

Code of Criminal Procedure (Cr.P.C.) Questions and Answers

1. What is a complaint?

Answer: Section 2(d). A complaint is any allegation made orally or in writing to a Magistrate, with a view to taking action under the Code, that some person has committed an offence. It does not include a police report.

Reasoning: The definition is directly from Section 2(d), distinguishing it from FIR or police report to initiate magisterial action.

2. Distinguish between summons case and warrant case?

Answer: Section 2(s) and 2(w). A summons case is one relating to an offence punishable with imprisonment for less than 2 years, following a simpler procedure (Chapter XX). A warrant case is for offences punishable with death, life imprisonment, or imprisonment over 2 years, with more rigorous procedure (Chapter XIX).

Reasoning: The distinction is based on the punishment threshold in Section 2, affecting trial process. Summons cases are faster, warrant cases have additional stages like charge framing.

3. What is the forum for the victim to prefer an appeal against an acquittal? What is the procedure for it?

Answer: Section 372. The forum is the court to which an appeal ordinarily lies against the judgment of the trial court (e.g., High Court for sessions acquittal). Procedure: The victim files an appeal within the limitation period (usually 90 days), without need for leave if it's against acquittal.

Reasoning: Section 372 was inserted by amendment in 2009 to give victims right to appeal, as per the principle of victim justice; procedure follows general appeal rules under Chapter XXIX.

4. How do you understand by non-cognizable offence and non-cognizable case?

Answer: Section 2(l). A non-cognizable offence is one where police cannot arrest without warrant or investigate without court order. A non-cognizable case is the proceeding relating to such offence.

Reasoning: The definition in Section 2(l) contrasts with cognizable offences (Section 2(c)), where police have autonomous powers; it's based on the First Schedule to Cr.P.C.

5. When warrant of arrest can be issued in lieu of summons?

Answer: Section 87. It can be issued if the court has reason to believe the person has absconded or will not obey the summons, or if the person fails to appear after summons.

Reasoning: Section 87 empowers the Magistrate to replace summons with warrant for ensuring appearance, after recording reasons, to prevent evasion.

6. Who is a proclaimed offender?

Answer: Section 82. A person against whom a proclamation is issued under Section 82 for failing to appear, and specifically under Section 82(4) for certain serious offences like murder or rape.

Reasoning: The status is declared by the court after proclamation process, allowing attachment of property under Section 83.

7. What is the process to issue proclamation?

Answer: Section 82. The court issues a written proclamation requiring the person to appear

at a specified place and time (not less than 30 days), published by affixing to the persons house, public place, and newspaper if necessary.

Reasoning: The process is stepwise: first, warrant; if unexecuted, proclamation; to compel appearance and prevent absconding.

8. Whether a person in live-in relationship with a girl and staying together with her is obliged to maintain her?

Answer: Section 125. Yes, if the relationship is in the nature of marriage (domestic relationship with proof of cohabitation), as per Supreme Court in *D Velusamy v D Patchaiammal* (2010).

Reasoning: Section 125 covers wife broadly, including live-in partners in marriage-like relationships, but not casual ones; obligation is to prevent vagrancy.

9. What is a continuing offence? How jurisdiction is determined in these cases?

Answer: Section 472. A continuing offence is one that is prolonged over time (e.g., kidnapping), where fresh limitation periods start with each continuation. Jurisdiction is per Section 178, at any place where the offence continued.

Reasoning: Section 472 extends limitation for ongoing acts; jurisdiction is flexible under Section 178 to allow trial where part of the offence occurred.

10. What do you mean by cognizance?

Answer: Section 190. Cognizance is the application of judicial mind to the facts of an offence for initiating proceedings.

Reasoning: Its the stage where the Magistrate takes notice of the offence upon complaint, police report, or own knowledge, as per Section 190(1), marking the start of judicial process.

11. Whether a Sessions Court can take cognizance directly?

Answer: Section 193. No, it can only take cognizance after commitment by a Magistrate, except for specific cases like defamation.

Reasoning: Section 193 prevents direct cognizance to ensure preliminary screening by Magistrate, maintaining hierarchy in trial courts.

12. What is charge?

Answer: Section 2(b). Charge is the written notice of the specific accusation against the accused, containing particulars of the offence.

Reasoning: Its defined in Section 2(b), and framed under Sections 211-217, to inform the accused of the case to answer.

13. When trial of Sessions case commences?

Answer: Section 227. It commences after discharge consideration, when the judge frames charge under Section 228 if prima facie case exists.

Reasoning: Section 227 is the pre-trial stage; commencement is at charge framing, as per Supreme Court in *Union of India v Prafulla Kumar* (1979).

14. Whether an accused can file written statement in a criminal case? If yes, then as per which provision?

Answer: Yes, Section 313(5). The accused can file a written statement in lieu of oral examination under Section 313. Also, Section 243(2) in warrant cases for defence evidence.

Reasoning: Section 313(5) was added in 2009 to allow written responses for efficiency; its optional and doesnt replace oral examination if court deems necessary.

15. How power U/s.311, Cr.P.C is to be exercised?

Answer: Section 311. The court can summon or recall any witness at any stage if essential

for just decision, exercised judiciously without prejudice.

Reasoning: The power is wide but discretionary, to fill lacunae in evidence, as per Supreme Court in *Zahira Habibullah v State* (2004); not for filling gaps in prosecution case.

16. When can an accused be added as per the provisions of Sec.319, Cr.P.C?

Answer: Section 319. If during trial, evidence shows another person (not accused) committed the offence, the court can add them as accused and try them together.

Reasoning: The power is based on evidence during inquiry or trial, to ensure all guilty are prosecuted; requires prima facie evidence, as per *Hardeep Singh v State of Punjab* (2014).

17. What is the difference between appellate and revisional jurisdiction?

Answer: Appellate (Chapter XXIX): Full re-examination of merits, can reverse findings. **Revisional (Section 397):** Limited to legality, correctness, or propriety, no merit re-appreciation unless error apparent.

Reasoning: Appellate is right-based, revision is supervisory; appellate can modify sentence, revision recommends changes.

18. What are the circumstances where criminal appeal is barred?

Answer: Section 376: No appeal in petty cases (fine 100), plea of guilty in summons cases (fine 200), or where no appeal is provided. Also, bar in plea bargaining (Section 265G).

Reasoning: Bars are to reduce frivolous appeals for minor matters, as per statutory limits in Section 376.

19. What do you mean by a default bail/statutory bail? What are the leading decisions (at least two) in its respect?

Answer: Section 167(2). Its the right to bail if investigation not completed and charge sheet not filed within 60/90 days (depending on punishment). **Leading decisions:** *Uday Mohanlal v State of Maharashtra* (2000) - right accrues automatically; *Sanjay Dutt v State* (1994) - period computation strict.

Reasoning: The provision prevents prolonged detention without charge sheet, balancing liberty and investigation; right is indefeasible after timeline.

20. Whether the provisions of Limitation Act and General Clauses Act are applicable while calculating the period of 60 days or 120 days, as the case may be, as per the provisions of Sec.167, Cr.P.C?

Answer: General Clauses Act applies for computing days (e.g., exclude first day), but Limitation Act does not, as Cr.P.C is special law.

Reasoning: As per Supreme Court in *Bharat Damodar Kale v State of A.P* (2003), general computing rules apply, but no extension under Limitation Act; strict timeline to protect accused.

21. Can an illegitimate son be asked to maintain his father as per Sec.125 Cr.P.C?

Answer: Yes, Section 125. Son includes illegitimate son, as per Supreme Court in *Kirtikant v State of M.P* (1991).

Reasoning: Section 125 aims to prevent vagrancy, interpreting son broadly to include illegitimate children for maintenance obligation.

22. Can a step son be asked to maintain his step mother as per the provisions of Sec.125 Cr.P.C?

Answer: No, Section 125. Step son is not liable, as obligation is for wife, child, parent with blood relation, as per Supreme Court in *Kirtikant v State of M.P* (1991).

Reasoning: The section specifies son or daughter, not step-children; limited to biological or

adopted.

23. What is the difference between discharge and acquittal?

Answer: Discharge (Section 227/239/245): Pre-charge stage, when no prima facie case, no trial proceeds. **Acquittal (Section 232/235/248):** After trial, on merits, when not guilty, bars re-trial.

Reasoning: Discharge is procedural, can be re-charged; acquittal is final judgment on evidence, protected by Section 300 (double jeopardy).

24. Can a person be convicted upon offences not specified in charge? If yes under what circumstances?

Answer: Yes, Section 221(2). If facts prove a different offence but accused not prejudiced, or under Section 222 for minor offences.

Reasoning: To avoid technicality, but only if no prejudice to defence, as per Section 464 (error in charge not fatal unless miscarriage of justice).

25. Differentiate and distinguish between commutation, remission and suspension of sentence?

Answer: Commutation (Section 433): Change to lighter punishment (e.g., death to life). **Remission (Section 432):** Reduction in duration. **Suspension (Section 432):** Temporary pause.

Reasoning: All under government power (Section 432-435), commutation changes type, remission reduces time, suspension postpones, based on mercy principles.

26. What are the circumstances in which a de novo trial can be directed?

Answer: Section 323 or 386 (appeal). If trial vitiated by illegality, or new evidence under Section 391, or if accused added under Section 319.

Reasoning: De novo means from beginning; ordered when irregularity causes failure of justice, as per Supreme Court in Ajay Kumar Ghosh v State (2010).

27. Whether the principle of once bail is always bail holds good as on date?

Answer: No, not absolute. Bail can be cancelled under Section 437(5) or 439(2) if conditions violated or new circumstances.

Reasoning: As per Supreme Court in State of U.P v Amarmani Tripathi (2005), bail is not irrevocable; principle is old, overridden by statutory powers for justice.

28. If charge sheet is filed in respect of some higher offences than those in respect of which the FIR was lodged or in respect of which the accused was forwarded to court by police during investigation, then what shall be its effect on the bail granted to the accused during investigation? What is the leading decision on this point?

Answer: Bail continues unless cancelled; new charge doesn't automatically revoke. **Leading decision:** Prahlad Singh Bhati v NCT Delhi (2001) - bail for FIR offence extends unless grounds for cancellation.

Reasoning: Bail is for the case, not specific sections; cancellation requires separate application under Section 437(5).

29. What is plea bargaining and in respect of which category of offences the benefits of plea bargaining can be availed?

Answer: Section 265A to 265L. Plea bargaining is mutual consent for reduced charge/sentence.

Available for offences with punishment less than 7 years, not against women/children or socio-economic offences.

Reasoning: Introduced in 2005 for speedy justice; excluded serious crimes to protect public interest.

30. Whether the accused can be convicted on the basis of his statement U/s.313 Cr.P.C alone?

Answer: No, Section 313. The statement is for explanation, not evidence; conviction requires independent proof.

Reasoning: As per Supreme Court in Basavaraj R. Patil v State of Karnataka (2000), its not substantive evidence, only to explain incriminating circumstances.

31. How to deal with mentally ill person during trial?

Answer: Section 329. If accused is of unsound mind, postpone trial, inquire into mental state, and release on bail or to safe custody.

Reasoning: The court must conduct inquiry with medical evidence; if incapable, trial halted to ensure fair trial under Article 21.

32. What is the procedure to be adopted by a Court if it finds that the accused, though not mentally ill, does not understand the proceedings of the case?

Answer: Section 318. Provide interpreter or explain in language understood; if impossible, record and proceed, but appeal allowed on this ground.

Reasoning: Ensures fair trial; if language barrier, court appoints aid, as per constitutional right to understand charges.

33. What is the extent of imprisonment for life?

Answer: Section 57. It means imprisonment for the remainder of natural life, unless remitted or commuted.

Reasoning: As per Supreme Court in Gopal Vinayak Godse v State of Maharashtra (1961), its not 14 or 20 years, but whole life, subject to executive mercy.

34. What do you mean by a letter of rogatory?

Answer: Section 166A. Its a letter of request to a foreign court for examination of witness or production of document in investigation.

Reasoning: For mutual legal assistance in cross-border cases, issued by Magistrate to facilitate evidence collection abroad.

35. What is the difference between an accomplice and an approver?

Answer: Section 306. Accomplice is a co-participant in crime whose evidence needs corroboration (Section 133 Evidence Act). Approver is an accomplice granted pardon to turn witness.

Reasoning: Approver gets immunity under Section 306; accomplice does not, their testimony is tainted but usable with caution.

36. What is understood by tender of pardon? Whether the C.J.M exercises any extra power in relation to tender of pardon than other Judicial Magistrates?

Answer: Section 306. Tender of pardon is granting immunity to an accomplice to testify. C.J.M has same power as JMFC, but can tender in sessions-committable cases.

Reasoning: Power is to secure evidence; C.J.M has no extra power, but jurisdiction for serious cases, as per Section 306(4).

37. What do you mean by a Sessions case? Has this term been defined anywhere in the Cr.P.C?

Answer: Not defined explicitly, but refers to cases triable exclusively by Sessions Court (First Schedule).

Reasoning: Derived from Section 209 (commitment to Sessions); term used in practice for serious offences under Chapter XVIII.

38. **What is the maximum default sentence a Judicial Magistrate of First Class can pass: (a) If substantive sentence does not form part of sentence, (b) If substantive sentence forms part of sentence?**

Answer: Section 29(2). Maximum 3 years imprisonment or fine up to 10,000. Default sentence for fine: (a) Up to 1/4th of imprisonment power (Section 30); (b) Added to substantive, but total not exceeding power.

Reasoning: Default is for non-payment of fine, limited to prevent excessive detention; Section 30 caps it.

39. **If one can be awarded with both rigorous and simple imprisonment in the same sentence for the same offence by the same Court?**

Answer: Yes, Section 60. The court can direct part rigorous and part simple.

Reasoning: Section 60 allows mode of imprisonment to be wholly rigorous, simple, or combination, for flexibility in sentencing.

40. **What are the provisions of Cr.P.C regarding medical examination of an accused arrested by the police?**

Answer: Section 53, 53A, 54. Police can request examination by medical practitioner for evidence (e.g., DNA, injuries); accused can request examination for defence.

Reasoning: Section 53 for general, 53A for sexual offences; balances investigation with rights, with consent where possible.

41. **What do you mean by preliminary charge sheet? Which provision of Cr.P.C authorises police to file preliminary charge sheet?**

Answer: No specific provision; refers to supplementary charge sheet under Section 173(8). Preliminary may mean initial report under Section 173(2).

Reasoning: Cr.P.C uses police report or charge sheet; supplementary for further investigation.

42. **What do you understand by cross-examination before charge and cross-examination after charge?**

Answer: Before charge: Under Section 244 in warrant cases on complaint, prosecution witnesses cross-examined pre-charge. After charge: Under Section 246, remaining witnesses.

Reasoning: Two stages in complaint warrant cases to allow early discharge if no case.

43. **If evidence can be recorded in absence of the accused? If yes, then as per which provision and under what circumstances?**

Answer: Yes, Section 299. If accused is absconder, evidence recorded for use if captured.

Reasoning: To prevent delay; evidence must be by witnesses who can be cross-examined later, as per Section 299(1).

44. **What do you mean by double jeopardy?**

Answer: Section 300. No person can be tried again for the same offence after acquittal or conviction.

Reasoning: Based on Article 20(2) Constitution; applies to same facts and offence, as per Kolla Veera Raghav Rao v Gorantla Venkateswara Rao (2011).

45. **If an accused can be forced for brain mapping, polygraphy and lie detection test? If not, why? Which constitutional provision regulates this aspect?**

Answer: No, Article 20(3) Constitution. Cannot be forced as it violates right against self-incrimination.

Reasoning: As per Supreme Court in Selvi v State of Karnataka (2010), such tests are testimonial compulsion; voluntary only.

46. **Whether an accused can be forced to give blood and other pathological samples for different types of tests including DNA profiling?**

Answer: Yes, Section 53A. For reasonable cause in sexual offences, or Section 53 for general.

Reasoning: Not testimonial, physical evidence; no self-incrimination, as per State of Bombay v Kathi Kalu Oghad (1961), but with Magistrate order.

47. **What do you understand by reference so far as criminal Courts are concerned?**

Answer: Section 395. Lower court refers legal question to High Court if it involves validity of law or substantial question.

Reasoning: To resolve doubts; High Court opinion binding, to ensure uniform interpretation.

48. **What are the remedies available to a person if the I.I.C of a police station refuses to register his F.I.R?**

Answer: Section 154(3): Send complaint to Superintendent of Police. **Section 156(3):** Apply to Magistrate for direction to register FIR.

Reasoning: These provisions ensure access to justice; Superintendent or Magistrate can compel registration to initiate investigation.