



# **HARYANA**

**Judicial Services Exam**

**CIVIL JUDGE (Junior Division)**

**Haryana Public Service Commission (HPSC)**

**Paper - 3**

**Criminal Law**



# HARYANA JUDICIAL SERVICES

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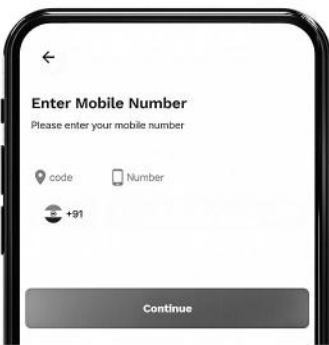
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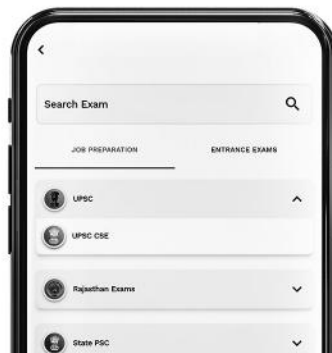
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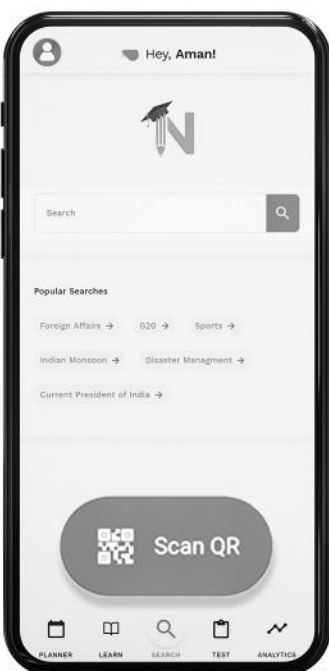
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# The code of Criminal Procedure, 1973

- CrPC has 37 Chapter, 484 Sections & II Schedules
- Schedule I = Classification of offence
- Schedule II = Form

**Q. How many forms are there?**

**Ans.** 56 forms

**Q. What is the name of 1<sup>st</sup> form & last form?**

**Ans.** 1<sup>st</sup> Form: Summon to an accused person

**56th Form:** Warrant of imprisonment on forfeiture of bond for good behavior

## Schedule I is of two types

1. Which relate to IPC.
2. There are six columns.

Sec. No.	Offence	Punishment	Cognizable/Non-Cognizable	Boilable/Non-Boilable	Tri-able
----------	---------	------------	---------------------------	-----------------------	----------

Wherever matter is of IPC, no consent can be made looking into' the punishment.

**Refer Sec 500, Sec 377 in Schedule I**

**Wherever matter is of other law, there are 4 columns**

Offence	C/NC	B/NB	Tri-able
(i) Wherever offence is punishable by death, life imprisonment or more than 7 yrs	C	NB	Court of Session
(ii) Wherever matter of 3 yrs to 7 yrs	C	NB	MF 1 <sup>st</sup>
(iii) Wherever matter 0-3 yrs/fine	NC	B	Any magistrate

**CrPC is divided into 7 parts.**

(1) General Rules [Ch 1 – 7A] Sec 1 – 105 L	(2) Preventive Law [Ch 8 - 11] [Sec 106 - 153]	(3) Before Trial [Ch 12 - 16] [Sec 154 - 210]
(4) Charge and Trial [Ch 17 – 21 A] [Sec 211 – 265 L]	(5) Other Proceedings During Trial [Ch 22 - 26] [266 – 352 ]	(6) Judgment and Further Proceedings [Ch 27 - 32] [Sec 353 - 435]
(7) Supplemental Proceedings [Ch 33 - 37] [Sec 436 - 484]		

## General Rules

(1) Ch 1 Preliminary Sec 1 - 5	(2) Criminal Courts and Offices Sec 6 – 25 A	(3) Power of court Sec 26 - 35	(4) 4A ○ Power of Superior officers of police Sec 36 ○ 4B ○ Assistance to Police or Magistrate ○ Sec 37 – 40
(5) Arrest of Person Sec 41 – 60 A	(6) Process to Compel appearance of Person ○ Sec 61 – 90 ○ 6A Summon 61 – 69 ○ 6B Warrant 70 – 81 ○ 6C Proclamation & Attachment 82 – 86 ○ 6D Other Rules 87 - 90	(7) Process to Compel Production of things ○ Sec 91 – 105 ○ 7A Summon 91 – 92 ○ 7B Search Warrant 93 – 98 ○ 7C General Provisions 99 – 101 ○ 7D Miscellaneous 102 – 105 ○ 7A ○ Reciprocal Arrangement ○ Sec 105 A – 105 L	

Long title of the Act: An Act to consolidate and amend the law relating to Criminal Procedure.

**Q. What is the history of CrPC ?**

**Ans.**

Presidency Town	Provisional Area
CrPC, Supreme Court Act 1852 [Act No. 16 of 1852] CrPC, High Court Act, 1865 [Act No. 12 of 1865]	General CrPC, 1861 [Act No. 25 of 1861] General CrPC, 1872 [Act No. of 1872]
In whole of India [Act No 10 of 1887] CrPC 1898 [Act 5 of 1898] CrPC 1973 [Act no 2 of 1974]	

Apart from this few amendments have taken place due to various commissions.

- (1) J L Kapoor
- (2) Malinath Committee
- (3) Justice J S Verma Committee
  - Assent of President – 25<sup>th</sup> January, 1974
  - It came in force – 1<sup>st</sup> April, 1974

## CHAPTER – 1

**Q. Where CrPC not apply? [Sec 1, 5]**

**Ans.** Not apply on following places:

In Nagaland & tribal areas except Ch 8, 10, 11

**Q. What is a tribal area?**

**Ans. Following are tribal area**

- Such area which before 21 Jan 1972 was tribal area of Assam and which is mentioned in Schedule 6 Para 26 of constitution. And it excludes municipality of Shillong.
- Sec 5 not apply on Special law and local law or any other form of procedure prescribed
- Not apply where special power or jurisdiction is conferred.

**Section 4:** All offences in IPC shall be investigated inquired and tried shall be according to CrPC.

- Wherever offence under any other law then inquiry, investigation shall be according to CrPC, Subject to that Act. [The manner can be regulated. E.g. : SC/ST Act = Special Court]
- Criminal Law (Amendment) Act, 2013 came into force on 3 Feb, 2013.

**Section 2:**

a Bailable/Non Bailable Offence	b Charge	c Cognizable offence	d Complaint	e High court
f India	g Inquiry	h Investigation	i Judicial Proceeding	j local Jurisdiction
k Metropolitan Area	l Non-cognizable offence	m Notification	n Offence	o Officer in charge of Police Station
p Place	q Pleader	r Police Report	s Police Station	t Prescribed
u Public Prosecutor	v Sub-division	w Summon Case	x Warrant case	y The words not here used from IPC.

<p style="text-align: center;"><b><u>Bailable Offence</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sec 2 (a):</b></li> <li>• Such offences which is shown as bailable in I Schedule or any other law in force</li> <li>• Here person has right</li> <li>• Refer sec 436</li> </ul>	<p style="text-align: center;"><b><u>Non-Bailable Offence</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sec 2 (a):</b></li> <li>• Such offences which is shown as non-bailable in I schedule or any other law in force</li> <li>• Discretion of court</li> <li>• Refer sec 437</li> </ul>
<p style="text-align: center;"><b><u>Cognizable</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sec 2 (c):</b></li> <li>• Such offences which is shown in I schedule as cognizable or any other law for the time being in force</li> <li>• Police officer can arrest without warrant.</li> </ul>	<p style="text-align: center;"><b><u>Non-Cognizable</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sec 2 (L):</b></li> <li>• Such offences which is shown in I schedule as non cognizable or any other law for the time being in force</li> <li>• Can arrest without warrant.</li> </ul>



**Q. What do you understand by charge?**

**Ans. Sec 2(b):** Formal acquisition by court that all formalities to declare Act as offence is complete. It can have more than one heads [sections]

**Q. What is Complaint? [Sec 2 (d)]**

**Ans.** Written or oral allegation to magistrate.

- With the view of taking action
- That any known or unknown person has committed any offence.
- Does not include police report.

**Q. When does police report becomes complaint?**

**Ans. Sec 2 (d):** Where police officer after investigation comes to know that non-cognizable offence has occurred then police report becomes complaint and police officer becomes complainant.

Complaint	FIR
<ul style="list-style-type: none"> <li>• Always to magistrate</li> <li>• Cognizable and Non-cognizable</li> <li>• Magistrate himself inquire or ask police inspector to investigate [156 (3)]</li> <li>• No need for magistrate to give copy</li> <li>• No need to give a copy to complainant.</li> </ul>	<ul style="list-style-type: none"> <li>• Always to Police</li> <li>• Only in cognizable matter.</li> <li>• Police officer shall investigate</li> <li>• A copy of FIR to magistrate</li> <li>• One copy free of cost to the informant.</li> </ul>

- 2 (e) (a) Wherever matter of State then high court of that state.
- (b) Wherever matter of Union Territory

<b>High court of state which is extended by law</b> e.g. Chandigarh	<b>Highest court of Criminal appeal in that territory other than SC</b> E.g.: Superior court.
--	--

Investigation 2 (h)	Inquiry 2 (g)	Trial X
<ul style="list-style-type: none"> <li>• Police Officer or Person authorized by magistrate with the purpose of collecting evidence.</li> </ul>	<ul style="list-style-type: none"> <li>• Proceeding done by magistrate or court which is other than trial and object to see whether prima facie case made out or not.</li> </ul>	<ul style="list-style-type: none"> <li>• Proceeding done by court or magistrate whose object to determine criminal liability</li> </ul>
<ul style="list-style-type: none"> <li>• Proceedings by police officer or other person</li> </ul>	<ul style="list-style-type: none"> <li>• Magistrate or court</li> </ul>	<ul style="list-style-type: none"> <li>• Magistrate or court</li> </ul>
<ul style="list-style-type: none"> <li>• Extra Judicial Proceeding</li> </ul>	<ul style="list-style-type: none"> <li>• Judicial Proceeding</li> </ul>	<ul style="list-style-type: none"> <li>• Judicial Proceeding</li> </ul>

<ul style="list-style-type: none"> <li>• <b>Result</b> : final report or police report or police report</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Result</b> : Penalty, cognizance or discharge</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Result</b> : Acquittal or convicted</li> </ul>
<ul style="list-style-type: none"> <li>• As report</li> </ul>	<ul style="list-style-type: none"> <li>• As order</li> </ul>	<ul style="list-style-type: none"> <li>• As judgment</li> </ul>
<b>Further Proceedings : Cognizance</b> <ul style="list-style-type: none"> <li>• Zahira Habibhulla Sheikh Vs State of Gujarat.</li> <li>• Case related to defective investigation</li> </ul>	<b>Further proceedings Discharge, penalty</b>	<b>Further proceedings Appeal, revision reference.</b>

<b>Discharge</b> <ul style="list-style-type: none"> <li>• After inquiry</li> <li>• When prima facie case not made out</li> <li>• It is both in preventive and punitive law.</li> <li>• There can be second trial</li> </ul>	<b>Acquittal</b> <ul style="list-style-type: none"> <li>• After trial</li> <li>• After appreciation of evidence no matter found</li> <li>• Only in punitive law.</li> <li>• Generally there can't be second trial.</li> <li>• Except in exceptions of Sec 300 CrPC</li> </ul>
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**Q. What do you understand by offence?**

**Ans. Sec 2(n):** Any act or omission which is made punishable by law in force.

- Includes complaint under Sec 20 catel trespass Act.

<b>Summon Case</b> <ul style="list-style-type: none"> <li>• Sec 2 (w)</li> <li>• Such offence in which punishment 2 yrs or less or fine.</li> <li>• Refer Ch : 20</li> </ul>	<b>Warrant Case</b> <ul style="list-style-type: none"> <li>• Sec 2 (x)</li> <li>• Such offence in which death penalty life imprisonment or more than 2 years</li> <li>• Refer Ch : 19</li> </ul>
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- **Sec 2 (wa):** Such person who has suffered loss or injury by act or omission of accused Includes guardian and legal heir also.

- **Sec 3:**

**State**

Metropolitan Area	General Area
<ul style="list-style-type: none"> <li>• MM</li> </ul>	<ul style="list-style-type: none"> <li>• JM I, JM II</li> </ul>
<ul style="list-style-type: none"> <li>• CMM</li> </ul>	<ul style="list-style-type: none"> <li>• CJM (Chief Judicial Magistrate)</li> </ul>
<ul style="list-style-type: none"> <li>• Old times</li> </ul>	

- (a) JM I → JM I  
 JM II → JM II  
 JM III ↗

(Chief Presidency magistrate – Chief Metropolitam Magistrate)

- (b) PM – MM  
 (Presidency Magistrate)  
 CPM – CMM

## Magistrate First Class = JMI

Judicial Magistrate	Executive Magistrate
<ul style="list-style-type: none"> <li>• RJS</li> <li>• Which involve the appreciation or shifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial.</li> </ul>	<ul style="list-style-type: none"> <li>• IAS/RAS</li> <li>• Which are administrative or executive in nature. Such granting of license the suspension or cancellation of license.</li> <li>• Sanctioning a prosecution</li> <li>• Withdrawing from prosecution.</li> </ul>

## Criminal Courts and Offences

			JM	MM	(Executive Magistrate)	Prosecution
6	9	Court	11	16	20	24
		Boss	12	17	X	25
7	10	Special	13	18	21	25A
		Local Jurisdiction	14	X	22	
8		Subordination	15	19	23	

## Chapter - 2

**Sec 6:** Except HC & Court established in any other law in force, there shall be following court:

- a. Court of session
- b. JMF I and in metropolitan area MM
- c. JMS II
- d. Executive Magistrate

**Sec 7:** State shall be divided into session division.

- There can be one or more districts.
- Metropolitan area shall be considered as different session division.
- State govt. after consultation with HC can alter the boundaries and divide district into sub-divisions also.

**Sec 8:** Such area whose population is more than 10 lakh, then state govt. can issue notification.

In enactment following are declared

(i) Ahmadabad            (ii) Bombay    (iii) Kolkata    (iv) Madras

- If population less than 10 lakh, then also it shall continue.
- Population = last census

### Court of Session

**Sec 9:** State Govt. in every district shall establish Court of Session.

- Presiding officer shall be appointed by high court.
- Assistant – Session Judge & Additional Session Judge are appointed by HC.
- Wherever post of session judge is vacant and urgent matter is to be disposed then by following :
  - (a) Additional Session Judge
  - (b) Assistant Session Judge
  - (c) Chief Judicial Magistrate
- One session Judge can be given charge of other session division. In such division he shall act as Additional Session Judge.
- The general rule is that judge shall sit at the place which is declared by HC. But he can sit at difference place also considering convenience of party and witness, with consent of accused and prosecutor also.

**Sec 10:** All assistant session judges shall be subordinate to session judge.

- SJ- He shall distribute the work.
- If session judge is absent then additional session judge, assistant session judge and CJM shall dispose.

**Sec 11:**

- State Govt. in every district which is not metropolitan after consultation with HC, establish court.
- Presiding officer shall be appointed by HC.
- HC can empower civil judge with power of JM I/II [In Raj. this] [Civil Judge + JM]

**Sec 16:**

= 11

**Sec 20:**

- State Govt. in every district shall appoint executive magistrate and make one district magistrate out of them.
- Similarly ADM
- Clauses 5 ; State Govt. can give power of EM to police commissioner [Jaipur & Jodhpur this only]

		<ul style="list-style-type: none"> <li>The state govt. may appoint 1 EM to be in charge of a sub-division and he shall be called as sub-divisional magistrate.</li> </ul>
<p><b>Sec 12:</b></p> <ul style="list-style-type: none"> <li>In district, HC shall appoint 1, JM I as CJM :</li> <li>HC shall appoint additional CJM also.</li> <li>In every sub-division there can be sub divisional judicial magistrate.</li> <li>Every JM shall be subordinate to CJM except additional CJM.</li> </ul>	<p><b>Sec 1:</b></p> <p>= 17</p>	
<p><b>Sec 13:</b></p> <ul style="list-style-type: none"> <li>On request of central &amp; state govt., HC can appoint any person who was or is in govt. post and empower him with power of JM I/II</li> <li>Such person should have legal experience and qualification.</li> <li>Appointment once for one year [Renew]</li> </ul>	<p><b>Sec 18:</b></p> <p>= 13</p>	<p><b>Sec 21:</b></p> <ul style="list-style-type: none"> <li>State Govt. for any special function or area can appoint any EM as Special Executive magistrate.</li> <li>For any period of time</li> <li>He shall have all the power of EM.</li> </ul>
<p><b>Sec 14:</b></p> <ul style="list-style-type: none"> <li>Subject to the control of HC, CJM magistrate can use all or any of his power in his jurisdiction.</li> <li>Generally his power shall be in whole district.</li> </ul>		<p><b>Sec 22:</b> DM Shall have power in whole district.</p>
<p><b>Sec 15:</b> Session Judge</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">CJM</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">JM</p>	<p><b>Sec 19:</b> SJ</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Additional chief Metropolit an Maglistrate /CMM</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">MM</p>	<p><b>Sec 23:</b> DM/Adolitional District Magistrate</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">Sub Divisional Magistrate</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">EM</p>

**Sec 24:** Central or State Govt. after consultation with HC can appoint PP in HC & Adolitional Public Prosecutor also.

- Central or State govt. can appoint PP in district courts and APP also.
- Appointment is by two manners :

(1) District Magistrate after consultation with session judge shall appoint PP	(2) Wherever there is a regular cadre then by promotion in that cadre. [In Raj : this only]
--	--

- For PP experience of 7 yrs as advocate.
- For Special PP experience of 10 yrs.
- Victim can appoint advocate of his own choice who shall assist PP.

**Sec 25:** For the courts of magistrate state govt. or central govt. shall appoint APP.

- Wherever there is no APP, then ask any person for prosecution. For this DM shall give order.
- Whether Police Officer can become APP?

**In following condition can't be made**

- (a) Who has participated in investigation?
- (b) Not below the rank of inspector.

**Sec 25 A:** State govt. shall make prosecution directorate

- In such directorate, there shall be 1 director prosecution and deputy director prosecution.
- There must be experience of 10 yrs for both and concurrence of CJ of HC.
- It shall be under administrative control of HOD (Home of Directorate) Home Department.

**Director of Prosecution (HC)** – PP, Add PP, Special PP

**Deputy Director of Prosecution (Dist)** – PP, Add PP, Special P, And Assistant Public Prosecutor.

- Does not include advocate general.
- Amended in 2005, Came into force in 2006.



## Chapter – 3

### Power of Courts

26	27	28	30	31	32
Offences tri-able by which court	Juvenile offender	29 Sentences	Default of fine	Several offences in one trial	33 34 35 Others

**Sec 26:** Wherever offence of IPC, then trial in following manner:

- (a) HC
- (b) Court of Session
- (c) Court under I Schedule

- **Wherever matter is of rape as far as possible female judge.**
- **Wherever offence is other law :**
  - (a) Tried by HC
  - (b) Tried by Court in I Schedule.

**Sec 27:** Wherever offence is not punishable by death or life imprisonment.

- Offence is committed by any person who comes or brought in the court and age is below 16 yrs. [Now J.J. act applied]
- Person shall be tried by following courts :
  - (a) CJM
  - (b) Court under children Act, 1960
  - (c) Court under any other law which relate to training, treatment & Rehabilitation of youthful offender. [J.J. Act]

**Q. What are the various sentences which can be passed by the court?**

**Ans. Sec 28:** High Court: Can give any sentences authorized by law.

- Session Judge/Additional Session Judge: Any sentence authorized by law but confirmation with HC for death penalty.
- Assistant Session Judge : Any sentence authorized by law, except death, L.I. Exceeding 10 yrs. [10 yrs + fine]

**Sec 29:**

CJM = any sentence authorized by law except death. L.I, exceeding 7 yrs. [7 yrs + fine]

- JM1 = 3 yrs or 10,000 Rs or both
- In Rajasthan 50,000 Rs
- JM2 = 1 yrs or 5000 Rs fine or both
- MM = JM 1
- CJM = CMM

**Q. What do you understand by conviction of several offences at one trial?**

**Ans. Sec 31:** Wherever in one trial there are 2 or more offences [Never one] then,

- The court can sentence several punishments which shall commence one after another, unless court gives order of concurrently.
- For appeal aggregate of consecutive [Concurrently = simultaneously] sentences. [They shall be considered single punishment, Refer 374 CrPC]. [ 3 + 3 + 3 + 3 = 12]
- Wherever there is consecutive sentence then also court can give punishment more than its jurisdiction for single offence but following restriction.
  - (a) Not more than 14 yrs.
  - (b) Not more than twice the amount of punishment which can be in single offence?
- Asst. CJ =  $10 \times 2 = 20$  Not above 14 yrs
- CJM =  $7 \times 2 = 14$
- JM 1 =  $3 \times 2 = 6$
- JM 2 =  $1 \times 2 = 2$

<u>Sec 32:</u>	<u>Sec 33:</u>	<u>Sec 34:</u>	<u>Sec 35:</u>
<p><b>Mode</b></p> <ul style="list-style-type: none"> <li>• HC/State govt. may empower can person by name title of office</li> <li>• Shall take effect from the date it was informed</li> </ul>	<p><b>Power of officer</b></p> <ul style="list-style-type: none"> <li>• Wherever person in same or higher office of same nature then his power shall be equal unless HC or State govt. prescribes.</li> </ul>	<p><b>Withdrawal of power</b></p> <ul style="list-style-type: none"> <li>• The power which conferred by HC/State govt. shall be withdrawn by them.</li> <li>• Similarly CJM/DM can withdraw power conferred by them.</li> </ul>	<p><b>Successor in office</b></p> <ul style="list-style-type: none"> <li>• The power of judge and magistrate shall be of successor in office.</li> <li>• Wherever there is any doubt ASJ/Asst. SJ – SJ will decide where doubt in case of magistrate then CJM in case of EM them DM.</li> </ul>

**Q. What do you understand by imprisonment in default of fine?**

**Ans. Sec 30:** Wherever the court of magistrate imposed fine then in default of payment of fine imprisonment can be given which shall be in following manner:

- (a) Shall not exceed power of Sec 29
- (b) Wherever it was given along with fine. [Imprisonment is substantive] I + F, then in default of fine  $\frac{1}{4}$  of imprisonment can be given for which magistrate was competent. [JM1= 3y of  $\frac{1}{4}$  = 9 months
- (c) Such time period shall be in addition [3 yrs and 10,000 Rs and on default 9 months addition] i.e., 3.9 yrs
  - Sec 65 of IPC: Wherever any person doesn't give fine, then in default of fine  $\frac{1}{4}$  of punishment.
- (d) Wherever accused is to be imprisoned in default of fine both sections will be seen and whichever is beneficial to accused will given that is sometimes IPC or CrPC.



E.g.:

Section	CrPC	IPC	Apply
377	JM1 = $3 \times \frac{1}{4} = 9$	10 y = 2.5 months	CRPC
500	JM1, 9 months	2 y = 6 months	IPC
379	JM1 9 months	3 y = 9 months	Any

- **CHAJJU RAM V ST. OF RAJ**

- If there is any conflict between section 65 of IPC and so of crpc.laterbshall be prevail.



## Chapter - 4

### CHAPTER-IVA -power of superior officer of police (sec 36)

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**Sec 36:** Superior officers of police who are above the rank of officer in charge, they shall have the same power in that area as officer in charge.

### Chapter-IV B- Aid to the magistrates and the police (sec 37-40)

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**Q. When public shall assist police and magistrate? [Sec 37]**

**Ans. In following condition:**

- (a) In taking or preventing escape of any person, which police officer or magistrate is authorized to arrest?
- (b) For prevention of breach of peace.
- (c) Prevent injury to railway, canal, telegraph or public property.
  - If person refuse to assist, then offence under Sec 187 of IPC.

**Sec 38:** Wherever other person then police officer is executing warrant and other person is aiding that person then such person should be near at hand; who is executing the warrant.

**Sec 39, 40** give information to the nearest police station or magistrate.

**Sec 39:** "Now-a-days state tranquility is illegally adulterer.

- So public is doing acts affecting life, kidnapping, theft, robbery & dacoity.
- Public servants are committing criminal breach of trust, mischief, house trespass, lurking, house trespass and making bank notes."
- If person didn't give information then offence under Sec 176 of IPC.

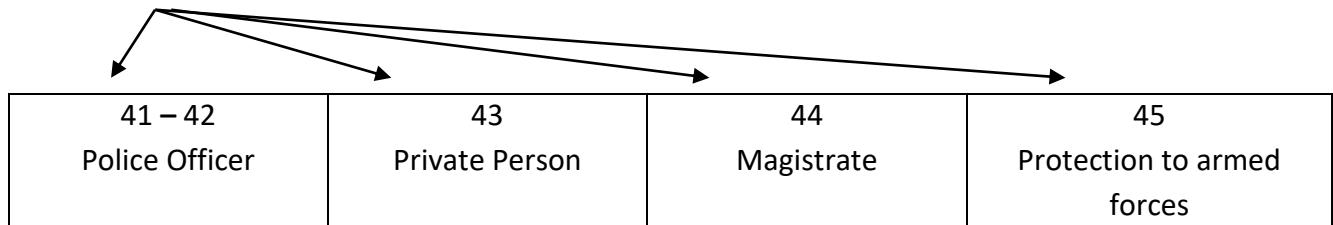
**Sec 40:** The person who shall not inform then offence under Sec 176 of IPC.

"Notorious receiver passage shall be made non bailable punishable by death and family sent out of India." [DM]

## Chapter – 5

### ARREST OF PERSON [41 – 60 A]

41 – 45 Who can Arrest	46 How	47 – 60A R & D Rights & Duties
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**Q. When can police arrest without warrant?**

**Ans. Sec 41:** Wherever following matter then police officer can arrest without warrant:

(a) When in his presence cognizable offence took place.

(b) Wherever police officer has reasonable complaint credible information reasonable suspicion of any cognizable offence which is punishable by 7 yrs or less.

If there are followings reasons then after recording reasons he can arrest.

- i. He has reason to believe that offence is committed by that person.
- ii. Necessary to prevent further offence.
- iii. Proper investigation
- iv. To prevent disappearance or tempering of evidence.
- v. To stop inducement, threat or promise to any person.
- vi. Without arrest attendance in court can't be ensured.

▪ Wherever credible information that cognizable offence has taken place which is punishable more than 7 yrs or death sentence, then person can be arrested.

(c) Proclaimed offender

(d) Such person in whose possession stolen property.

(e) Such person who obstruct police officer.

(f) Deter from armed forces.

(g) Commit offence outside India.

(h) Released convict who has breached the condition under Sec 356 (5)

(i) Written or oral requisition by other police officer.

- In these circumstances, he can arrest without warrant.
- For other offences, order of magistrate required.

<b><u>Sec 41 A:</u></b>	<b><u>Sec 41 B:</u></b>	<b><u>Sec 41 C:</u></b>	<b><u>Sec 41 D:</u></b>
<ul style="list-style-type: none"> <li>▪ Police Officer can give notice to the person against whom information that he appears in proper time and place.</li> <li>▪ It is the duty of the person to appear.</li> <li>▪ If he appears then he shall not be arrested except recorded reasons.</li> <li>▪ If he not appears then he shall be arrested.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Every police officer who is arresting shall bear identity mark</li> <li>▪ Before arrest memorandum shall be prepared.</li> <li>▪ At least sign of one person who can be of that family or locality.</li> <li>▪ There shall be counter sign of arrested person.</li> <li>▪ Arrested person shall be informed that he has right to inform member of family or friend regarding his arrest.</li> </ul>	<ul style="list-style-type: none"> <li>▪ State govt. shall establish police control room in every dist, in state level</li> <li>▪ Name &amp; address of all arrested person.</li> <li>▪ Name &amp; address of the person arrested to be displayed on the notice board.</li> <li>▪ Along with the police officer who made the arrest.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Arrested person during investigation shall have the right to meet advocate of his choice but not throughout interrogation.</li> </ul>

- Sec 41 A, B, C, D was incorporated by Criminal Procedure Amendment Act, 2008.
- DK Basu Vs State of Bengal
- In this case guidelines regarding arrest were given.
- Delhi Judicial Service Vs State of Gujarat
- There must not be indecent conduct with arrested person.
- Kishore Singh Vs State of Rajasthan
- The object of these provisions is to protect person.
- Onkar Singh Vs State of Uttrakhand
- Act arrest must be to the provisions of law.
- Arnesh Kumar Vs State of Bihar
- Wherever there are family disputes especially 498 A, then it is necessary that magistrate' be satisfied.
- Rajesh Kumar Vs State of UP
- Where matter of 498 A, then matter shall go to family committee and after that FIR.
- Social Action Forearm of Human Rights Vs UOI
- Now family committee is not required the decisions in Rajesh Kumar has been overturned.
- Pradeep Ram Vs State of Jharkhand
- If any person is released on bail and additional charges framed then he shall not be arrested, unless court gives order.

**Q. When person can be arrested in non-cognizable offence?**

**Ans. Sec 42:** Where in front of police officer non cognizable is committed, and on demand does not disclose correct name and address then he shall be arrested.