CRIMINAL PROCEDURE CODE | SOLVED QUESTION BANK

CHAPTER 1 : PRELIMINARY | SECTION 1-5

1. How has the Cr. P.C., 1973 define the judgment and order. [HJS 2011]

DEFINITION OF JUDGMENT

- Judgment is not defined under CrPC.
- **HALSBURY'S LAWS OF ENGLAND**[1] : It is final decision of the court in a trial either convicting or acquitting the accused.
- The Supreme Court of India, after agreeing to above-said definition, it said that such judgment **should be in writing and in the language of the court.** ***Sita Ram v. State of U.P., AIR 1979 SC 745 : (1979) 2 SCC 656.***
- **Another Definition of SC :** It is the final operative act formally declared in open court intimated to the parties and to the world at large by formal pronouncement or delivery in open court. ***State of Bihar v. Ram Naresh, AIR 1957 SC 389 (395).***

ABOUT JUDGMENTS

- **Chapter XXVII (Sections 353-365)** deals with judgments in criminal trials.
- After the evidence led by the prosecution and defence is over and the arguments are heard, the court will conclude the trial by pronouncing judgment.
- It discusses elaborately the mode, manner, language and contents of the judgment.
- It also provides for supply of copies of judgment to parties to the trial and to others.

EVERY JUDGMENT DELIVERED BY A CRIMINAL COURT MUST BE

- in writing;
- in the language of the court;
- dated and signed by the judge;
- pronounced in open court;
- It must contain the point or points for determination, the decision thereon and the reasons for the decision. etc..

MEANING OF ORDER :

- An order is a command which is given by a judge, with relation to a proceeding at a court. Though the order is not always the end of the court proceeding.

[1] (4th edn.), Vol. XI, para 332.

- Only if such an order passed is the final order of a case, it shall be considered to be a judgement and shall be capable of ending a court case.
- Otherwise, orders are passed in between court proceedings to take care of the case and the things associated with it.
- There are certain orders which are given by the court under chapter 27 of the Code of Criminal Procedure, 1973. However, **the term order is not defined under CrPc and finds its meaning under the Civil Procedure Code.**

2. Describe the Cognizable and Non-cognizable offence (JJS 2019).

3. Distinguish between Cognizable and non-cognizable offences [DJS 1973, 2006, RJS 1979, HJS 1999, UPJS 1987, 2015]

Cognizable/Non-cognizable Offences

Section 2(c) of CRPC	Section 2(*l*) of CRPC
"cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;	"non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

RATIONALE : This classification of *Cognizable and Non-Cognizable* is from the perspective of Power of the Police officer to arrest *with or without a warrant issued by a Magistrate*. [2]

MEANING :

- Cognizable Offence – Police officer can arrest without warrant.
- Non- Cognizable Offence– Police needs warrant of the court to effect the arrest of the accused.

HOW TO CHECK WHETHER ANY OFFENCE IS COGNIZABLE OR NON-COGNIZABLE

It all depends upon whether it is shown as cognizable or non cognizable in the First Schedule of the Code.

GRAVITY OF THE OFFENCE :

- Serious Offences (*punishable with imprisonment for not less than 3 years*) is **Cognizable**.

[2] From the perspective of Trial, CRPC divides the cases into 'Summons' and 'Warrant' Case.

- Less Serious Offences (*punishable with imprisonment for less than 3 years)* is **Non-Cognizable.**

EXCEPTIONS TO THE CLASSIFICATION BASED ON SERIOUSNESS
PUNISHABLE WITH MORE THAN 3 YEARS, YET NON-COGNIZABLE :
Some offences punishable with imprisonment for 3 years or more have been categorized as non-cognizable ones. 1. In case of *Offences relating to marriage* , as they are private in nature and if they were cognizable, it may lead to unnecessary interference by the police in private life. 2. In case of *Offences against Public Justice*, *giving or fabricating false evidence in judicial proceeding* and if they were cognizable, it may lead to risk of police interference in court proceedings.
PUNISHABLE WITH LESS THAN 3 YEARS, YET COGNIZABLE :
Some offences punishable with imprisonment for less than 3 years have been categorized as Cognizable ones for facilitating prompt arrest of the offender. Example : Offences against the Public Tranquillity, or offence of uttering words or making gestures to insult the modesty of a woman, etc.

UNDERSTANDING COGNIZABLE OFFENCE :

A police officer can arrest the alleged culprit without warrant and can investigate into such a case without any orders or directions from a Magistrate.

Column 3 of the Schedule I of CRPC specifies certain offences for which the Police may arrest without warrant.

CHAPTER VI.—OFFENCES AGAINST THE STATE

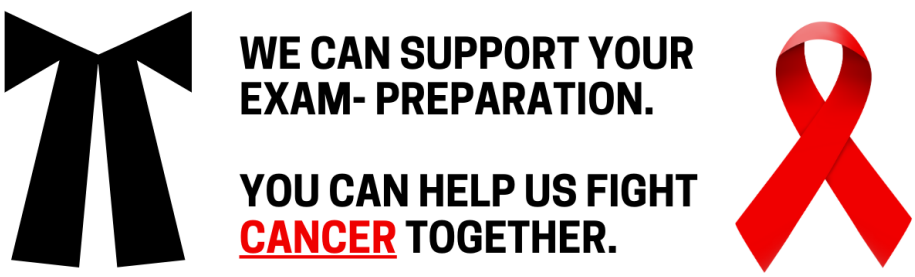
121	Waging or attempting to wage war, or abetting the waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Cognizable.	Non-bailable.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years	Ditto	Ditto	Ditto.

SOME CONSIDERATIONS
WHAT IF – CLASSIFICATION - IS NOT SPECIFIED IN THE SPECIAL LAW ?
If a special law, while creating an offence, does not specify whether the offence should be cognizable or non-cognizable, the question is to be determined with reference to the 1st Sch., Part II- 'Classification of offences against other laws'. If, however, the special Act specifies a particular officer in this behalf, only that Police officer would be competent to arrest without warrant.

IF A COMPLAINT BY GIVEN BY PERSON DISCLOSE THE COMMISSION OF COGNIZABLE OFFENCE, SHOULD THE POLICE ARREST THE ACCUSED PERSONS IMMEDIATELY?
No. The arrest of accused is not a "must" if cognizable offence is disclosed in filed or in a complaint as use of word "may" in Section 41 of code cannot be interpreted as "must' or "shall".[3]
CAN THE POLICE *INVESTIGATE* A NON-COGNIZABLE OFFENCE WITHOUT ORDER OF THE MAGISTRATE?
No. He cannot investigate (Sec.155(2)). If he does investigate, without such order, his report becomes a 'complaint', for the purposes of s. 190(1). This is made clear by the Explanation to Cl. (d), below.
WHAT IF INFORMATION DISCLOSES BOTH COGNIZABLE AND A NON-COGNIZABLE OFFENCE?
A Case cannot be partly non-cognizable and partly cognizable.[4] **Sec.155(4) -** If the information discloses both a cognizable and a non-cognizable offence, the Police officer may treat the entire case as a 'cognizable offence', and investigate the entire case without the order of any Magistrate.

UNDERSTANDING NON-COGNIZABLE OFFENCE : In case of N-C offences,

- A police officer cannot arrest without a warrant
- A police officer has neither the duty nor the power to investigate into such an offence without the authority given by a Judicial Magistrate.
- As these are offences in private nature, collection of evidence and prosecution of the offender are left to the initiative and efforts of private citizens.



[3] Smt Amarvati v. State of Punjab, 2005 (Cr. LJ 755 (All)
[4] 1961(2) Cr W 605 : AIR 1961 AP 448 : (1061) 1 Andh WR 153.

4. **Explain the terms 'Inquiry' and 'Investigation'. Distinguish between the two[HPJS . 2016)**
5. **Write short notes on Investigation [MPJS 2014)**
6. **Distinguish between Inquiry and Investigation. [Punj JS 2003]**
7. **Distinguish between 'Inquiry' and 'Investigation'. (Guj JS 2017) [HJS 1988, 1999]**
8. **What do you understand by Investigation? [RJS 1991]**

INQUIRY

Section 2(g) of the Code defines an inquiry as every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.

MEANING : The term "inquiry' has been used in the widest sense to include every kind of judicial function or inquiry other than a trial.

The following have been held to be "inquiry" under CRPC

- A proceeding under s. 144 ; Ss. 145-147.
- A preliminary inquiry under s. 159.
- Any step taken by a Magistrate after taking note of the Police report under s. 170.
- Inquiry as to cause of death under s. 176.
- A proceeding under ss. 207-209; read with s. 309(2)

INQUIRY	INVESTIGATION
Inquiry is by Magistrate	Investigation is by police officer or any person other than Magistrate or Court.
Inquiry is determination of truth or falsehood of certain allegation in order to the further action.	The object of investigation is collection of evidence

INVESTIGATION

According to Section 2(h) of the Code investigation includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

PURPOSE OF INVESTIGATION : Collection of Evidence.

WHO CAN CONDUCT IT? It must be conducted by a police officer or a person conferred the powers of a police officer or authorized by a Magistrate in this behalf.

In the case of *H.N Rishbud* v. *State of Delhi*,[5] the Supreme Court observed that investigation shall consist of the following:

1. Proceeding to spot,
2. To ascertain all the facts, circumstances of the case.
3. To arrest the suspected person,
4. Collection of evidence in regard to commission of the offence and it may include-
   a. Examination of various persons and then reducing their statements into writing.
   b. Search of places and seizure o things which are essential for investigation purpose.
5. If the evidences collected show it makes out a case, then produce the offender before magistrate and file police report under Section 173.

MAHI
LAW ACADEMY



[5] 1955 Cri. LJ 526, *Seethalakshmi* v. *State of T.N.*, 1991 Cri. LJ 1037.

9. **Explain clearly the distinction in trials between summons case and warrant case. [UPJS 2016]**
10. **Distinguish between Summons case and Warrant case. [Punj JS 2003]** [HJS 1988, 1999)

SUMMON CASE	WARRANT CASE
Section 2(w) defines summons-case as a case relating to an offence, and not being a warrant Case	Section 2(x) defines warrant-case as a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

WHAT IS A "CASE"? , 'Case' ordinarily means a proceeding for the prosecution of a person alleged to have committed an offence, and which results either in discharge, conviction, or acquittal of such accused person.

SUMMON AND WARRANT CASE :

- The offences punishable with imprisonment up to two years are summon cases and with imprisonment of more than two years are warrant cases.
- Purpose of this classification is as summon cases comparatively are less serious, so simple procedure is provided for trial of summon cases.
- Warrant cases are of serious nature comparatively, so more detailed procedure is provided for trial of warrant cases.
- This classification is applicable to all the offences under IPC, local and special laws unless some other different procedure is provided for any specific category of persons such as Juvenile Justice Act.
- In warrant cases, where more than one offence is involved, if one out of those offences is warrant case, whole case shall be taken as warrant case.

DIFFERENCE	SUMMONS CASE	WARRANT CASE
PUNISHMENT	If a case is not 'warrant case', then it will be 'summons case' regardless of the fact that whether arrest can be made with or without warrant or Whether summons were actually issued or not.	It is a warrant-case if the offence is punishable with (a) death, or (b) imprisonment for a term exceeding two years (which includes imprisonment for life).
DIFFERENT PROCEDURES	The CRPC deals with the trial of 'warrant' and 'summons' cases with different procedures as laid down in Chaps. XIX ss. 238-250] and XX (ss. 251-259), respectively.	

ON THE ASPECT OF FRAMING OF CHARGES	In a summons case, no charge need be framed, but the particulars of the offence of which he is accused are to be stated to him (s. 251] and evidence is taken thereon	In a warrant cases, a 'charge must be framed against the accused (s. 240) and he is to be adjudged innocent or guilty on such charge
EFFECT ON ABSENCE OF COMPLAINANT	In a summon-case instituted upon complaint, If the complainant absents himself on any day fixed for hearing, the accused is entitled to be acquitted.(S.256)	If the complainant absents himself on any day fixed for hearing in Warrant Case, Magistrate has only the power to discharge the accused and this discretionary power of the Magistrate to discharge is limited by two conditions; it can be exercised only (a) until the charge has been framed; and (b) if the offence is compoundable or non-cognizable (s. 249)
WITHDRAWAL OF COMPLAINT	Summons case can be withdrawn anytime before passing of Final orders. (S.257)	Warrant case can be withdrawn to a limited extend with the consent of the court. S.224.

11. Distinguish between Inquiry and Trial. (HJS 1988, Punj JS 2003)

INQUIRY
Section 2(g) of the Code defines an inquiry as every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.

MEANING : The term "inquiry' has been used in the widest sense to include every kind of judicial function or inquiry other than a trial.

The following have been held to be "inquiry" under CRPC

- A proceeding under s. 144 ; Ss. 145-147.
- A preliminary inquiry under s. 159.
- Any step taken by a Magistrate after taking note of the Police report under s. 170.
- Inquiry as to cause of death under s. 176.
- A proceeding under ss. 207-209; read with s. 309(2)

INQUIRY V. TRIAL :

- Inquiry is something different from trial because the where the former stops the latter begins. Hence **All proceedings before a Magistrate,** *prior to the framing of a charge or the statement of particulars of the offence alleged,* **which do not result in conviction or acquittal can be termed as inquiry.**
- Inquiry may start on vague rumours with shadow beginning but trial cannot. Inquiry does not mean merely inquiry into offence, it may also extend to matters which are not offences. *Ali Mohd. In re, 13 Cal WN 420 : 9 Cr LJ 278*.
- A trial may be only in respect of an offence. *Surya, AIR 1948 Mad 510*

12. Explain the meaning and purpose of 'Investigation' with reference to relevant provisions of the Code of Criminal Procedure. Distinguish between 'Investigation', 'Inquiry and Trial', giving two illustrations of each of these three proceedings [Punj JS 2006]

INVESTIGATION

According to Section 2(h) of the Code investigation includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

PURPOSE OF INVESTIGATION : Collection of Evidence.

WHO CAN CONDUCT IT? It must be conducted by a police officer or a person conferred the powers of a police officer or authorized by a Magistrate in this behalf.

In the case of *H.N Rishbud* v. *State of Delhi*,[6] the Supreme Court observed that investigation shall consist of the following:

6. Proceeding to spot,
7. To ascertain all the facts, circumstances of the case.
8. To arrest the suspected person,
9. Collection of evidence in regard to commission of the offence and it may include-
    c. Examination of various persons and then reducing their statements into writing.
    d. Search of places and seizure o things which are essential for investigation purpose.
10. If the evidences collected show it makes out a case, then produce the offender before magistrate and file police report under Section 173.

INQUIRY

Section 2(g) of the Code defines an inquiry as every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.

MEANING : The term "inquiry' has been used in the widest sense to include every kind of judicial function or inquiry other than a trial.

The following have been held to be "inquiry" under CRPC

- A proceeding under s. 144 ; Ss. 145-147.
- A preliminary inquiry under s. 159.
- Any step taken by a Magistrate after taking note of the Police report under s. 170.

[6] 1955 Cri. LJ 526, *Seethalakshmi* v. *State of T.N.*, 1991 Cri. LJ 1037.

- Inquiry as to cause of death under s. 176.
- A proceeding under ss. 207-209; read with s. 309(2)

INQUIRY	INVESTIGATION
Inquiry is by Magistrate	Investigation is by police officer or any person other than Magistrate or Court.
Inquiry is determination of truth or falsehood of certain allegation in order to the further action.	The object of investigation is collection of evidence

INQUIRY V. TRIAL :

- Inquiry is something different from trial because the where the former stops the latter begins. Hence **All proceedings before a Magistrate,** *prior to the framing of a charge or the statement of particulars of the offence alleged,* **which do not result in conviction or acquittal can be termed as inquiry.**
- Inquiry may start on vague rumours with shadow beginning but trial cannot. Inquiry does not mean merely inquiry into offence, it may also extend to matters which are not offences. *Ali Mohd. In re, 13 Cal WN 420 : 9 Cr LJ 278*.
- A trial may be only in respect of an offence. *Surya, AIR 1948 Mad 510.*

13. Write note on Warrant-Case [BJS 1978]

SUMMON CASE	WARRANT CASE
Section 2(w) defines summons-case as a case relating to an offence, and not being a warrant Case	Section 2(x) defines warrant-case as a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

WHAT IS A "CASE"? , 'Case' ordinarily means a proceeding for the prosecution of a person alleged to have committed an offence, and which results either in discharge, conviction, or acquittal of such accused person.

SUMMON AND WARRANT CASE :

- The offences punishable with imprisonment up to two years are summon cases and with imprisonment of more than two years are warrant cases.
- Purpose of this classification is as summon cases comparatively are less serious, so simple procedure is provided for trial of summon cases.
- Warrant cases are of serious nature comparatively, so more detailed procedure is provided for trial of warrant cases.
- This classification is applicable to all the offences under IPC, local and special laws unless some other different procedure is provided for any specific category of persons such as Juvenile Justice Act.
- In warrant cases, where more than one offence is involved, if one out of those offences is warrant case, whole case shall be taken as warrant case.

14. Write short note on Judicial proceeding [HJS 1988, 1999)

Section 2(i)	**"judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;**

15. Discuss : Bailable and non-bailable offences [HJS, 1988, 1999, RJS 1969, 1975]

Section 2(a) Bailable Offence	
"Bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;	

MEANING OF BAIL : It means release of the accused from the custody of the officers of law and entrusting him to the private custody of persons who become bound as sureties to produce the accused to answer the charge at the stipulated time or date.

TYPES OF BAIL : Under CRPC, bail can be divided into : Bailable and Non-Bailable Offence. Rationale of this classification is not specified. However, it can be understood bailable offences are, generally speaking, less grave and serious than those which are non-bailable.

BAILABLE OFFENCES	NON- BAILABLE OFFENCES
Bail is a matter of right, If the offence is bailable under *Schedule 1 of CRPC*, ✓ The Court or ✓ the officer-in-charge of the Police-station. is bound to release the accused on bail, provided he is prepared to give bail (Sec.436).	Non-Bailable Offence does not mean, no bail will be given, rather it means that granting of the bail is at discretion of the *court or officer-in-charge of the Police-station* as per the conditions specified. (Sec..437)
Voluntarily causing hurt, committing affray, rioting, absconding to avoid service of summons, etc	Murder, rape, personating a Public Servant, etc.

HOW TO CHECK WHETHER AN OFFENCE WHETHER IT IS BAILABLE AND NON-BAILABLE?
Whether an offence is bailable or not is to be ascertained from *Schedule 1 of the Code* (where all offences are enumerated) or any other law which makes an offence thereunder to be bailable. Thus, the offence of murder is non-bailable, but causing death by a negligent act is bailable.

HOW IT WORKS ? A person accused of a bailable offence is treated differently; at any time while under detention without a warrant and at any stage of the proceedings before the Court before which he is brought, he has the right under Section 436 of the Code to be released on bail.[7]

[7] Ratilal Bhanji Mathani v. Asstt. Collector of Customs, 1967 Cr LJ 1576

YOU ARE MAKING THE WORLD A BETTER PLACE BY PURCHASING OUR MATERIALS.

WE ARE STRIVING HARD TO DO THAT.

mahilawacademy.com

MAHI
LAW ACADEMY

"EMPOWERING MINDS, SAVING LIVES: LAW COACHING FOR CANCER CAUSE"

200+ SOLVED QUESTION BANK

CRIMINAL PROCEDURE CODE



249₹

Link : https://mahilawacademy.in/courses