPC does not preclude that person from filing an application for seeking anticipatory bail.

Absconder

A **person against whom a warrant** had been **issued** and is **absconding** or **concealing** himself in order to **avoid execution of warrant**.



Reference: Indian Penal Code, 1860 s 174

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Q.186) X, a police officer, is assigned the job of investigating the murder of A. During his investigation he finds several key pieces of evidence, such as the murder weapon, all of which lead him to the conclusion that B has murdered X. X tells B that he is willing to conceal the evidence in exchange for the sum of Rs. 10, 00, 000/- What is the longest sentence of imprisonment that can be imposed on X, for offences under Section 213 of the IPC?

- 1) 3 years*
- 2) 7 years*
- 3) 10 years*
- 4) Life imprisonment*

Ans: 2

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.213



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Section 213

- When a person **accepts** or attempts to **obtain**, or **agrees** to accept, **any gratification** for oneself or any other person,
- Or any **restitution of property** to himself or any other person,
- In **consideration** of his **concealing an offence** or of his **screening any person from legal punishment** for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment.



- The person who is screening/concealing in return of any gratification shall be punished:



Q.187) Section 292 of the IPC provides for punishment for sale, etc. of obscene books, etc., and provides for a penalty of up to two years for a first-time offender. Section 293 however applies in a situation when sale etc. of obscene objects is made to young persons. An enhanced punishment of imprisonment of upto 3 years for first-time offender is. provided for. In this context, what is the meaning of a young person?

- 1) Person under the age of 12
- 2) Person under the age of 16
- 3) Person under the age of 18
- 4) Person under the age of 20

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.293



Section 293:

Sale of obscene objects to young person:

- When a person:



- Obscene object



Lascivious or appeals
to the prurient
interest or if its effect

Deprave and corrupt
persons who are likely
to read, see or hear

-
- Person under the age of twenty years
 - any such obscene object as is referred to
in the last preceding section, or offers or
attempts so to do.



- Such a person shall be punished.
- First conviction : Imprisonment up to 3 years + Fine up to Rs. 2000/-
- Second or subsequent conviction: Imprisonment up to 7 years + Fine up to Rs. 5000/-

Reference: Indian Penal Code, 1862 s 293

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Q.188) X murdered A, and was sentenced to life imprisonment. While serving his sentence, X murdered another inmate B. What punishment must follow for his action?

- 1) X must be punished with death*
- 2) X cannot be punished with death, and can only be sentenced to life imprisonment*
- 3) X may be sentenced to life imprisonment or death*
- 4) Murder of a criminal is not an offense*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.302



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Section 302:

Punishment for murder:



- DEATH or
- Imprisonment for life
- And shall also be liable to fine.

A rectangular card with rounded corners. At the top right is the Edzorb logo. The title "Mala In Se" is centered above a large illustration of a red heart-shaped face with dark hair and a mischievous expression. Below the illustration, the text "BAD IN THEMSELVES" is written in bold capital letters. At the bottom left is a small icon of a person holding scales. To its right, the text "S. 302 of Indian Penal Code" is written. At the very bottom, the legal citation "Sunil Kumar Ghosh v. State of W.B. AIR 1970 Cal 384" is provided.



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.



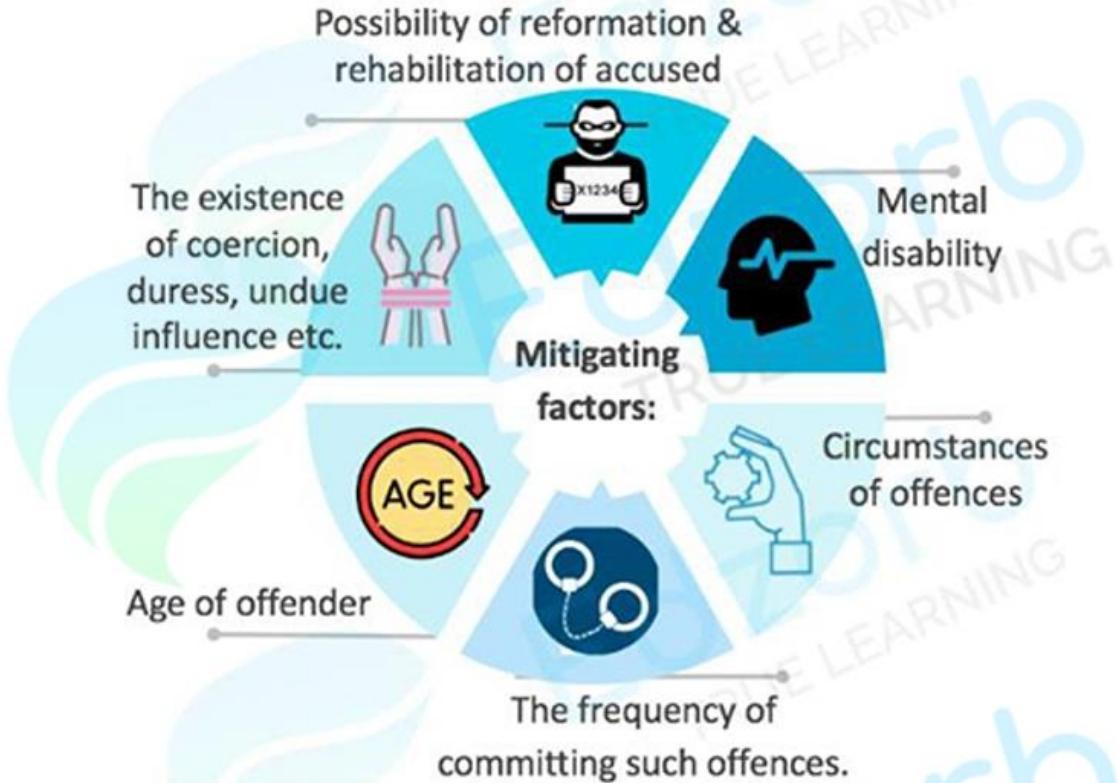
Some factors which determines the judgment of death penalty:



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Some Mitigating Factor to Not give Death Penalty:



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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



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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.189) A and B being the parents of infant X, abandon the infant in the middle of the night during the winter season. As a result, the X suffers from hypothermia. X is discovered by a good Samaritan who rushes X to the hospital. Unfortunately, the facilities at the hospital were inadequate and X dies. During the course of investigation, it is also revealed that X may have survived if X had received appropriate medical care at the hospital. In these circumstances, offences under which provisions of the Indian Penal Code have been committed by A and B?

- 1) Only Section 317*
- 2) Only Section 302*
- 3) Both Sections 302 and 317*
- 4) Both Sections 304B and 317*

Ans: 3

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Indian Penal Code – S.317**



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Section 317:

Exposure and abandonment of child under twelve years,
by parent or person having care of it:

- Whoever being:
 - The father or
 - The mother of a child or
 - Person having the care of child
- And the **child = under twelve years of age.**
- When such a person **expose or leave such child in any place.**
- Intention: Wholly abandoning the child
- Such a person shall be punished.



- Imprisonment up to **7 Years** or with fine, or with both.



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Father	Mother
Person having the care	
Leaves	Expose
	Abandons
Child = Below 12 Years	



Explanation:

- If the child die in consequence of the exposure, then this section shall not be applicable.

Reason: It will amount to **murder or culpable homicide** and this section is not intended to prevent the trial of such an offender.

Reference: Indian Penal Code, 1862 s 317

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Q.190) X after having being invited for a party enters the property of A. X's invitation is however only confined to the lawns outside the dwelling house of A's property and for the duration of the party. After the end of the party x hides in the bushes and waits for the other guests to leave. Thereafter, X opens a lock in A's dwelling house and enters with the intent to annoy A, without being seen by A What offence has been Committed by X?

- 1) House Breaking
- 2) Criminal Trespass
- 3) Lurking Trespass
- 4) All of the above

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.441



Of Criminal Trespass

Section 441:

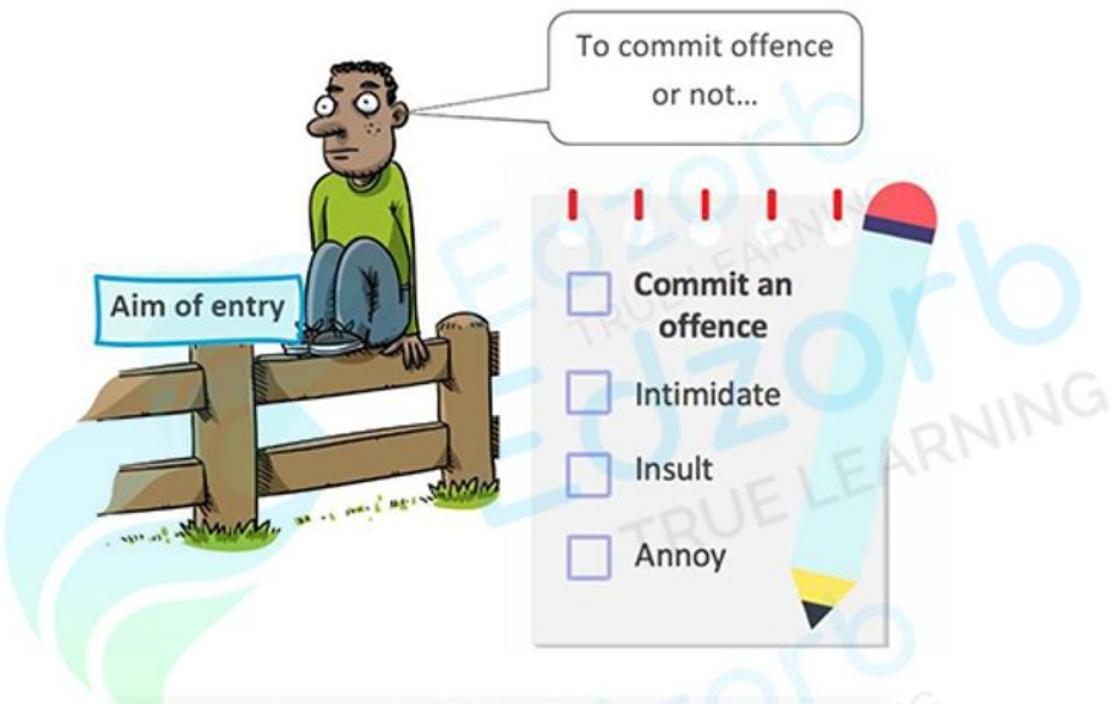
Criminal trespass:

- Whoever enters into or upon property
- Property must be in the possession of another
- Intention:
 - To commit an offence or
 - To intimidate,
 - Insult or
 - Annoy any person in possession of such property,
 - Or having lawfully entered into or upon such property, unlawfully remains there with intent



thereby to intimidate, insult or annoy any such person, or with intent to commit an offence.





Shahabuddin Vs Sayed Munawar

1999 CrLJ 349

- The act of remaining on the property of another would be criminal trespass only if it is accompanied by criminal intention.
- Where there is no evidence of criminal trespass, no offence of house trespass could be set to be committed.



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Mathuri Vs State of Punjab

1964 AIR 986

- Landlord with assistance of police went to dispossess the tenants.
- However, the period of execution of the warrants had expired.

Held:

- **For Trespass**, it should be established that **Causing such annoyance, intimidation or insult was the aim of the entry and the dominant intention** which prompted the entry.
- Along with intention, there should be **presence of knowledge that the natural consequences** of the entry would be such annoyance, intimidation or insult
- Here, Rattan Singh and others have not been shown to have had the intention to annoy.
- Rattan Singh and others could not be reasonably expected to know that the warrants had ceased to be executable in law.
- The fact that there was no trespass, the attacker tenants and their friends cannot take defence plea.



Food for Thought!

Types of possession:

According to Savigny two things are essential for possession and these are-

Corpus – Possession, **physical control**.

Animus – Possestendi, essential element (**mental**).



Trespass is a continuing offence

- Continuing means not terminated by a single act.
- It is a type of crime that is committed over a span of time.
- Any person who has lawfully entered on land which is in possession of another person, commits trespass if that person remains after his right of entry has seized.





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Gokak Patel Volkart Ltd Vs Dundayya Gurushiddaiah

1991 SCR (1) 396

- A person who has lawfully entered on land in the possession of another **commits a trespass if he remains there after his right of entry has ceased.**
- To refuse or omit to leave the plaintiff's land or vehicle is a trespass.
- When there is possession by way of leave and licence of the occupier/owner,
- **Then** the person who is in possession may, as a general rule, **when the licence has been properly terminated**, be sued or ejected as a trespasser.
- **But there should be formal request to leave the premise and after the lapse of a reasonable time.**



Punishment

IPC



OFFENCE

- Criminal Trespass
S. 441

- House Trespass
S. 442

- Lurking House
Trespass or House
Breaking
S. 443, S. 445

- Lurking House
Trespass at night
S. 444

PUNISHMENT

S. 447 Imprisonment for 3 months or fine



S. 448 Imprisonment for 1 year or fine



S. 453 Imprisonment for 2 years & fine



S. 456 Imprisonment for 3 years & fine



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Source	Definition of Trespass
Black's law dictionary	A person who enters on the property of another without any right lawful authority or expressed or implied invitation or license.
<u>Halsbury law</u> <u>Followed in</u> <u>Krishnappa</u> <u>Naidu Vs UOI</u> <u>1976 AIR 95</u>	<ul style="list-style-type: none"> • Trespass is a wrongful act in terms of the possession of property of another or against the person or against his will. • To constitute a trespass the act must in general be unlawful at the time when it is committed • Note that : It is not required that the intention must be to annoy a person who is actually present at the time of trespass. • The property must be in possession of a /any person.

Reference: Indian Penal Code, 1862 s 441

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Q.191) X, a businessman, deducts his employee's contribution from the wages payable under the Employees Provident Funds Act' 1952 He however fails to deposit the amount in accordance

With law in the Fund. Which of the following is true?

- 1) X has committed offences under S. 405-406.*
- 2) X has Committed an offence under S. 405-406 only if it proved that he intended to dishonestly misappropriate the funds so deducted.*
- 3) X has committed an offence under Section 409.*
- 4) X has not committed any offence.*

Ans: 1

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.405 & 406



Section 405:

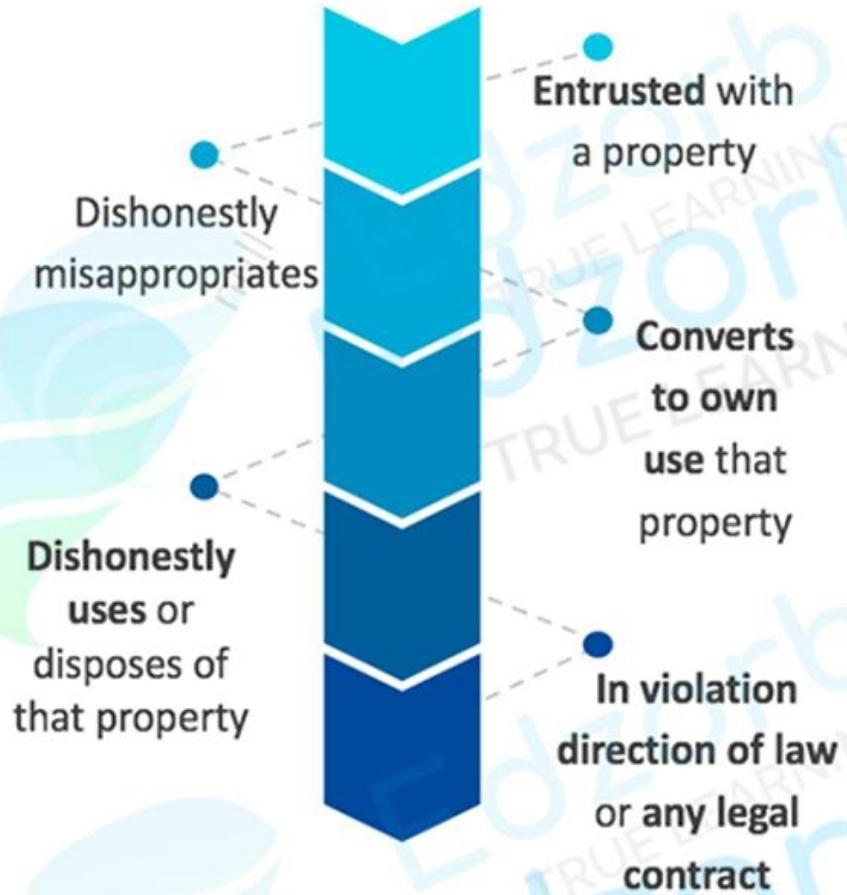
Criminal breach of trust:

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



They have put their trust in me to deliver the pizza.



- If Rajesh, takes the Pizza and sells it to other person for personal gain.
- Commits Criminal Breach of Trust.



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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 property

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



Mr Dalmia how much funds we have with our company. I think we are doing GOOD PROFIT. RIGHT?

YES, we are doing GOOD. I suppose we have in total 10 crore.



He has misquoted 10 crores. The correct fund amount is 12 crores.



Next page...

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Section 405

IPC

Criminal Breach of Trust



We can HIDE this 2 crores
from the other directors
and use it for ourselves.

YES!, we can invest it in
the shares of Bharat
Union Agencies.



DUDE! The stocks of Bharat
Union Agencies have hit rock
bottom. We are DOOMED!!!



Next page...

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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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Explanation 1:

- A person, being an employer of an establishment whether exempted under **Section 17** of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or not
- **Who deducts** the employee's contribution from the wages payable to the employee for credit to a **Provident Fund or Family Pension Fund** established by any law for the time being in force,
- Shall be **deemed to have been entrusted** with the amount of the contribution so deducted by him
- And **if that person makes default** in the payment of such contribution to the said Fund in violation of the said law, **shall be deemed to have dishonestly used** the amount of the said contribution in violation of a direction of law as aforesaid.





That is the provident fund money of 20 employees!! I should take it and start a new life.



- Entrustment
- Converts to own use
- Criminal breach of trust.

Explanation 2:

- A person, being an employer,
- Who **deducts the employees' contribution** from the wages payable to the employee for credit to the **Employees' State Insurance Fund**.



- Such funds are held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948
- Shall be deemed to have been entrusted with the amount of the contribution so deducted by him
- And if that person makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

**Criminal Misappropriation
(Sections 403 - 400)**

**Criminal Breach of Trust
(Sections 405 - 409)**

Similarity

offences against property

offences against property

Dishonest Intention

Dishonest Intention

(Section 24)

Section 24)

Dishonestly misappropriates

Dishonestly

or converts to own use

misappropriates or

converts to his own use !

Differences

- Movable Property

- Any types of property whether movable or immovable



- accused either takes property or finds the property accidentally
- no fiduciary relationship
- In violation of law there is no question of violation of contract
- Accused is doing only one work
- dishonestly misappropriates converts.
- A person is entrusted with property or dominion over property
- There is fiduciary relationship
- there is either violation of law or contract
- Accused is doing two works
- dishonestly misappropriates or converts
- dishonestly uses or disposes of that property or wilfully suffers any other person so to do



KEY TERMS for CBT:

S. 24 Wrongful gain or wrongful loss.

Misappropriates / uses / Converts to own use / disposes.

Mens Rea
Dishonest

Act – Use/
dispose

Getting of
property

Against

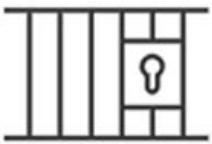
- Entrusted possession
- Given dominion

- Direction of law or
- Legal contract



Section 406:

Punishment for criminal breach of trust



- Imprisonment up to **3 Years**.
- Or with **fine**
- Or with **both**.

Reference: Indian Penal Code, 1862 s 405 s 406

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Q.192) X enters Z's dwelling house armed with a gun to steal jewelry. X is able to successfully perform the theft and steal the jewelry. X however does not use the gun, and simply leaves after successfully taking the jeweler out of the possession of Z. Under which section of law is X liable to be punished?

- 1) 378
- 2) 379
- 3) 380
- 4) 382

Ans: 4

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Indian Penal Code – S.382



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Section 382

Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft:

- Whoever **commits** theft,
- Having **made preparation**
- For **causing death, or hurt, or restraint, or fear** of death, or of hurt, or of restraint.
- To any person
- **In order to**
 - The committing of such theft or
 - Effecting one's escape after the committing of such theft
 - Retaining of property taken by such theft



- Punishment –
Rigorous imprisonment
up to **10 Years**
+ Fine.





I will kill if anyone comes
in my way of getting the
cash.

Has a loaded pistol



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Preparation is done for:



Committing Theft

**Escaping after the
committing theft**

**Retaining of property
taken by such theft**

Reference: Indian Penal Code, 1862 s 382
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Q.193) A was found to have attempted suicide. A, however, was not successful. Investigation revealed that B had instigated A to attempt suicide. What are the consequences which will follow?

- 1) A shall liable to be punished under Section 309 for attempt to suicide, and B shall be liable to be punished for Abetment for attempt to suicide.*
- 2) A shall not be punished for his offences, but B shall be punished for Abetment of attempt to suicide.*
- 3) Neither A nor B shall be liable for any punishment.*
- 4) A shall be liable to be punished for offences under Section 309, and B is not liable to any punishment.*

Ans: 2

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part II - Indian Penal Code – S.306**



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Section 306

Abetment of suicide:

- If any person **commits suicide**
- The person who abets the commission of such suicide shall be punished.
 - Imprisonment up to **10 Years + Fine.**



It is okay if you want to end your life. In fact, it's a good thing. END YOUR LIFE



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Gian Kaur Vs State of Punjab

AIR 1996 SC 1257

- Right to die being included in Article 21 of the Constitution as held in *P. Rathinam Vs UOI (1994) SCC 394* to be unconstitutional.
- Assisted suicide and assisted attempt to commit suicide are made punishable for cogent reasons in the interest of society.
- Court clarified that it will not be looking into the issue of Euthanasia
- Distinguished between right to die (unnaturally) and right to die with dignity (naturally).
- The Court upheld the constitutional validity of Sections 306 and 309 IPC.

Reference: Indian Penal Code, 1862 s 306
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Q.194) Which of the following statements is correct?

- 1) To attract the offence under Section 149 IPC, it must be shown that the accused persons had done the incriminating act to accomplish the unlawful common object of the unlawful assembly.*
- 2) To attract the Offence under Section 149 IPC, it must be shown that the accused persons shared 'the knowledge amongst themselves that the act is likely to be committed in prosecution of the unlawful act.*
- 3) To attract the offence under Section 149 IPC, some overt act on part of a member of the unlawful assembly is necessary to render him liable under Section 149 of the IPC*
- 4) None of the above*

Ans: 2

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.149**



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Section 149

Liability of every member:

- Offence committed – member of unlawful assembly.
- Prosecution/towards – common object of that assembly, [in order to attain the common object]
- Or the member had the knowledge that offence was likely to be committed in prosecution of that object.
- Every person who is a member of the same assembly at the time of the committing of that offence is guilty of that offence.

VICARIOUS LIABILITY



On the day of the offence:

Can't believe I am sick on the D-Day. I guess I will just stand back and watch.



- **Overt act not required by every member:**
 - Mere membership of unlawful assembly is sufficient.
 - Every member is vicariously liable.

Allaudin Mian vs State of Bihar

AIR 1989 SC 1456

- There should be a **nexus between the common object and offence committed.**
- Here, in this case common object was to kill someone.
- Unable to do so, two of them instantly killed 2 girls who were playing outside the house.
- The rest were not convicted as the murder of the girls was not the common object.



State of Maharashtra Vs Kashiram

AIR 2003 SC 3901

- Common object can form anytime.
- It can develop on the spot – *eo instant.*
- It does not require prior concert or prior meeting of minds before the attack.

Knowledge → “knew”

- It is **something more than a possibility**
- It is more than might have known.
- Positive knowledge is necessary.

PURPOSE
DESIGN

What is
common
object??

Shared by ALL.
Can be formed
anytime



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Category	Section 149	Section 34
Definition	Every member of unlawful assembly guilty of offence committed in prosecution of common object.	Acts done by several persons in furtherance of common intention
No. of people	At least 5 people	2 or more people
Participation	Passive participation: Being a member makes you guilty under Section 143	Active Participation: Each member should have participated
Common intention	<ul style="list-style-type: none"> • Common object is sine qua non. • Common object is limited up to five circumstances as mentioned u/s 141. 	<ul style="list-style-type: none"> • Common intention is sine qua non. • Common intention is wider.



Q.195) "Lawful Guardian" in the context of kidnapping under Section 361 includes:

- 1) Only the parents*
- 2) Only blood relatives*
- 3) Any person lawfully entrusted with the care of custody of the minor*
- 4) None of the above*

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Part II - Indian Penal Code – S.361



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Section 361:

Kidnapping from lawful guardianship:

- Whoever takes or entices:
 - Any minor
 - Male → Under **16 Years** of age.
 - Female → Under **18 Years** of age.
 - Any person of unsound mind.
- **Out of the keeping of the lawful guardian** of such minor or person of unsound mind.



- Without the consent of such guardian is said to kidnap such minor or person from lawful guardianship.



Explanation:

Lawful guardian:

- Include any person lawfully entrusted with the **care** or **custody** of such minor or other person.



Exception:

Taking etc. by person who **in good faith believes himself to be the father of an illegitimate child**

Taking etc. by person in **good faith believing to be lawfully entitled to custody of child.**
Unless act committed for an immoral / unlawful purpose.

Kidnapping from Indian

- Conveys
- Any Person
- Beyond the limits of India

Kidnapping from Lawful Guardian

- Taking or enticing
- Minor or Person of Unsound mind
- Out of Lawful guardianship



Anversinh Vs State of Gujarat

Criminal Appeal No. 1919 of 2010

To apply the case of **S Varadarajan Vs State of Madras**,
following must be shown:

- Knowledge and capacity with the minor of her actions.
- Voluntary abandonment on part of the minor
- Lack of inducement by the accused.

Reference: Indian Penal Code, 1862 s 359 s 360 s 361

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Q.196) The punishment for the offence of forgery Of a Will is prescribed under Section:

- 1) 463 IPC
- 2) 468 IPC
- 3) 467 IPC
- 4) 471 IPC

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes – Part IV - Indian Penal Code – S.467



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Section 467

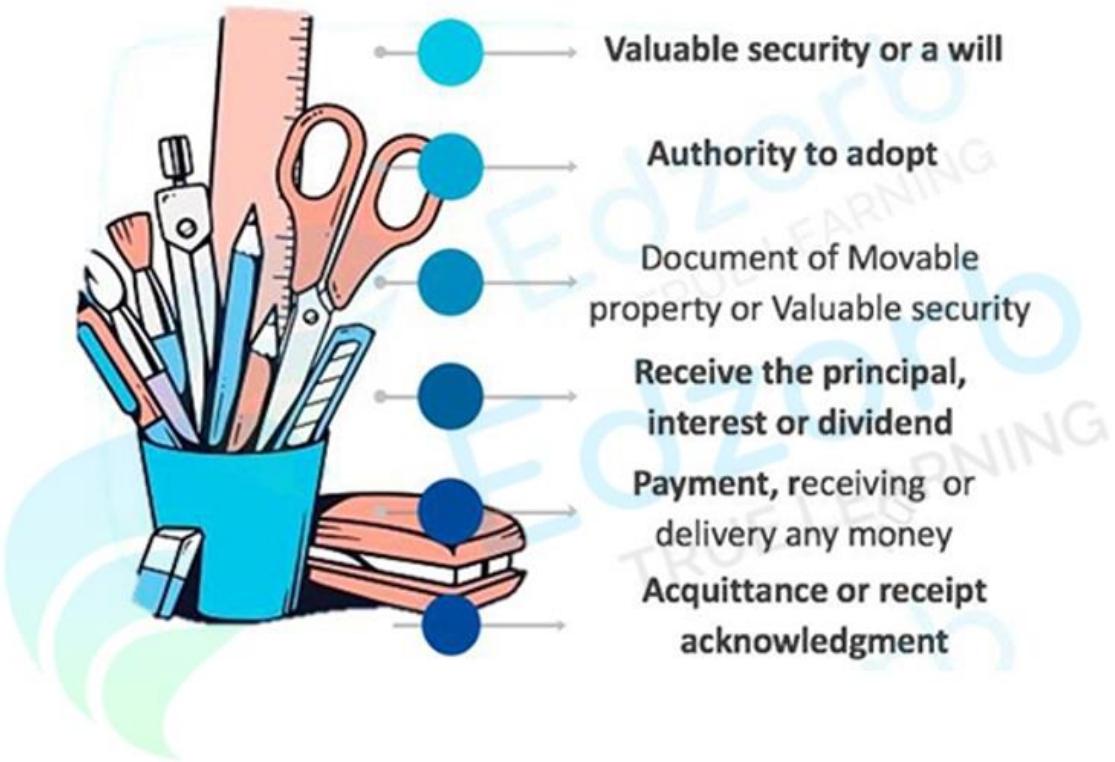
Forgery of valuable security, will, etc:

- Whoever forges a document which purports to –
 - Be a **valuable security** or a will, or
 - Be an **authority to adopt** a son,
 - Give an authority to any person to make or transfer any **valuable security**, or to receive the principal, interest or dividends thereon
 - Receive or deliver any money, movable property, or valuable security, or
 - Be an **acquittance or receipt acknowledging** the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security.
- Such a person shall be punished.



- Imprisonment **for life**
- Imprisonment up to **10 Years + Fine**.





Valuable security or a will

Authority to adopt

**Document of Movable
property or Valuable security**

**Receive the principal,
interest or dividend**

**Payment, receiving or
delivery any money**

**Acquittance or receipt
acknowledgment**



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Sardul Singh Vs State of Haryana

1992 CrLJ 354

- A lady impersonating as Gurnam Kaur filed a written Statement.
- She admitted a claim in a land dispute.
- The offence of impersonation, forgery and giving a false evidence etc. punishable Under **Sections 205, 209, 468 and 469.**
- Note that: Under **Sections 193 to 196, 199, 200, 205 to 211 and 228 CrPC** offences under Sections 463, 471, 475 and 476 of the Penal Code are alleged to have been committed in respect of a document produced or given in evidence in any proceedings in any Court.
- Then taking of cognizance of such offences is barred by any Court except on the complaint in writing of that Court.

Reference: Indian Penal Code, 1860 s 467

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Q.197) X is convicted of offences under Section 489E of the Indian penal code, which is punishable only by fine. X is sentenced to a fine of Rs. 100. X, however, is unable to pay this fine. How long can X be imprisoned for his failure to pay the fine amount?

- 1) 1 month
- 2) 3 months
- 3) 4 months
- 4) 6 months

Ans: 3

Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.67



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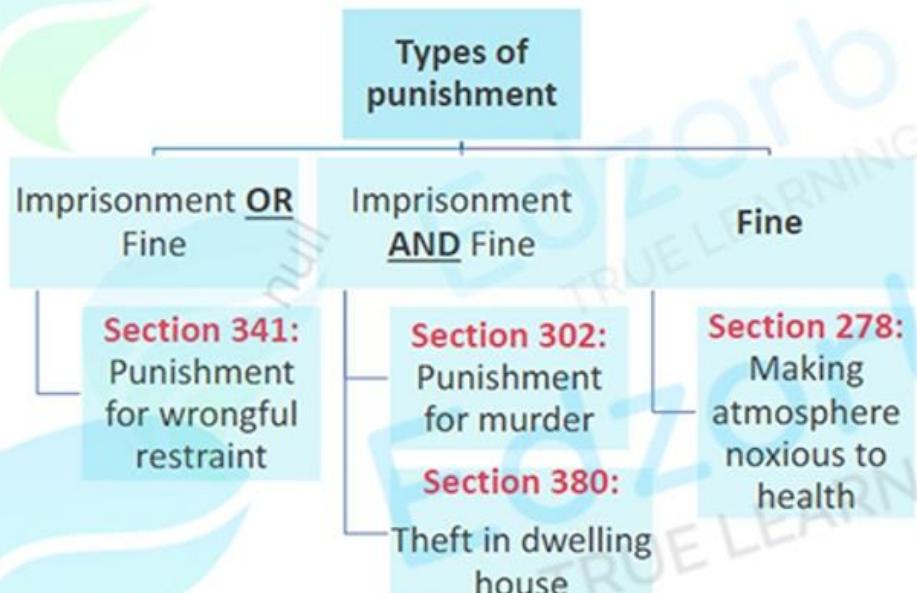
Section 67

Punishment in default of fine

- When offence punishable with fine only → simple imprisonment

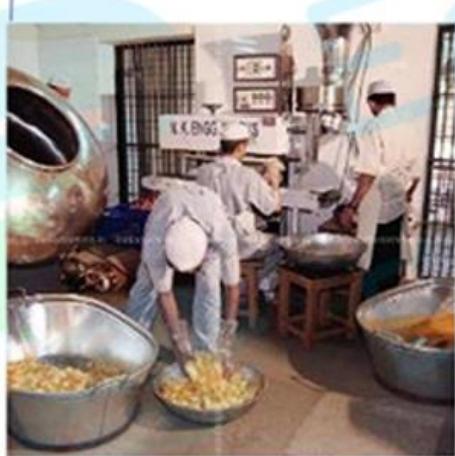
The term of such imprisonment shall not exceed:

- Amount of the fine **shall not exceed fifty rupees** for any term not exceeding two months
- When the amount **shall not exceed one hundred rupees** for any term not exceeding four months
- And for any term not exceeding six months in any other case.



Types of imprisonment

Simple



Rigorous

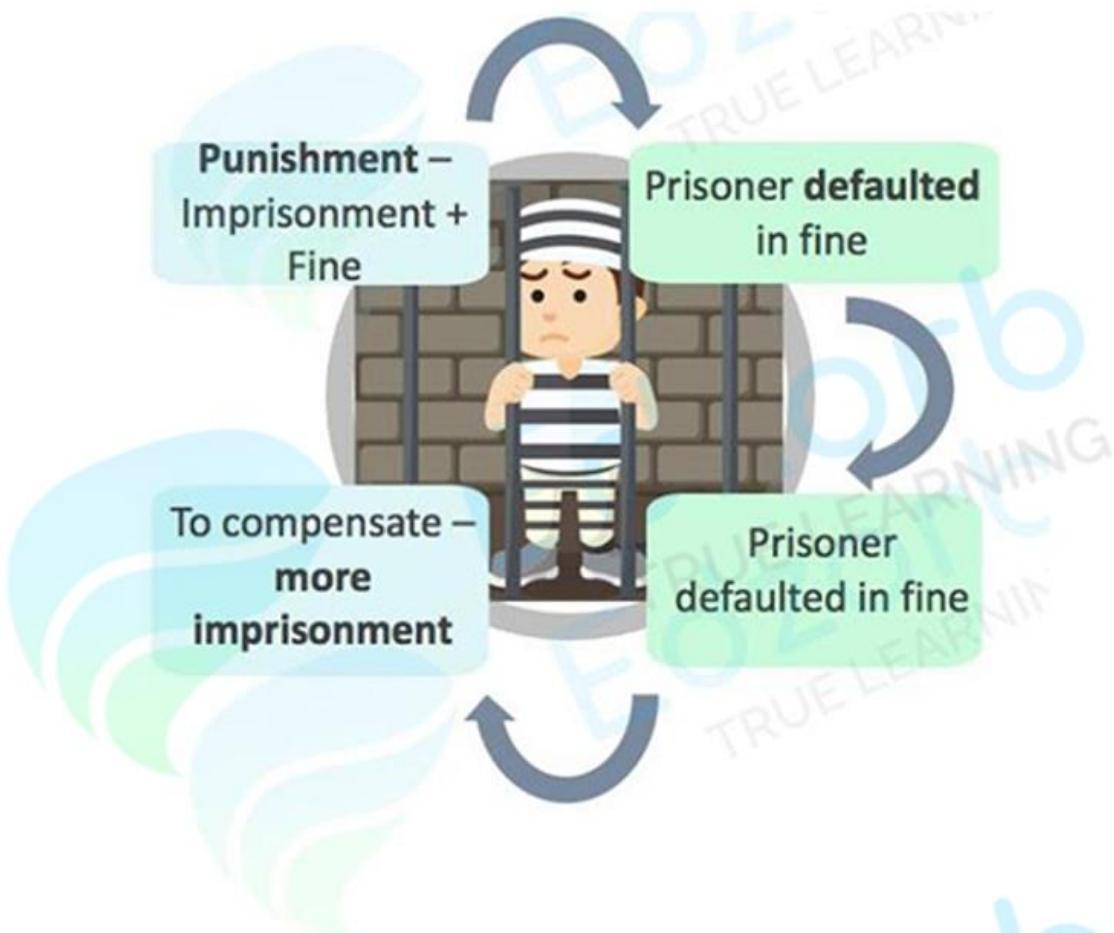


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Reference: Indian Penal Code, 1862 s 67

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Q.198) X, the president of a hospital, refuses to treat A, who has been brought to his hospital while suffering from grievous hurt after a fight. X had some personal enmity against A, and did not wish to assist in saving his life. The ambulance therefore, sped off to a nearby hospital where A was given treatment. Fortunately, A survived. Has X committed any offence?

- 1) X has not committed any offence*
- 2) X has committed offences under Section 166B of the IPC*
- 3) X has not committed any offence, but the offence under Section 166B of the IPC would have been made out if A has not survived.*
- 4) X is a doctor and is free to choose his patients. He can never be prosecuted for refusing to treat a patient, even if his actions are morally wrong.*

Ans: 1

*Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I - Indian Penal Code – S.166B*

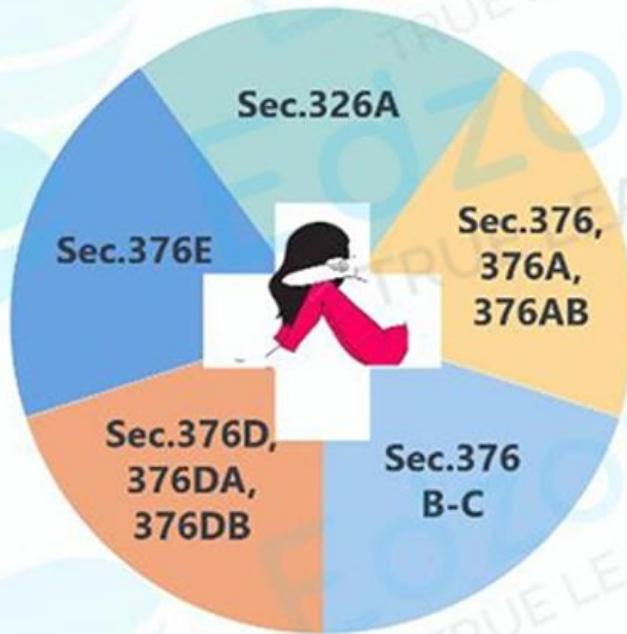
*Source II: Edzorb Law Premium + 2.0 – Simplified Notes –
Part I – Code of Criminal Procedure – S.357C*



Section 357C: Treatment of victims:

All hospitals, public or private shall immediately

- Provide the **first-aid or medical treatment, free of cost**, to the victims of any offence covered under:



- Inform the police of such incident.

Reference: Code of Criminal Procedure, Sec 357C

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Section 166B

Punishment for non-treatment of victim—

- Person **in charge of a hospital** (public or private) which is run by Central/ State Government/local bodies/bodies/another person.
- **Contravenes** the provisions of **Section 357C CrPC, 1973**
- Such person **shall be punished**
 - Imprisonment 1 year
 - OR fine or both.



Recapitulation!

Section 357C CrPC

- All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under Section 326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

- He is in charge of hospital.
- Failed to provide First Aid to the Rape Victim.
- Guilty



Reference: Indian Penal Code, 1860 s 156B

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Q.199) The minimum punishment for which of the following offences is life imprisonment?

- 1) Kidnapping for Ransom*
- 2) Kidnapping in order to Murder*
- 3) Trafficking of a person*
- 4) Habitual dealing in slaves*

Ans: 1

**Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part II - Indian Penal Code – S.364A**



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Section 364A:

Kidnapping for ransom, etc.:

- Kidnaps or
- Abducts any person

- Or, keeps a person in detention after such kidnapping or abduction.



Agar police ko khabar karni koshish ki to...



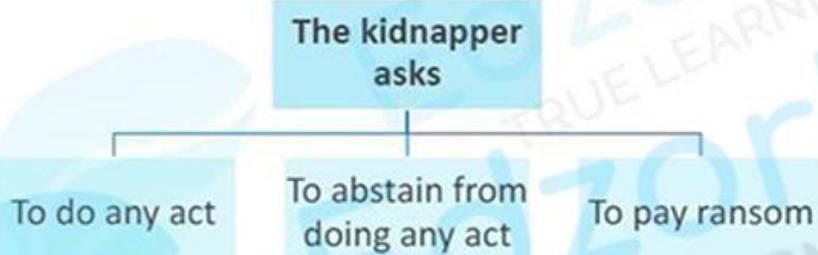
- Threatens to cause death or hurt to such person, or
- By their conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or



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- Causes hurt or death to such person in order to compel:
 - The Government or
 - Any foreign State or
 - International inter-governmental organisation or
 - Any other person



- Shall be punishable
 - With DEATH, or
 - **Imprisonment for life,**
 - And fine.



Remember: The person who acts as a go-between to collect ransom is generally considered guilty of crime.



Section 364	Section 364-A
<ul style="list-style-type: none"> Intention to kidnap person may be murdered. 	<ul style="list-style-type: none"> Kidnapping/Abetment Threatened to cause death/hurt. Reasonable apprehension of death/hurt.

Netra Pal Vs State(NCT) of Delhi

2001 CrLJ 1669

- The kidnapped child was recovered from the custody of the accused.
- The letter which demanded ransom was recovered from the pocket off the accused.
- He had neither posted it nor contacted anybody for the purpose of ransom.
- The court observed that because there was no demand of ransom no offence under **Section 364-A**
- Conviction was made under **Section 363** and **365**

Reference: Indian Penal Code, 1862 s 364 A

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Q.200) A and B were married in the year 2013. They had one child' After living together for a few years, in January 2019, they decided to separate. No formal proceedings were initiated in a court of law, and A and B decided to live apart with mutual consent in the year 2022, the birthday celebrations of the child were taking place, and after the other guests had left and after consuming alcohol, B had Sexual intercourse with his wife A' without her consent. It is important to remember that both A and B had consumed alcohol Has B Committed any offence, keeping in mind the provisions relating to sexual offences?

- 1) B has committed an offence under the IPC*
- 2) B has not committed an offence; however, the actions of B would be an offence only if A and B were living separately under a decree of separation from a court of law.*
- 3) B has not committed an offence; however, the actions of B would have been an offence if A and B had obtained a decree from a court of law.*
- 4) B has not committed an offence, since both A and B had consumed alcohol. However, the actions of B would have been an offence is A had not consumed alcohol.*

Ans: 1



Source: Edzorb Law Premium + 2.0 – Simplified Notes –
Part II - Indian Penal Code – S.376B



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Section 376B:

Sexual intercourse by husband upon his wife during separation:

- Whoever has sexual intercourse with his own wife

Conditions:

- When wife is living separately
 - Under a decree of separation or
 - Otherwise
- Without her consent.

Punishment:

- Imprisonment from **2 years to 7 Years**
- Fine.



Sexual intercourse = Section 375(a) to (d).

Reference: Indian Penal Code, 1862 s 376A 376AB 376B

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