

## CRIMINAL PROCEDURE CODE FOR MADHYA PRADESH JUDICIAL SERVICES EXAMS

### MODULE 1 : INTRODUCTION AND DEFINITIONS UPTO SECTION 5 OF THE CRPC

**WHAT IS CRPC IS ALL-ABOUT?** The Criminal Procedure Code, 1973 is to consolidate and amend the law relating to Criminal Procedure in the India.

### CHAPTER I : PRELIMINARY : CONTAINS SECTION 1-5 OF CRPC.

Section 1. Short title, extent and commencement.—

(1) This Act may be called the Code of Criminal Procedure, 1973. (2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof, shall not apply— (a) to the State of Nagaland, (b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

Explanation.—In this section, “tribal areas” means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong. (3) It shall come into force on the 1st day of April, 1974.

**WHAT IS CRIMINAL PROCEDURE CODE?** The Code of Criminal Procedure, 1973 is a compendium of law relating to criminal procedure for conducting trial and punishing persons.

**HOW IS IT BEING DONE?** The CRPC revolves around *defense of accused, police, prosecution, criminal courts and prison authorities*.



- Accused is presumed to be innocent.
- Burden is on the prosecution to prove the guilt beyond reasonable doubt.
- Police is to prevent the crime.
- Criminal court is conduct trial and punish the offenders in the interest of the state.
- Prison authorities is to ensure that criminals are in the jail and transport them to courts on the dates fixed for the court proceedings.

In the working of these procedures, accused should not be deprived of right to fair trial which is guaranteed by principles of natural justice, Art.21 and UDHR.

**IS THE CRPC EXHAUSTIVE?** Yes. It is exhaustive Code.

- It provides complete machinery to investigate and try cases, appeals against the judgments.
- It has provisions at each stage to correct
  - ✓ errors,
  - ✓ failures of justice and
  - ✓ abuse of process.

under the supervision and superintendence of the High Court.<sup>1</sup>

## DEFINITIONS UNDER CRIMINAL PROCEDURE CODE

### 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.

<sup>1</sup> Popular Muthiah v State represented by Inspector of Police, (2006) 7 SCC 296.



BAILABLE OFFENCES	NON- BAILABLE OFFENCES
Bail is a matter of right, If the offence is bailable under <i>Schedule 1 of CRPC</i> , <ul style="list-style-type: none"> <li>✓ The Court or</li> <li>✓ the officer-in-charge of the Police-station.</li> </ul> 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 <u>court or officer-in-charge of the Police-station</u> 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.

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**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.<sup>2</sup>

#### Section 2(b) : “charge”

“charge” includes any head of charge when the charge contains more heads than one;

**MEANING :** When a criminal prosecution is initiated, the Magistrate *charges* the accused and informs him of the number of offences that have been alleged against him. All these offences are called *heads of charge* and all of them individually and together are known as ‘charge’.

**DEFINITION :** This definition is merely inclusive and makes it clear that a charge may include more heads than one. It does not really define what a charge is.<sup>3</sup>

<sup>2</sup> Ratilal Bhanji Mathani v. Asstt. Collector of Customs, 1967 Cr LJ 1576

<sup>3</sup> AIR 1924 Cal 625 : 26 Cr LJ 48; AIR 1915 Sind 80.



**BEST DEFINITION OF CHARGE:** Charge may be defined as precise formulation of a specific accusation made against a person of an offence alleged to have been committed by him.<sup>4</sup>

In the case of *Eisher Singh v. State of Andhra Pradesh* AIR 2004 SC : The Supreme Court defined the concept of charge as under:- “Charge is an accusation made against the accused in respect of an offence alleged to have been committed by that accused. Thus charge can be described as summary of allegations leveled against the accused by the prosecution which the accused has to defend against these charges.”

**WHY SHOULD WE FRAME THE CHARGE?** In a criminal trial the charge is the foundation of the accusation because it assists in preparation of defense of the accused. It should be noted that evidence is only tendered with respect to matters put in the charge and not the other matters.

**FOR WHICH TYPE OF CASE WE FRAME IT?** It is needed in Warrant and Sessions cases (ss. 240; 228), but not required in Summons cases (s. 251)

**BASICS:** Section 218 lays down the basic rule of charge and trial. The basic rule states that there must be a different and separate charge for every offence that the person is accused of and every charge levied against the person shall be tried separately in distinct trials.

### 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.<sup>5</sup>

### 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.

<sup>4</sup> AIR 1948 Sind 40

<sup>5</sup> From the perspective of Trial, CRPC divides the cases into ‘Summons’ and ‘Warrant’ Case.



**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**.
- 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".<sup>6</sup>**

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.<sup>7</sup> **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.

<sup>6</sup> Smt Amarvati v. State of Punjab, 2005 (Cr. LJ 755 (All))

<sup>7</sup> 1961(2) Cr W 605 : AIR 1961 AP 448: (1061) 1 Andh WR 153.



**COMPLAINT UNDER SECTION 2(d)**

“complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

**MEANING OF COMPLAINT :**

- A complaint in a criminal case is what a plaint is in a civil case.
- The receipt of a 'complaint' is one of the modes according to which a Magistrate can take cognizance of an offence [s. 190(1)(a)].
- It includes an oral allegation. It may, therefore, be assumed that no form is prescribed which the complaint must take.
- It may only be said that there must be an allegation which *prima facie* discloses the commission of an offence with the necessary facts for the Magistrate to take action.

**FIR V. COMPLAINT** : First Information Report (FIR) is not same as a complaint in the sense that FIR must *prima facie* relate to a cognizable offence and is made to an officer-in-charge of a police station and unlike the complaint, a Magistrate cannot take cognizance of an offence on the basis of the First Information Report.

**FIR V. INFORMATION** : Information is a genus of which complaint is a species. An information is not a complaint unless it satisfies the requirements of the definition in s. 2(d). But an invalid complaint may be treated as an information. In case of complaint, oath has to be administered to complainant under sec.200, whereas no such requirement for informant.<sup>8</sup>

**REQUISITES OF A COMPLAINT:****1. an oral or a written allegation;**

It need not be in any particular form.<sup>9</sup> Thus, a letter or telegram addressed to the Magistrate may constitute a complaint within the meaning of the Code, if it contains the requirements of the definition.

**2. that some person (whether known/unknown) has committed an offence;**

<sup>8</sup> A person who has knowledge of an offence may either (a) file a complaint before a Magistrate under s. 190(1)(b) read with s. 200. or (b) give information to the Police under s. 154 or 155 or to the Magistrate under s. 190(1)(c).

<sup>9</sup> Mohd. Yusaf v. Afaq Jahau, 2006 Cri LJ 1988 (SC) : 2006(1) Crimes 81(SC) : 2006(1)JCC 189



Mention of wrong section does not invalidate the complaint.<sup>10</sup> However, if alleged acts in the petition does not disclose the ingredients of any offence, then it would not be a 'complaint' <sup>11</sup>. It would be dismissed under sec.203.

### 3. *it must be made to a Magistrate;*

A report to police or some other authority/panchayat cannot be treated as a 'complaint'

**(d) the object must be that the Magistrate takes an action under CRPC, not some administrative action.**<sup>12</sup>

**(e) Nothing is a complaint, which, if proved, would not lead to a conviction. It is not imperative that the name of the accused should be mentioned.**<sup>13</sup>

**WHO MAY BE A COMPLAINANT?** Any member of the public *unless, the law says otherwise.*

SOME EXCEPTIONS		
<b>Where the complaint can be made only by specified person or authority.</b>	Section 195(1)(a)	Complaint for contempt of lawful authority of public servants can be made only by the public servant concerned or by his superior authority
<b>Where no complaint can be made without the previous sanction of a specified Authority</b>	Section 197	Prosecution of Judges, Magistrates, or certain classes of public servants, for offences committed while acting or purporting to act in the discharge of their official duties, can be made only with the previous sanction of the State Government or the Central Government, as the case may be
<b>Where the complaint can be made only by the person aggrieved</b>	Section 198	Prosecution for offences against marriage.

## STAGES OF A CRIMINAL CASE

**STAGE 1 : INVESTIGATION** – Police Officer starts the investigation *suo moto* or on the orders of Magistrate. If after investigation, the police officer can find that accused has committed some offence then, he will send the 'case' to Magistrate. When he find that

<sup>10</sup> Sardarilal v. State of Punjab, 1983 Cr LJ 733.

<sup>11</sup> Debendra v. State of W.B., AIR 1972 SC 1607.

<sup>12</sup> Subodh v. Jamsar, AIR 1949 Cal 55.

<sup>13</sup> Seventilal v. State of Gujarat, AIR 1969 Guj 14



accused has not committed any offences, then he will report the same to magistrate, who in turn will drop the proceedings.

STAGE 2 : INQUIRY : Done by Magistrate. He frames the charges if prima facie case is made out against the accused. If no such case, then complaint will be dismissed or accused will be discharged.

STAGE 3 : If the accused is found prima facie guilty, then the magistrate will frame charges against him. That will commence the trial against the accused as per the procedure under CRPC.

## 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

## 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

**Write a short note on Investigation. MPJS 2014**

## 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*,<sup>14</sup> 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 of 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.

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.

<sup>14</sup> 1955 Cri. LJ 526, *Seethalakshmi v. State of T.N.*, 1991 Cri. LJ 1037.



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.

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DIFFERENCE	SUMMONS CASE	WARRANT CASE
<b>PUNISHMENT</b>	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).
<b>DIFFERENT PROCEDURES</b>	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.	
<b>ON THE ASPECT OF FRAMING OF CHARGES</b>	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
<b>EFFECT ON ABSENCE OF COMPLAINANT</b>	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)
<b>WITHDRAWAL OF COMPLAINT</b>	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.

#### VICTIM | Section 2 (wa)

“victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir.

- Section 2 (wa) as inserted by Code of Criminal Procedure (Amendment) Act, 2008 . This has come into force with effect from 31-12-2009. It confers certain rights on the guardians and legal heirs of the victims.
- The word “any loss or injury” is used to denote a person who is suffering as a direct and most proximate result of the crime. It will also include (a) his or her heirs (b) his or her guardian.

#### RIGHTS FOR THE VICTIM :

1. *Proviso to S.24(8):* Victim can engage an advocate of his choice to assist the public prosecutor.
2. *2<sup>nd</sup> Proviso to S.157 :* Statement of the victim shall be conducted by the woman police officer at the residence of the victim or in place of her choice in relation evidence of rape in presence of her parent or guardian or near relative or social worker of the locality
3. *Section 157A :* Every State Government in co-ordination with the Central Government prepare a compensation scheme for the victim
4. *Proviso to Section 372 :* Victim has a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting him for lesser offence of imposing inadequate compensation.



SECTION	OTHER DEFINITIONS UNDER CRPC
<b>Section 2(e)</b>	“High Court” means,— (i) in relation to any State, the High Court for that State; (ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court; (iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;
<b>Section 2(f)</b>	“India” means the territories to which this Code extends;
<b>Section 2(i)</b>	“judicial proceeding” includes any proceeding in the course of which evidence is or may be legally taken on oath;
<b>Section 2(j)</b>	“local jurisdiction”, in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code and such local area may comprise the whole of the State, or any part of the State, as the State Government may, by notification, specify;
<b>Section 2(k)</b>	“metropolitan area” means the area declared, or deemed to be declared, under section 8, to be a metropolitan area;
<b>Section 2(m)</b>	“notification” means a notification published in the Official Gazette;
<b>Section 2(n)</b>	“offence” means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871 (1 of 1871);
<b>Section 2(o)</b>	“officer in charge of a police station” includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present;
<b>Section 2(p)</b>	“place” includes a house, building, tent, vehicle and vessel;
<b>Section 2(q)</b>	“pleader”, when used with reference to any proceeding in any Court, means a person authorised by or under any law for the time being in force, to practise in such Court, and includes any other person appointed with the permission of the Court to act in such proceeding;
<b>Section 2(r)</b>	“police report” means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;
<b>Section 2(s)</b>	“police station” means any post or place declared generally or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf;



<b>Section 2 (t)</b>	“prescribed” means prescribed by rules made under this Code;
<b>Section 2(u)</b>	“Public Prosecutor” means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor;
<b>Section 2(v)</b>	“sub-division” means a sub-division of a district;
<b>Section 2(y)</b>	words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in that Code

#### **4. Trial of offences under the Indian Penal Code and other laws. —**

**(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.**

**(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner of place of investigating, inquiring into, trying or otherwise dealing with such offences**

**SCOPE :** This section provides that all the offences defined and covered under IPC will be dealt by following the procedure prescribed by this Code. The procedure of investigation, trial and inquiry into the offences under IPC will be in the manner provided under by the CRPC. If a statute does not specify otherwise, CRPC will be made applicable for investigation, inquiry and trial.<sup>15</sup> If a statute has any provisions for investigation, inquiry and trial contrary to the provisions of the CRPC, then CRPC would not apply.<sup>16</sup>

#### **Section 5: Saving :**

**Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.**

#### **SPECIAL OR LOCAL LAW V. SPECIFIC PROVISION IN CRPC :**

- Section 5 clarifies that CRPC will govern matters included in it.
- However, if any special or local law is there on the matters included in CRPC, then it is the special or local law will prevail over CRPC. (Example – *Army Act*)

<sup>15</sup> AR Antulay v RS Nayak, AIR 1984 SC 718

<sup>16</sup> Gangula Ashok v State of AP, AIR 2000 SC 740 ; Vishal Agrawal v Chhattisgarh State Electricity Board, 2014 Cr LJ 1317 (SC)



- But if there is a specific provision in CRPC, then that will prevail over the special law.  
*Example:* Section 433-A of CRPC will have overriding effect over any special or local law.<sup>17</sup>

**SPECIAL JURISDICTION:** This term is not defined in CRPC. However, it is agreed that Power to Punish for contempt of HC is a special jurisdiction. Therefore, HCs need not follow CRPC for contempt proceedings.<sup>18</sup>

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<sup>17</sup> Maruram v UOI, (1981) 1 SCC 107

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*Sukhdev Singh Sodhi v Chief Justice and Judges of the Pepsu High Court*, AIR 1954 SC 186