



# DELHI

Judicial Services Exam

CIVIL JUDGE CADRE

High Court of Delhi

**Criminal Law**

Volume 1



# DELHI JUDICIAL SERVICES

## CRIMINAL LAW – 1 VOLUME -1

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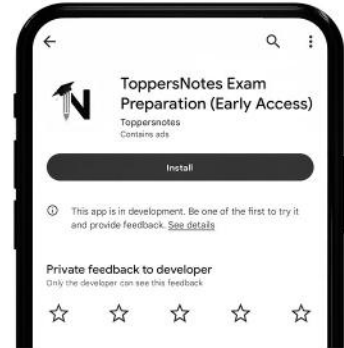
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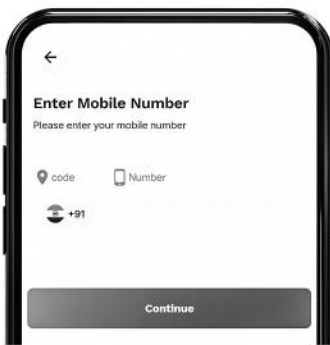
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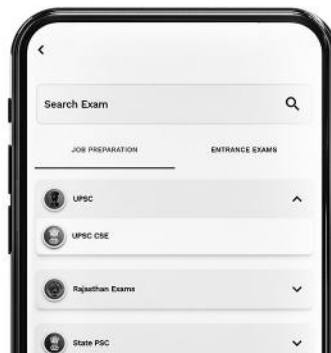
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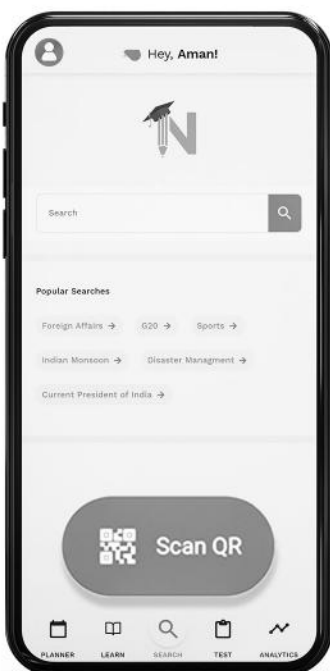
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## 1

## CHAPTER

# THE INDIAN PENAL CODE, 1860

## Definition

- AR + MR = Offence (Elements of AR and MR must be clear)

## Punishment

- No jumping method
- Act no. 45 of 1860.
- Came into force on 1 January, 1860.
- Assent of Governor General 6 October 1860.
- Divided into 23 chapters and 511 sections.
- Father of IPC – Lord Macaulay
- Other contributions by:

- Lord Mc. Lord
- Lord Anderson
- Lord Millet

Part A

Ch. 1-5A

[1-120B]

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**Que. What are the various theories of punishment for crime?**

**Ans.** Retributive [Eye for an eye]

Expiatory [Penance]

Deterrent [Fear]

Preventive [Before offence prevent]

Reformatory [Hate the crime, not the offender]

All have their relevance. In my opinion, [any of the above and then give explanation for that].

- Coke "Actus non facit reum nisi mens sit rea"

[AR + MR = Offence]

This Latin maximum means offence shall only be constituted when along with guilty act there is also guilty mind.

- Actus rea = Any act prohibited by law

Mean rea = Guilty mind

- Fowler Les Padget

C.J. Kenyon said, for offence intention and act both must concur.

This principle is the fundamental principle of criminal liability.

R Les Khandu

**STAGE I**

AR = Hit by stick [Not dead]

O = MR = Murder not

AR + MR = O

Murder + Murder = Murder

**STAGE II**

MR = Cause disappearance evidence

AR = Murder

**Q. The question was whether seen as a whole or divided in stages?**

- R Les Shorty

AR = Grievous hurt

MR = Murder

O = MR = Murder Not

AR = Remove Evidence

**Q. The same question was raised?**

- In both cases accused got benefits.
- Melic Les R
- No benefit was given.



## Conclusion/Inference

- It seems in matter of melic, the above cases were not cited.
- W/e offences can be divided into stages accused must be given benefit.
- Duty of prosecution to prove beyond reasonable doubt.
- Judges can be of various nature will not give benefit i.e., where of strict nature will not give benefit but where liberal judge there divide the offence in stages and give benefit.

AR + MR = O [Offence]

AR + MR = O

If MR is O, AR = Offence

Actus Rea is sufficient

Eg. Sex before 18

Mens Rea is sufficient

Eg. Sec 120 A-B

AR + MR = O

AR = O

Therefore, MR = Offence

## Actus Rea

According to Kemy Actus Rea is of six types:

1. No physical participation required
2. Participation is indirect.
3. Interference of another person.
4. Victims own conduct.
5. Contributory negligent.
6. Such participation which was superfluous.

**Q. Whether merely on grounds of Actus Rea, person can be convicted or not? [AR = Offence]**

**Ans.**

- W/e there is a strict liability [Sec. 292 of IPC]
- Socio economic offence. Eg. Currency note.
- W/e offence is Mala-in-Se.
- W/e matter of public nuisance.
- W/e defamation.

## Offence is of two types

1. Mala-in-Se – act itself is offence.
  - No benefit of mistake of fact.
  - Eg. Kidnapping R Les Prince
  - [Age of girl below 18, then punishable].
2. Mala Prohibita – Act not offence but prohibited by state. There can be mistake of act.

## Mens Rea

In India it is found in 3 manners:

1. Positive (+ve)

In IPC, few words are used, i.e., Intention, good faith, negligence, rashness, etc. by which criminal mind is made out negatively.

2. Negative (-ve)

In Ch. 4 of IPC, there are general exceptions where no mens rea is considered. Eg. Murder by 4-year infant.

3. Strict liability

Act itself is offence, no mens rea is required.

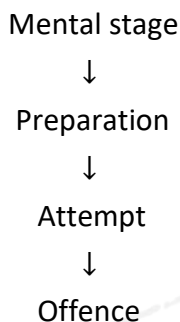
**Q. Whether there is any condition, where on bases of mens rea person can be convicted?**

**Ans.** Yes, refer Sec. 120A, B of IPC.

Eg. A and B go to railway station to murder C. But C doesn't appear. Whether A and B convicted any offence. Yes. of Criminal conspiracy to commit offence.

**Q. What are the various stages of offence?**

**Ans.** Generally, No Punishment except



1. Mental Stage: It is primarily shown as mental stage.

It is not punishable except Sec. 120 A/B i.e., Criminal Conspiracy.

2. Preparations: Generally, preparations is not punishable under IPC, like following sections,

122:	Collecting arms
399:	Making preparations to commit
234:	Making or selling instrument for counterfeiting indian coin
<u>242:</u>	Possession of instrument or material for the purpose of using the same for counterfeiting coin
259:	Having possession of counterfeit Government stamp
<u>256:</u>	Having possession of instrument or material for counterfeiting Government stamp
472:	Making or selling instrument for counterfeiting Government stamp
474:	Sale of noxious food or drink
476:	Sale of drug as a different drug or preparation
486:	Negligent conduct with respect to fire or combustible matter.
126:	Committing depredations
<u>233:</u>	Making or selling instrument for counterfeiting coin
<u>235:</u>	Possession of instrument or material for the purpose of using the same for counterfeiting coin
<u>243:</u>	Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof
266:	Being in possession of false weight or measure
257:	Making or selling instrument for counterfeiting Government stamp

473:	Sale of noxious food or drink
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<u>243:</u>	Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof
266:	Being in possession of false weight or measure
257:	Making or selling instrument for counterfeiting Government stamp
475:	Sale of adulterated drugs
485:	Negligent conduct with respect to fire or combustible matter.
489:	Negligent conduct with respect to animal.
475:	Sale of adulterated drugs
485:	Negligent conduct with respect to fire or combustible matter.
489:	Negligent conduct with respect to animal.

- Attempt: W/e any person does any act towards offence but expected result don't occur and it becomes unsuccessful then it is called attempt.
- This is the last proximate act to commit offence.
- State of Maha. Vs Mohd. Yakub.
- Abhayanand Mishra Vs State of Bihar where false document/false statement then person shall be liable for attempt. Sec. 415, 420/511.

**Offence:** When attempt is completed, it becomes offence.

## Attempt

1. Possible attempt:
2. Impossible attempt:
  - Body person shoot on doll, statue even if hit on statue then also not liable for murder, i.e., W/e matter is offences related to body because it depends on result so person is not liable.
  - Property W/e matter of property there, person shall be liable [pick-pocket-pocket-empty] then also liable because use in matter of property, valuation in not essential.
  - Both the illustrations of Sec. 511 are inspired by Res.

**Q. A person open box – found nothing- got emotional – left Rs. 100. Is he liable?**

**Sol.** Yes, for attempt.

### Possible attempt

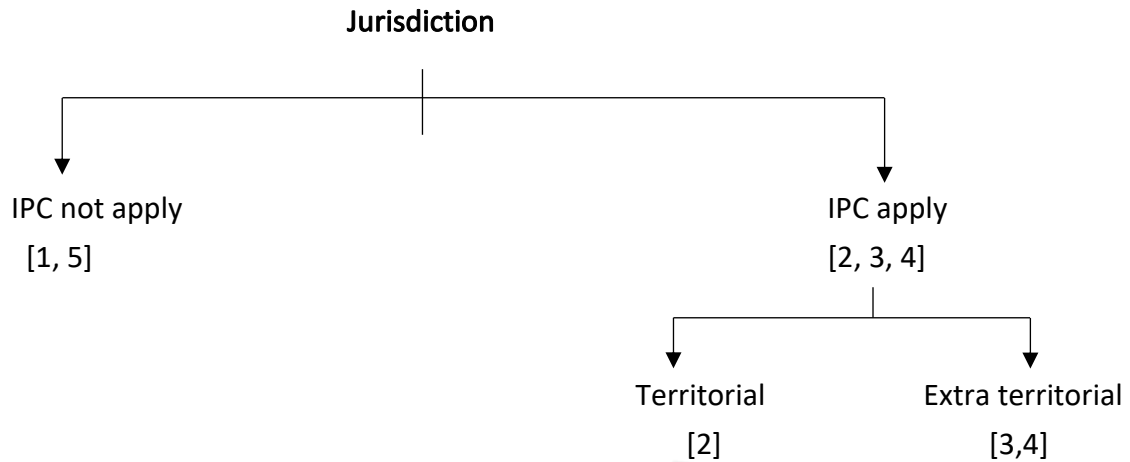
- Attempt + Offence in the same sec. Eg. Sec. 124A
- Attempt + Offence in different section but nearly. Eg. 202, 307
- Only attempt is punishable not Offence. Eg. 309.  
Presently no punishment, Person shall be dealt in Sec. 511. Personal mental health act will be applicable.
- W/e there is no punishment, there sec. 511 will apply.

# 1 CHAPTER

## Preliminary [1-5]

Q. What do you understand by Jurisdiction?

Ans.



### Section 1

Apply to whole India [previously not applied to J & K but more applicable by J & K reorganization act, 2019].

### Section 5

Not apply on following:

- (a) Not apply on mutiny or desertion of soldiers.
- (b) Any special law or local law.

Chandi Prasad Vs Abdul Rehman. W/e any special law is complete then no jurisdiction of IPC.

### Section 2

Every person shall be liable for punishment under the code for any act or omission contrary to the processions shall be guilty within India.

India = Air, land, water

It includes territorial water [12NM] contiguous zone [24NM] Fishing exclusive economic zone [200NM] research.

NM = Notical miles [1.852Km]

Every person: shall be liable for punishment under the act except,

- (a) President
- (b) Governor
- (c) Foreign Sovereign
- (d) Ambassador
- (e) Alien Enemy
- (f) Foreign army
- (g) Warship

**Q. A foreigner comes to India and commit murder in India, Whether liable?**

**Ans. Yes**

- Mubarik Ali Vs State of Bombay  
One person commissioned agent, he committed cheating by letters and he was held liable for cheating in India.
- Mayor Hans George Vs State  
A plane was going stopped in India, gold was confiscated liable in India.

### **Section 3**

Where ant person is liable Under Indian law and offence committed out of India/beyond India.

Then act committed as if dine within India.

Eg. Grey Chappal → Dubai → Cheating

### **Section 4**

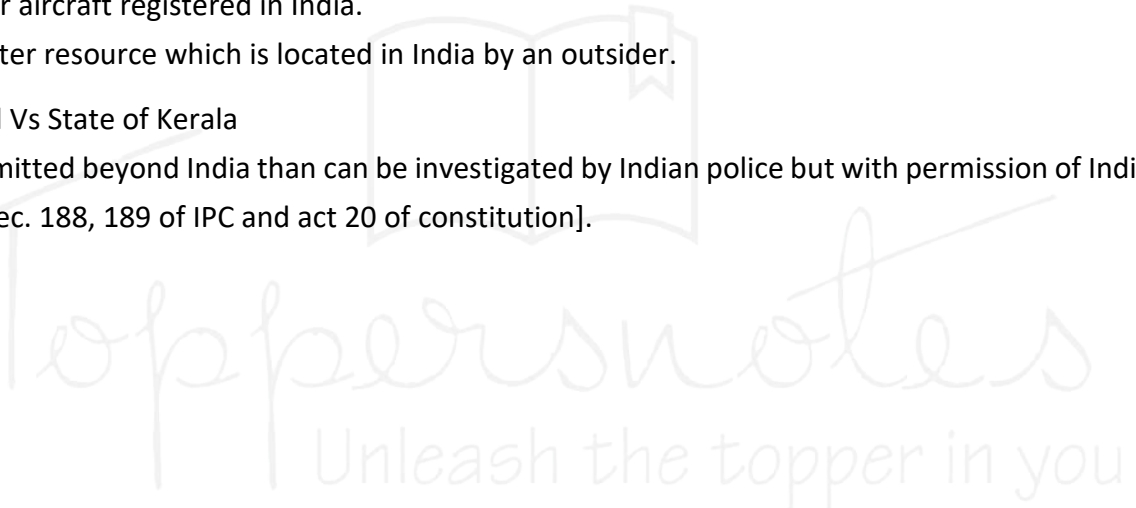
W/e offence is committed by citizen of India [without/beyond India]

On any ship or aircraft registered in India.

In any computer resource which is located in India by an outsider.

Mohd. Sajeed Vs State of Kerala

Offence committed beyond India than can be investigated by Indian police but with permission of Indian Govt [Refer Sec. 188, 189 of IPC and act 20 of constitution].



# 2 CHAPTER

## General Explanations [6-52A]

6- Definition	21- Public Servant
7- Sense	
8- Gender	34-
9- Number	35- Common
10- Men/Women	36- Intention
11- Person	37-
12- Public	38-
13- XXX	
14- Govt. Servant	39- Voluntary
15- XXX	40- Offence
16- XXX	41- Special Law
17- Govt.	42- Local law
18- India	43- Illegal
19- Judge	44- Injury
20- Court of justice	45- Life
	46- Death
21- Public Servant	47- Animal
22- Moveable party	48- Vessel
23- Gaining wrongfully	49- Year [Month]
24- Dishonesty	50- Section
25- Fraudelty	51- Oath
26- Reason to believe	52- good faith
27- Possession of propery	52A- Harbour
28- Counterfeit	
29- Document	
29A- Election record	
30- Valuable security	
31- Will	
32- A/O → Act of Ommission	
33- A/O	

19, 20, 21, 22, 25-28, 30, 31, 34-38, 39, 40, 43, 51, 52, 52A In notebook, rest to be studied from textbook.

### Section 19

- Judge is a person who is officially designated as a Judge (RJS).  
Such person who is empowered by law in criminal or civil proceedings.
  - (a) Give definite Judgement
  - (b) If not appeal then final judgement
  - (c) If confirm then definitive

- It can comprise of one person or body of person [Consumer forum].
- Kishan Swaroop Vs Bijender Singh
- Sarpanch is also a Judge.

## Section 20

When a Judge who is empowered by law to act judicially.

Is acting judicially

It includes body of person also.

**Q. What do you understand by public servant?**

**Ans. Section. 21:**

- (a) XXXXXX
- (b) Commissioned officer of armed forces
- (c) Judge
- (d) Officers of Court
- (e) Juryman assessor, member of Panchayat
- (f) Arbitrator
- (g) Every man can confine the person [Jailor]
- (h) Every person whose duty to prevent offence, protect health Safety
- (i) Such person whose duty is to survey and assess
- (j) Whose duty to collect tax
- (k) Whose duty to conduct election
- (l) Every person who is in survive or pay of govt. and receive fees or commission.
- (m) Rajasthan amendment

Any such person included which conduct exam and supervise exam at public body.

- Explanation. 1: Person can be appointed by Govt. or not.
- Explanation. 2: W/e any person is on post then he shall be considered as public servant, although legal defect.
- Explanation. 3: W/e any election although legislature, municipality or any public authority, any manner all are included in election, i.e., the person conducting election is a public servant.
- M. Karuma Hidhi Vs VOI  
CM is a public servant
- P.V. Narsimha Rao Vs State  
PM is a public servant
- R.S. Nayak Vs A.R. Anatulay  
MLA is not a public servant, then how CM can be public servant?  
MLA/MP is responsible for the party whereas CM/PM for the whole nation/Country.
- Is Judge a public servant?  
V. Ramaswami Vs State  
Yes, He is also
- Asha Parikh Vs State of Bihar  
Are various Organization a public servant?  
For this we have to see the functioning.  
Censor board is a public servant.

- Ram Avatar Vs State of Bihar  
Surveyor [Revenue] a public servant
- Bajranglal Vs State of Punjab  
Khalasi is a public servant.
- A.S. Rao Vs CNN Kuttu  
MD Govt. Company is PS
- State Vs of OP Dogra  
LIC is PS
- Balram Singh Vs State  
Superintendent Engineer, State Electricity board is PS
- Sushil Modi Vs Mohan Guru Swamy  
Leader of Opposition of Legislative assembly is not a PS
- PN Nallammal Vs State  
Speaker of Legislative assembly is a PS

### Section 20: Corporal property of every description except,

1. Land
2. Things attached to earth
3. Things permanently fastened to things attached to earth [door]
  - Also refer TPA and registration act section. 3 for immovable party
  - Corporal property = such property which has any shape.

### Section 23

1. Wrongful gain – W/e any person in property gains by unlawful means for which he was not legally entitled. E.g. Theft
2. Wrongful loss – W/e any person for which he is not legally entitled loses it. E.g. Theft
  - The General rule is that one person obtains gain and another loss.
  - Is there any offence where there is wrongful loss?  
Yes in case of mischief [425-440].
3. Gaining and losing wrongfully – Whoever retains or acquires wrongfully.
  - Whoever keeps out person wrongfully from property or deprives him from the title.

### Section 24

Whoever does out with such intention that there is wrongful gain to one and wrongful loss to another.

### Section 25

- W/e any person does an act with intention to defraud.
- Dr. Vimla Vs Delhi Administration  
Injury is necessary.

### Section 28

AR	MR
Whoever causes thing to resemble to one another.	With intention With knowledge



That deception shall be practiced.

- **Explanation. 1:** Not necessary that imitation should be extent.
- **Explanation. 2:** As soon as any person makes a thing which resemble then court shall presume that person had intention or knowledge i.e., act is offence as there is presumption of mens rea.

### Section 30

- It includes following things:
- Such documents by which:
  - (a) Created
  - (b) Extended
  - (c) Transferred
  - (d) Restricted
  - (e) Extinguished
  - (f) Released
  - (g) Acknowledged
  - (h) No legal right
- Daniel Vs State  
Passport is valuable security by which legal right is created.

### Section 31

- W/e there is any testamentary document which determines that after death of the person how his property must devolve, then it is called testamentary document.

### Section 39

Actus Rea

Mens Rea

Whoever causes an effect?

With intention.

Knowledge & reason to believe that there can be such effect by employing means it is called voluntarily.

- Olga Tellis Vs Municipal Corporations
- It was stated slum dwellers are not liable for criminal trespass because their act is involuntarily.

### Section 40

Also refer Section. 2(n)

1. IPC [1-511]  
Offence = anything punishable in this code.
2. Extraterritorial operation of IPC in other law.
  - (a) Where there are following sections then in offence anything which is made punishable in IPC, special law or local law.  
Eg. 330 of IPC  
[IPC + SC/ST]
  - (b) W/e following offence then offence only when in special law or local law where imprisonment of 6 months/ or more with or without fine.  
Eg. Section. 141 of IPC

## Section 43

- Act is offence, prohibited by law and ground of civil action.
- Legally bound to do = any act which is illegal to omit.
- Also refer Section. 120 A – B of IPC.

## Section 51

- Any statement given by person which he knows or believes to be true.
- It includes following things also:
  - (a) Solemn affirmation substituted by law.
  - (b) A declaration required or authorized by law before any public servant [written complaint].
  - (c) Anything used for purpose of proof [In court or otherwise], [IT return sign].

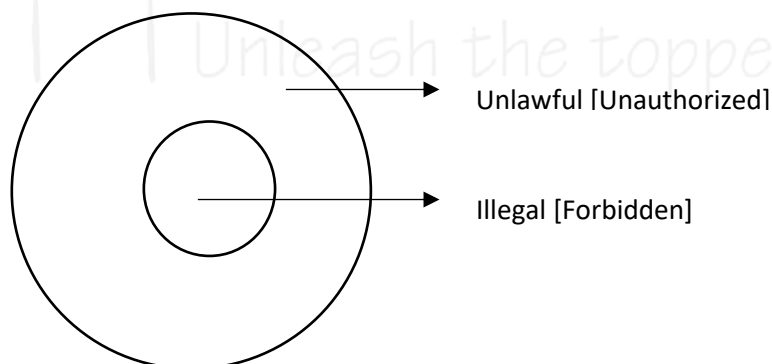
## Section 52

- Anything shall be called in good faith when anything done in due care and attention [care=Internal attention=External].
- Sukaroo Kabiraj Vs Emperor
- W/e any person did the operation of piles and he was not a RMP then act shall not be considered in good faith.

## Section 52A

Harbour = Includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means or conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not evade apprehensions.

Except sec. 157, 130 where husband or wife has given harbour



# 3 CHAPTER

## Punishments [53-75]

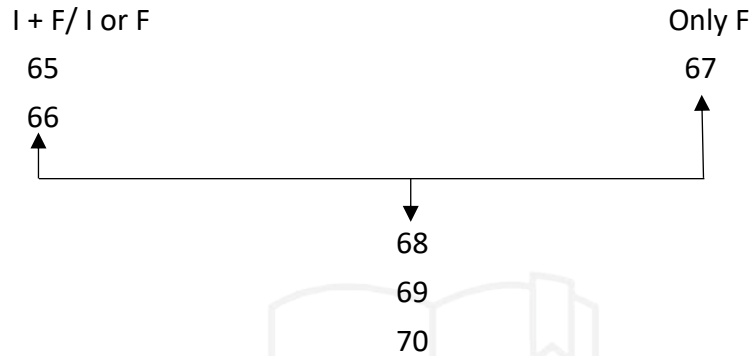
General  
[53-62]

Fine  
[63-70]

General principles  
[71-75]

Q. What do you understand by fine?

Ans. 63



### Section 63

- W/e no amount is expressed in fine then it shall be unlimited but not excessive [depends on facts and circumstances].
- Eg. Salman and JK both ate deer but punished distinguishably because of status.

### Section 64

- W/e any offence is punishable with imprisonment as well as fine and offender is sentenced with fine with or without imprisonment.
- W/e offender is punishable by imprisonment or fine or with fine only and is sentenced by fine.
- Then court in default of fine can give imprisonment which shall be excess to original sentence.
- Monica Christy Vs State of Punjab
- W/e in default of fine F1 → I2, F2; then it shall be one after another not together.

### Section 65

- W/e offence was punishable by imprisonment as well as fine then on default ¼ of the maximum shall be given.
- Eg. Sec. 379: 3y +

### Section 66

- Such imprisonment shall have description as original.
- Also refer Se. 30 + Sec. 65
- Section. 65 IPC = ¼ of Punishment
- Section 30 CrPC = ¼ of Power of Judge

## Section 67

- W/e matter is punishable only with fine.
- Eg. 489E
  - (i) Then always Sec. 1
  - (ii) In following manner:

Amount	Imprisonment
0-50	2 months
51-100	4 months
101 +	6 months

## Section 68

W/e following circumstances then imprisonment ends by following;

- (a) Fine is paid
- (b) Is levied by process of court

## Section 69

W/e fine is paid proportionally then imprisonment shall also be in proportion.

## Section 70

- W/e there is fine then it can be lecred within 6 yrs or if imprisonment more than 6 yrs then period of imprisonment.
- Even if person is dead, he is not discharge [fine recovered from his property].
- If in default of fine person under went imprisonment then also it can be recovered from him.

**Q. What are the various types of punishment?**

**Ans.** Section. 53:

- (a) Death [302] [376AB, 376DB]
- (b) Imprisonment for life [376E]
- (c) XXX [Transportation] omitted by Act No.17(1949)
- (d) Imprisonment is of two types:
  - i. Rigorous [376A]
  - ii. Simple [500]
- (e) Forfieture of property [126]
- (f) Fine [489E]

**Q. Where in IPC, death penalty is provided?**

**Ans.** In following sections,

1. 121
2. 132
3. 194
4. 195A
5. 302
6. 305
7. 307
8. 364A

9. 376A, 376AB, 376DB

10. 376E

11. 396

- 303 – Now unconstitutional  
Mithu Vs State of Punjab (1983)
- LI = Whole life of offender
- Gopal Vinayak Godse Vs State
- State Vs Ahemdulla
- LI is always rigorous not simple
- Minimum Imprisonment = Sec. 510
- Maximum Imprisonment = Sec. 489E

### Section 53A

- W/e transportation of life then it shall be considered imprisonment for life.
- W/e there is any sentence given before 1955, then it shall be considered as rigorous imprisonment.
- W/e transportation for a short time period then it shall be considered as omitted.
- Now how read in other laws:
  - (a) Transportation for life means LI
  - (b) Transportation for a term omitted

### Section 54

The appropriate Govt. without consent of offender can commute the death sentence with another sentence.

### Section 55

The appropriate Govt. without consent of offender can commute LI with other punishment/Imprisonment. But it shall not exceed 14yrs.

### Section 55A

Appropriate Govt. means:

- (a) W/e executive power of Union then CG.
- (b) W/e executive power of State then State Govt.
- (c) Refer 433 and 433 CrPC

### Section 433A

- Section. 433A of CrPC, only apply when death was given as punishment but it had LI also in Option.
- 433 of CrPC: W/e LI is commuted for other imprisonment then such imprisonment shall not exceed 14yrs or fine. W/e death penalty then can be commuted into any other punishment.
- 433A of CrPC and Art 72 of Constitution:
- 433: W/e
  - Death is commuted and LI is given.
  - Death was in option and LI was given.