Toppersnotes
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New

Criminal Laws

For All Judiciary Exams

Volume - 3

Bharatiya Nagarik Suraksha Sanhita (BNSS)

SIERRA INNOVATIONS

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THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

List of cases [BNSS]

I. FIR & Cognizance

1. **Lalita Kumari v. State of UP (2014) SC**
   - ✓ **Rule:** Police must register FIR if information discloses a cognizable offence. Preliminary inquiry allowed in few cases (like matrimonial, commercial).
2. **State of Haryana v. Bhajan Lal (1992) SC**
   - ✓ **Rule:** Laid down **7 grounds** where FIR can be quashed under Section 482 CrPC [528 BNSS]
3. **T.T. Antony v. State of Kerala (2001) SC**
   - ✓ **Rule:** No **second FIR** on same incident. Subsequent FIRs liable to be quashed.
4. **Chandran Ratnaswami v. K.C. Palanisamy (2013)**
   - ✓ **Rule:** FIR cannot be quashed merely because it is filed after delay. Delay is only a factor for consideration.
5. **Manju Surana v. Sunil Arora (2018) SC**
   - ✓ **Rule:** FIR quashing not automatic even in commercial disputes if allegations reveal a criminal offence.

II. Arrest, Bail & Personal Liberty

6. **Joginder Kumar v. State of UP (1994) SC**
   - ✓ **Rule:** Arrest **cannot be routine.** Police must justify reasons.
7. **DK Basu v. State of West Bengal (1997) SC**
   - ✓ **Rule:** Laid down **guidelines on arrest and detention** to prevent custodial torture.
8. **Arnesh Kumar v. State of Bihar (2014) SC**
   - ✓ **Rule:** Police **must not arrest automatically** in cases like Section 498A IPC [85 BNS].
9. **Gudikanti Narasimhulu v. Public Prosecutor (1978) SC**
   - ✓ **Rule:** Bail is the rule, jail is the exception.
10. **Satender Kumar Antil v. CBI (2021) SC**
    - ✓ **Rule:** Issued comprehensive guidelines on **arrest and bail** for offences punishable up to 7 years.

III. Search, Seizure, & Investigation

11. **State of Punjab v. Baldev Singh (1999) SC**
    - ✓ **Rule:** Person must be informed of right to be searched before a gazetted officer under NDPS Act. Influences CrPC's fair investigation principles.
12. **Pooran Mal v. Director of Inspection (1974) SC**
    - ✓ **Rule:** Illegally obtained evidence is **admissible**, though may violate fundamental rights.

13. Hardeep Singh v. State of Punjab (2014) SC

- ✓ **Rule:** Court can **suo motu summon additional accused** under Section 319 CRPC [358 BNSS if evidence appears against them.

14. Union of India v. W.N. Chadha (1993) SC

- ✓ **Rule:** During investigation, accused **has no right to be heard** before filing chargesheet.

IV. Compounding of Offences

15. Gian Singh v. State of Punjab (2012) SC

- ✓ **Rule:** High Court can quash even **non-compoundable offences** under Section 482 CRPC [528 BNSS if parties settle, except in heinous crimes.

16. Narinder Singh v. State of Punjab (2014) SC

- ✓ **Rule:** Laid down guidelines for quashing criminal proceedings based on compromise.

V. Discharge, Framing of Charge, Quashment

17. State of Bihar v. Ramesh Singh (1977) SC

- ✓ **Rule:** At charge stage, court only sees whether there is **prima facie case.** Not detailed evaluation of evidence.

18. M.E. Shivalingamurthy v. CBI (2020) SC

- ✓ **Rule:** For discharge under Section 227 CRPC [250 BNSS], accused must show **no sufficient ground for proceeding.**

19. R.P. Kapur v. State of Punjab (1960) SC

- ✓ **Rule:** Laid down grounds for quashing proceedings:
  - No offence disclosed.
  - Legal bar.
  - Absurd allegations.

VI. Statements, Confessions & Evidence

20. Selvi v. State of Karnataka (2010) SC

- ✓ **Rule:** Narco-analysis and polygraph tests **violate Article 20(3).**

21. State of NCT of Delhi v. Navjot Sandhu (Parliament Attack Case) (2005) SC

- ✓ **Rule:** Even if confession under POTA is inadmissible, other evidence can be relied upon under CrPC.

VII. Trial & Speedy Trial

22. Hussainara Khatoon v. State of Bihar (1979) SC

- ✓ **Rule:** Speedy trial is a **fundamental right.**

23. State of Punjab v. Ajaib Singh (2004) SC

- ✓ **Rule:** Delay alone does not quash trial unless it causes real prejudice.

24. Zahira Sheikh v. State of Gujarat (2004) SC

- ✓ **Rule:** Fair trial includes:
  - Safe atmosphere for witnesses.
  - Unbiased prosecution.

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VIII. Compounding & Quashing

25. B.S. Joshi v. State of Haryana (2003) SC

- ✓ **Rule:** Allowed quashing 498A cases due to settlement.

26. Jitendra Raghuvanshi v. Babita Raghuvanshi (2013) SC

- ✓ **Rule:** Reaffirmed power under Section 482 CRPC [528 BNSS] for quashing matrimonial disputes.

IX. Bail in Serious Offences

27. P. Chidambaram v. Directorate of Enforcement (2019) SC

- ✓ **Rule:** Economic offences are serious, but **bail cannot be denied mechanically.**

28. Nikesh Tarachand Shah v. Union of India (2017) SC

- ✓ **Rule:** Certain PMLA bail conditions struck down for violating Article 21.

X. Jurisdiction & Territorial Limits

29. Bhura Ram v. State of Rajasthan (2008) SC

- ✓ **Rule:** Section 179 CrPC/ 199 BNSS allows trial where part of offence occurred.

30. Navinchandra N. Majithia v. State of Meghalaya (2000) SC

- ✓ **Rule:** High Court can exercise jurisdiction under Section 482CRPC [528 BNSS] even if offence occurred outside its territory if cause of action partly arises there.

XI. Acquittal & Appeal

31. Chandrappa v. State of Karnataka (2007) SC

- ✓ **Rule:** Appellate court can reverse acquittal if judgment is **perverse.**

32. Banwari Lal Jhunjhunwala v. State of Maharashtra (1963) SC

- ✓ **Rule:** Complainant has no right to appeal against acquittal in police case.

XII. Compromise & Quashing

33. State of M.P. v. Laxmi Narayan (2019) SC

- ✓ **Rule:** Laid guidelines for quashing non-compoundable offences.

XIII. Recording of Evidence

34. State of Karnataka v. Shivanna (2014) SC

- ✓ **Rule:** Courts should record victim's statement in rape cases **immediately.**

35. State of Maharashtra v. Dr. Praful B. Desai (2003) SC

- ✓ **Rule:** Recording evidence via **video conferencing is valid.**

XIV. Protection to Public Servants

36. Hari Ram Singh v. Emperor (1939) SC

- ✓ **Rule:** Sanction under Section 197 CRPC [218 BNSS] required only if act was done in discharge of official duty.

37. Prakash Singh Badal v. State of Punjab (2007) SC

- ✓ **Rule:** Sanction not needed for acts done **in personal capacity.**

XV. Revision & 482 Powers

38. Madhavrao Scindia v. Sambhajirao Angre (1988) SC

- ✓ **Rule:** If chances of conviction are bleak, proceedings may be quashed.

39. Krishna Lal Chawla v. State of UP (2021) SC

- ✓ **Rule:** Complainant cannot file revision if not permitted by CrPC.

XVI. Other cases

40. Satish Ragde v. State of Maharashtra (2021) SC

- ✓ **Rule:** Touching private parts over clothes = sexual assault under POCSO.

41. In Re: Contagion of COVID-19 in Prisons (2020) SC

- ✓ **Rule:** Supreme Court ordered release of prisoners on interim bail due to pandemic.

42. Joseph Shine v. Union of India (2018) SC

- ✓ **Rule:** Though primarily IPC, affects CrPC—Adultery no longer a crime → no criminal trial under CrPC.

43. SG Vombatkere v. Union of India (2023) SC

- ✓ **Rule:** Affects CrPC—Sedition trials paused, impacts cognizance and trials under CrPC.

44. Shilpa Mittal v. State of NCT Delhi (2020) SC

- ✓ **Rule:** Children committing heinous offences can be tried as adults in certain circumstances, influencing CrPC trials.

45. Sushila Aggarwal v. State of NCT of Delhi (2020) SC

- ✓ **Rule:** No time limit can be imposed on anticipatory bail unless justified.

46. C.B.I. v. Anupam J. Kulkarni (1992) SC

- ✓ **Rule:** Police remand can only be for **15 days max.** Judicial custody after that.

47. Rajesh Sharma v. State of UP (2017) SC

- ✓ **Rule:** Directed scrutiny before arrest in 498A IPC/85 BNS cases → impacts CrPC arrest procedures.

48. Sanjay Chandra v. CBI (2011) SC

- ✓ **Rule:** Bail should be granted unless evidence suggests **tampering or flight risk.**

49. Pooja Pal v. Union of India (2016) SC

- ✓ **Rule:** Courts can order further investigation or reinvestigation under CrPC/BNSS even after chargesheet filed.

Background of BNSS, 2023

1. **Need for Reform in Criminal Justice System**
   - ✓ The Code of Criminal Procedure, 1973 (CrPC) had been in force for 50 years.
   - ✓ It was based on the older British colonial-era laws, including the CrPC of 1898.
   - ✓ Over time, India's social, technological, and legal environment changed significantly.
   - ✓ The existing CrPC was outdated, complex, and caused delays in justice delivery.
2. **Vision for New Law: Indianized, Simplified, Digitized**

   The Government of India wanted to create a modern, citizen-friendly, and technology-driven criminal procedure code that:
   - ✓ Prioritizes victims' rights,
   - ✓ Ensures speedy investigation and trial,
   - ✓ Uses digital tools like e-FIR, video trials, and electronic summons,
   - ✓ Removes colonial terminology and procedures,
   - ✓ Empowers police and judiciary with accountability.
3. **Law Commission's Reports**
   - ✓ The Law Commission of India, in multiple reports over the decades (especially the 154th and 239th Reports), highlighted the need for comprehensive reform of criminal laws, especially CrPC.
   - ✓ These reports emphasized:
     - Speedy justice,
     - Protection of constitutional rights,
     - Simplified procedures,
     - Victim compensation and participation.
4. **Committees and Consultations**
   - ✓ A Committee for Reforms in Criminal Laws was constituted in 2020 under the Ministry of Home Affairs (MHA), involving:
     - Legal experts,
     - Judges,
     - Academics, and
     - Stakeholders from the bar and bench.
   - ✓ The committee conducted nationwide consultations, webinars, and received feedback from the public and legal community.
5. **Introduction of BNSS**
   - ✓ On 11 August 2023, the Government introduced three new bills in Lok Sabha:
     1. Bharatiya Nyaya Sanhita, 2023 – replaces IPC, 1860
     2. Bharatiya Nagarik Suraksha Sanhita, 2023 – replaces CrPC, 1973
     3. Bharatiya Sakshya Adhiniyam, 2023 – replaces Indian Evidence Act, 1872
   - ✓ These are intended to decolonize Indian criminal laws and make them citizen-centric.

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6. Passage and Enactment

- ✓ The Bills were passed by both Houses of Parliament in December 2023.
- ✓ Received President's assent on 25 December 2023.
- ✓ The laws are to come into force from 1st July 2024 (as per government notification).

7. Objectives of BNSS, 2023

- ✓ Citizen first approach: victim-centric process
- ✓ Speedy investigation: timelines fixed for chargesheet and trials
- ✓ Use of technology: e-FIR, video conferencing, digital records
- ✓ Accountability of police: Zero FIR, mandatory forensic investigation in serious crimes
- ✓ Simplified procedures: Reduced delays, more clarity in stages of trial
- ✓ Removal of colonial legacy: Use of Indian names, values, and constitutional ethos.

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The Bharatiya Nagarik Suraksha Sanhita, 2023

Act No. 46 OF 2023

Date of enactment: 25th December, 2023.

Date of enforcement: 1 July, 2024

An Act to consolidate and amend the law relating to Criminal Procedure. BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows: —

CHAPTER I

Section 1-5 [Preliminary]

Section 1: Short title, extent, and commencement. —

Extent to:

- This Sanhita, except Chapters IX, XI, and XII (Chapter VII, X, and XI of CrPC), does not automatically extend to Nagaland and certain tribal areas.

What are "Tribal Areas"?

"Tribal areas" means those regions which, before ***21 January 1972***, were included in the **tribal areas of Assam** under the **Sixth Schedule** of the Indian Constitution, **excluding** the municipal area of **Shillong**.

- The State Government is empowered to apply it to those areas through a notification, with modifications if needed.

Section 2(1): Definitions:

Clause (a): Audio-video electronic

it refers to using electronic devices (like mobile phones, computers, CCTV cameras, webcams, etc.) for doing certain official work, especially in criminal cases. This includes:

1. Video conferencing – for example, when a witness or accused person appears before the court through a video call.
2. Recording:
   - ✓ When the police are identifying a suspect,
   - ✓ When they are conducting a search or seizure,
   - ✓ When they are collecting evidence — all these actions can be video or audio recorded.
3. Sending communication electronically, like messages, emails, or video recordings.

Clause (b): Bail

Bail = **Temporary freedom**, not full acquittal

Given to:

- Accused person
- Suspected person

Granted by:

- Police officer
- Court

Conditions may include:

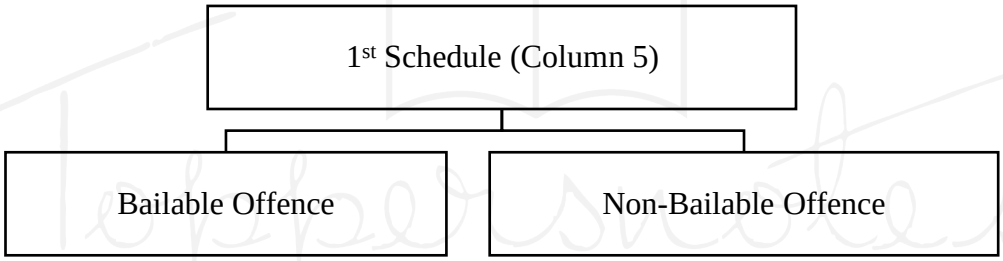
- Appearing in court
- Not leaving the area
- Not threatening witnesses

Bond/Bail bond = Written promise to follow conditions

The person must sign a bail bond or provide surety (guarantee).

Note: Chapter 35 deals with the provision of the bail.

Clause(c): Bailable offence



A bailable offence means:

- An offence (crime) that is mentioned as "bailable" in the First Schedule of the law (e.g., Bharatiya Nagarik Suraksha Sanhita or CrPC), or
- An offence that is made bailable by any other law that is currently in force.
- In such offences, getting bail is a right of the accused.
- The police or court must grant bail if the person applies for it and agrees to the conditions under Section 478 BNSS/ 436 CrPC.

A non-bailable offence means:

- Any other offence which is not marked as bailable in the First Schedule or other laws.
- In such cases, bail is not a right.
- The court has the discretion (choice) to grant or deny bail depending on the seriousness of the crime and facts of the case.

Bailable vs Non-Bailable Offences

Bailable Offences	Non-Bailable Offences
1. **Bail is a right** – The accused can demand bail, and the court **must grant it**.	1. **Bail is not a right** – The court has **discretion** to grant or refuse bail.
2. **Police can grant bail** under **Section 478**.	2. **Only courts can grant bail** under **Sections 480 or 483**.
3. **Less serious crimes** (e.g., simple hurt, defamation).	3. **More serious crimes** (e.g., murder, rape, terrorism).
4. **Anticipatory bail not needed** because bail is already a right.	4. **Anticipatory bail can be granted** in suitable cases.

Clause (d): Bail bond

A **bail bond** means:

A **written promise** given for the release of an accused person, **with a surety** (guarantor),

where:

- The accused promises to follow the court's conditions
- A **surety** promises to pay money if the accused does not obey the conditions or fails to appear in court

Clause (e): Bond

- A bond means a personal promise made by the person who is being released from jail that:
- "I will follow all the conditions of bail and come to court when required."
- The key point is no surety is needed.
- The person does not need another person (surety) to sign or guarantee anything.
- It is a personal bond, also called a *self-bond.*
- The person may be asked to promise to pay a certain amount if they break the bail rules — but they don't pay anything at the time of release.

Clause (f): Charge {Form no 33 of Schedule 2}

- A "charge" is an official *statement of accusation* made by a court that:
  - ✓ "You have committed a particular offence, and now you will face trial for it."
  - ✓ It is the starting point of a criminal trial, where the accused is told exactly what offence(s) they are being tried for.

- ✓ What is meant by “more than one head of charge”?
- ✓ When a person is accused of more than one offence in the same case, then each offence is treated as a separate “head” under the main charge.
- ✓ Each “head of charge” is like a different section of law the person is being accused under.

➢ Example for Better Understanding:

- ✓ Suppose a person named Ramesh is accused of:

1. Theft – Section 303(2) BNS
2. House Trespass – Section 332(c) BNS
3. Voluntarily Causing Hurt – Section 115(2) BNS

➢ Now, the charge sheet says:

- ✓ “Ramesh is charged under Sections 303(2), 332(c), and 115(2).”
- ✓ This one charge sheet contains three "heads of charge", because it includes three separate legal accusations.

➢ So, when the law says:

- ✓ “Charge includes any head of charge when the charge contains more heads than one,” It means that the word “charge” can refer to:
  - The entire list of offences, OR
  - Any single offence from that list

When is a Charge Framed?

A charge is framed when:

➢ The court finds **sufficient material**

➢ There is a **prima facie case**

➢ The accused appears to have committed an offence

Clause (g): Cognizable offence:

A cognizable offence is an offence in which:

➢ **The police may arrest a person without a warrant, and**

➢ **The police may start investigation on their own,**

➢ A case that involves a cognizable offence, where police can take immediate action — like arrest or investigation — without needing court permission.

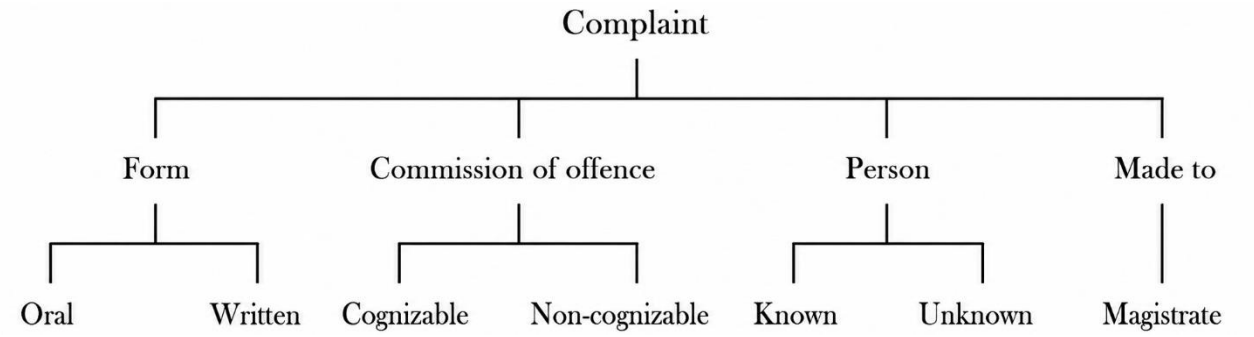
When More Than One Offence Is Involved

- If a case involves **two or more offences** and:
- **At least one** is cognizable, The whole case becomes a **cognizable case**.
- **Formula:**
  - ✓ Cognizable + Cognizable = **Cognizable**
  - ✓ Cognizable + non-cognizable = **Cognizable**
  - ✓ Non-cognizable + non-cognizable = **Non-cognizable**

Cognizable vs Non-Cognizable Offences

Cognizable	**Non-Cognizable**
1. **Arrest without warrant** – Police can arrest the accused **without a warrant**. *(Section 2(g))*	*1.* **No arrest without warrant** – Police **cannot arrest** without a warrant. *(Section 2(o))*
2. **Investigation without court permission** – Police can investigate **without Magistrate's approval**.	2. **Court permission required** – Police need **Magistrate's permission** to investigate.
3. **FIR is registered** under **Section 173 BNSS**	3. **NCR is recorded** under **Section 174 BNSS** (Non-Cognizable Report).
4. **Serious offences** like murder, rape, robbery.	4. **Less serious offences** like defamation, simple hurt.

Clause (h): Complaint:



- Any accusation made by a person either orally or in writing to a Magistrate, saying that someone has committed an offence, and asking the Magistrate to act under the law.
- It can be about a known or unknown person.
- It does not include a police report (i.e., it is not an FIR filed by the police)

- **Explanation:** Normally, a complaint means a person (not police) goes to a Magistrate and says that someone has committed an offence.
- But this explanation adds a special rule: [Deemed Complaint (Explanation to Section 2 (1) (h))]

  If:

  - ✓ The police investigate a case, and
  - ✓ After investigation, they find that a non-cognizable offence (i.e., a less serious offence where police cannot arrest without Magistrate's permission) has been committed, and
  - ✓ The police then submit a report to the Magistrate,

    Then that report will be treated just like a complaint, and

    The police officer who submits it will be considered the complainant.

Example:

1. A person files an FIR with the police about a minor fraud (a non-cognizable offence). Police do some investigation and prepare a final report. This report says: "Yes, this fraud happened." The report is sent to the Magistrate. As per this explanation:
   - ✓ That report = a complaint.
   - ✓ The police officer = the complainant

Who can file a complaint?

Generally, **any person** who has **knowledge** of the offence can file a complaint.

The complainant **need not be the victim**.

Exception – Sections 215 -222 BNSS

In some cases (like contempt of court, defamation, offences against public justice):

- Only **specific persons or authorities** can file a complaint.
- A normal person **cannot** file it.

Special & Local Laws

Some Acts allow complaints **only by particular persons**, for example:

- **Cattle Trespass Act**
- **Prevention of Food Adulteration Act**
- **Employees Provident Fund Act**

In these cases, **unauthorised persons cannot file complaints**.

Clause (i): Electronic communication

Electronic communication means:

Any type of **information** that is:

- **Written** (text, email, message)
- **Verbal** (voice call, voice note)
- **Pictorial** (photos, images)
- **Video content** (videos, video calls)

and is **sent or transferred**:

- From one **person to another**, or
- From one **device to another**, or
- From **person to device**, or
- From **device to person**,

using any **electronic device**, such as:

- Telephone
- Mobile phone
- Computer
- Wireless devices
- Audio-video player
- Camera
- Or any other electronic device

as notified by the **Central Government**.

It means sending or receiving anything (text, voice, image, video) through electronic devices like phones, computers, or cameras.

E.g. You send a WhatsApp message to your friend, you call someone on your phone, A CCTV camera sends live video to a control room, you email your boss from your laptop.

Clause(j): High Court

The meaning of High Court depends on which area we are talking about — a State or a Union Territory.

(i) For a State:

"High Court" means the High Court of that State.

Example: For Rajasthan → Rajasthan High Court

(ii) For a Union Territory that is under a State's High Court:

If a Union Territory (UT) has been brought under the control of a State's High Court (by law), then that State's High Court will be treated as the High Court for the UT also.

Example: Delhi is a UT and it has Delhi High Court.

But for Chandigarh, which is a UT, the Punjab and Haryana High Court serves as its High Court.

(iii) For other Union Territories:

For any UT which does not have its own High Court and is not under any State High Court, then the highest criminal appellate court in that UT will be treated as its High Court — but not the Supreme Court.

Example: In some small UTs like Lakshadweep, if no High Court is assigned, then the topmost criminal court there (like Sessions Court) may act like the final appeal court, and is treated as "High Court" for that UT — except the Supreme Court, which is above all.

Area Type	Meaning of "High Court"
State	That State's own High Court
UT under State	The High Court of that State (extended by law)
Other UTs	The highest criminal court in that UT (not Supreme Court)

Clause (k): Inquiry

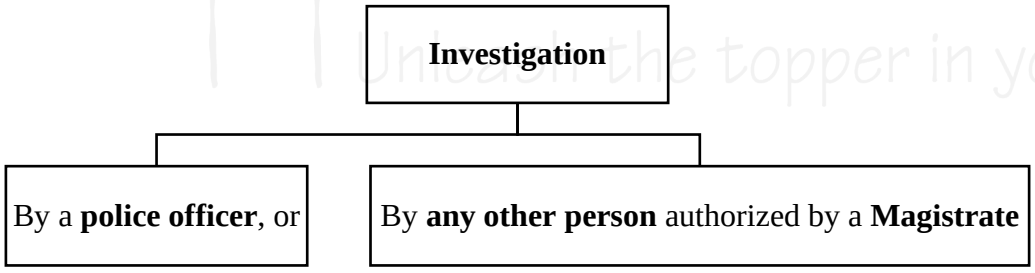
A formal court process before the trial to check if there is a case to go ahead for trial.

The inquiry ends when charges are framed.

It is conducted by the Magistrate or Court.

Clause (l): Investigation

All the steps or actions taken to collect evidence about a crime — done by a police officer or by any person authorised by a Magistrate, but not by the Magistrate himself.



Investigation may include:

- Going to the crime scene
- Gathering and recording statements of witnesses
- Seizing objects (like weapons, documents, etc.)
- Collecting forensic or medical reports
- Arresting the accused (if necessary)
- Preparing the charge sheet (if evidence is found)

Who can do it?

- Normally, police officers conduct investigations.
- But sometimes, if the Magistrate gives permission, some other person (like a special officer or agency) may also be allowed to investigate.
- However, a Magistrate cannot investigate personally — he can only supervise or give orders.

Clause (m): Judicial Proceeding

Any legal process or case where evidence is given or can be taken on oath before a judge or Magistrate.

Judicial proceedings	**Not a judicial proceeding**
A criminal trial — where witnesses come and give statements in court and the court asks questions	Police investigation is not a judicial proceeding — because police do not take evidence on oath.
1. A bail hearing — if evidence is taken on oath. 2. A committal proceeding — where the Magistrate decides if the case should go to Sessions Court.	A simple complaint given to police is also not a judicial proceeding

Clause (n): "Local jurisdiction":

It means the geographical area where a Court or Magistrate is legally allowed to exercise its powers and perform its functions.

- This area is not fixed; it can be:
  - ✓ The whole State, or
  - ✓ A part of the State
- Who decides the local jurisdiction?

  →it is the State Government, through a notification, specifies the boundaries of this "local jurisdiction."

Clause (o): A non-cognizable offence:

A police officer cannot arrest the person without getting permission (a warrant) from a Magistrate.

In non-cognizable cases, the police:

- Cannot arrest the accused directly.
- Cannot start an investigation unless the Magistrate says so.
- Must first take approval from the Magistrate to proceed.

Clause (p): Notification:

An official public announcement that is published in the Official Gazette of the Government.

Only when something is published in the Official Gazette, it becomes a valid notification under the law.

Clause (q): Offence:

- Any act (doing something) or omission (not doing something you are legally required to do) that is punishable under any law that is currently in force.
- In simple words, if any law says “this act is a crime and has punishment,” then that act is called an offence.
- The definition also includes:
  - ✓ Any act for which a complaint can be made under Section 20 of the Cattle Trespass Act, 1871.
  - ✓ This means that even specific acts under special laws (like damage caused by trespassing cattle) are treated as offences.

Clause (r): Officer in charge:

1. **Normally:** The officer in charge is the regular SHO or the one officially posted as in-charge of the police station.
2. If the SHO is absent (due to leave, illness, or any other reason): Then the next senior officer who is:
   - ✓ Present at the police station, and
   - ✓ Above the rank of constable will act as the officer in charge.
3. **Also:** If the State Government gives specific directions, then any other police officer present at the police station (as per that direction) can be treated as the officer in charge.

Clause (s): Place

It does not just mean land or open area.

It includes any structure or enclosed space, such as:

- A house, A building (like an office, school, factory), A tent (temporary shelter, even for events or camping), A vehicle (like a car, truck, bus), A vessel (like a boat or ship).
- This definition is used in legal situations like:
  - ✓ Search and seizure: If a law says "police can search any place", it means they can search not just homes, but also vehicles, tents, or ships.
  - ✓ Trespass or offences at a “place”: The law will apply whether the act happened in a house, car, or tent.

Example:

1. If a crime is committed inside a truck — it's considered a "place" under law.
2. If someone hides in a tent to avoid arrest — police can act, because a tent is also a "place."
3. A boat used to transport stolen goods is a "place" for legal purposes

Clause (t): Police report:

A **police report** means: A **report sent by the police to a Magistrate** after completing the investigation, as required under **Section 193(3)**.

What does Section 193(3) say?

After finishing the investigation, the **officer in charge of the police station** must send a report to the Magistrate containing:

- Name of the **accused**
- Name of the **informant**
- Details of the **offence**
- Evidence collected
- Whether an offence is committed or not
- Who committed the offence

Types of Police Report

The police report can be of **two kinds**:

(a) Final Report (Closure Report, Negative Report)

- ✓ Says **no offence is made out**
- ✓ Accused is **not guilty**

(b) Charge Sheet (Challan, Positive Report))

- ✓ Says **offence is committed**
- ✓ Names the **accused**

Complaint vs Police Report

Complaint	**Police Report**
1. Who makes it? Any person can make a complaint.	**1. Who makes it?** It is submitted by the **police officer** in charge of the police station.
2. Form; It may be **oral or in writing**.	**2. Form;** It is **always written** in the prescribed format.
3. Nature It is only an **allegation** that an offence has been committed.	**3. Nature** It contains **facts, evidence, and conclusions** after investigation.

Clause (u): Police station

- It is not just a building — it can be any location (post, camp, office) declared as a police station.
- The State Government decides and notifies:
  - ✓ Which places are police stations,
  - ✓ Which local areas come under their control.

Example:

1. A permanent building marked as "XYZ Police Station" is obviously a police station.
2. A mobile outpost or temporary post declared by the government during a festival can also be a police station.
3. The area covered by a police station (like certain wards or villages) is also included
   - ✓ A police station is not just the building where the police sit.
   - ✓ It also means the geographical area for which that police station is responsible.

Clause (v): Public Prosecutor

It means any person appointed under section 18, and includes any person acting under the directions of a Public Prosecutor.

Clause (w): Sub-division:

A part or section of a district, it is a smaller administrative unit within a district.

Clause(x): Summons-case

A criminal case involving a less serious offence (punishable with less than 2 years), where the court issues a summons instead of a warrant.

Clause(y): Victim

A **victim** means:

A person who has **suffered loss or injury** because of the **act or omission** (action or failure to act) of the accused person.

It also includes:

- The **guardian**, or
- The **legal heir**

of such a person.

Loss or injury means any kind of **harm or damage** suffered by a person due to an offence.

It can be:

1. **Physical Injury**
   - ✓ Bodily harm
   - ✓ Wounds, fractures, pain
2. **Mental / Emotional Injury**
   - ✓ Mental trauma
   - ✓ Fear, stress, humiliation
3. **Financial / Property Loss**
   - ✓ Theft of money
   - ✓ Medical expenses
   - ✓ Damage to property
4. **Reputational Injury**
   - ✓ Defamation
   - ✓ Loss of social respect

Clause(z): Warrant-case

A criminal case involving a serious offence punishable with death, life imprisonment, or more than 2 years' jail.

Summons Case vs Warrant Case

Summons Case	**Warrant Case**
2. **Process issued** Court issues **summons** to the accused. *(Section 227(1)(a))*	2. **Process issued** Court may issue **summons or warrant**. *(Section 227(1)(b))*
3. **Procedure** Simple and short procedure under **Sections 274–282**.	3. **Procedure** More detailed procedure:(a) Sessions trial(b) Warrant trial by Magistrate – on police report / otherwise than on police report
4. **Withdrawal** Complainant can withdraw the case. *(Section 280)*	4. **Withdrawal** Complainant cannot withdraw; only Public Prosecutor can withdraw with court's permission.
5. **Conversion** Can be converted into a **warrant case**. (*Section* 282)	5. **Conversion** Cannot be converted into a **summons case**.
6. **Framing of charge** No formal charge is required.	6. **Framing of charge** Framing of charge is **mandatory**.
7. **Stoppage of proceedings** Magistrate can stop proceedings. *(Section 281)*	7. **Stoppage of proceedings** No such provision exists.

Section 2(2) :

If a word or expression is:

- Used in this Sanhita,
- But not defined here,
- And is defined in:
  - ✓ The Information Technology Act, 2000, or
  - ✓ The Bharatiya Nyaya Sanhita, 2023,

Then that word will have the same meaning as given in those laws.

Some definitions are not defined in the Sanhita but are required to be discussed:

Compoundable & Non-Compoundable Offences:

These terms are not defined in the Code, but they are explained through Section 359.

General Rule

Criminal offences are considered wrong against society, so normally they cannot be settled privately. But some less serious, private nature offences are allowed to be compromised. These are called compoundable offences.

Result of Compounding

Once the offence is compounded:

- The accused is acquitted
- No trial is required *(Section 359(8))*

Difference: Compoundable vs Non-Compoundable

Compoundable Offences	**Non-Compoundable Offences**
1. Listed under Section 359	1. Not listed in the Sanhita
2. Less serious	2. More serious
3. Affect private individuals	3. Affect society at large
4. Can be compromised (with or without court permission)	4. Cannot be compromised
5. Accused is acquitted after compromise	5. Full trial is compulsory

In Short:

Compoundable = Compromise possible

Non-Compoundable = No compromise

Discharge &Acquittal

Discharge means: The court finds no prima facie evidence to frame charges against the accused, so the accused is released without a trial. It happens before the trial begins.

Meaning of Acquittal

Acquittal means: After a full trial, the court decides that the accused is not guilty.

It happens after evidence is recorded.

Difference: Discharge vs Acquittal

Discharge	**Acquittal**
1. No prima facie case	1. Court declares innocence after trial
2. Happens before trial, means during Inquiry.	2. Happens after trial
3. Fresh case possible if new evidence appears *(Sec. 337 Explanation) Double Jeopardy not applicable*	3. Second trial is barred *(Sec. 337 – Double Jeopardy)*
4. Accused can be re-arrested	4. Accused cannot be re-arrested for same offence

Section 3: Construction of references.

(1): Meaning of "Magistrate"

Whenever any law simply uses the word "Magistrate" (without saying first class or second class), it should be understood as:

- Judicial Magistrate of First Class, or
- Judicial Magistrate of Second Class,

depending on the area and the nature of the case.

So, "Magistrate" generally means a Judicial Magistrate, not an Executive Magistrate.

(2): Who will perform which functions?

This part divides the powers of Magistrates into two categories:

(a) Judicial Functions → Judicial Magistrate

If the work involves:

- ✓ Examining or appreciating evidence
- ✓ Taking decisions that may lead to:
  - Punishment
  - Fine
  - Jail
  - Sending a person for trial

Then only a Judicial Magistrate can perform such functions.

Example:

- ✓ Framing charges
- ✓ Taking cognizance
- ✓ Remanding an accused to custody

(b) Administrative / Executive Functions → Executive Magistrate

If the work is:

- ✓ Administrative or executive in nature, like:
  - Granting a licence
  - Cancelling a licence
  - Giving sanction for prosecution
  - Withdrawing a prosecution

Then an Executive Magistrate will perform these functions *(unless it involves judicial decision-making as mentioned in clause (a)).*

Section 4: Trial offences under BNS, 2023 and other laws

(1) Offences under Bharatiya Nyaya Sanhita, 2023

All offences mentioned in the Bharatiya Nyaya Sanhita, 2023 will be:

- ✓ Investigated
- ✓ Inquired into
- ✓ Tried
- ✓ And otherwise dealt with

Only according to the procedures given in this Sanhita (BNSS).

Meaning: For offences under BNS, the BNSS procedure must be followed.

Section 4(2): Offences under Other Laws

Offences under other laws (like NDPS Act, POCSO, IT Act, etc.) will also be:

- ✓ Investigated
- ✓ Inquired into
- ✓ Tried

According to BNSS, but if that special law has its own procedure, then that special procedure will apply.

Section 5 – Saving

This provision does not interfere with or override any:

- Special law (such as the POCSO Act, NDPS Act, Prevention of Corruption Act, etc.),
- Local law (applicable to a particular region or state),
- Special jurisdiction or power given under any other law, or
- Special form of legal procedure laid down by another law, unless the BNSS explicitly states otherwise.

Toppersnotes
Unleash the topper in you

CHAPTER II

Section 6-20 [Constitution of Criminal Courts and Offices]

Section 6: Classes of Criminal Courts.

Apart from:

- **High Courts**, and
- Courts made under **special laws**,

Every **State** in India will have **four types of criminal courts**:

1. **Court of Session**
2. **Judicial Magistrate – First Class**
3. **Judicial Magistrate – Second Class**
4. **Executive Magistrate**
   - Performs **administrative work**, not trials
   - Example:
     - ☞ Maintaining law & order
     - ☞ Granting or cancelling licences
     - ☞ Preventive actions

Section 7: Territorial divisions.—

It explains how a State is divided for criminal court purposes.

1. Sessions Divisions & Districts

   Every State:

   - ✓ Will be divided into Sessions Divisions, and
   - ✓ Each Sessions Division will be:
     - One District, or
     - A group of Districts

     This is for smooth functioning of criminal courts.

2. Power of State Government

   The State Government, after consulting the High Court, can:

   - ✓ Change the number of Sessions Divisions
   - ✓ Change the boundaries of Districts

3. Sub-divisions of Districts

   The State Government (with High Court consultation) can also:

   - ✓ Divide a District into Sub-divisions
   - ✓ Change their limits or number

4. Existing Divisions are Valid

   All the Sessions Divisions, Districts, and Sub-divisions that already existed when this law started are considered properly formed under this section.

Section 8 – Court of Session

(1) Establishment of Court of Session

- ✓ ***The State Government*** must set up a Court of Session in every session division (each judicial district is called a sessions division for criminal trials).

(2) Appointment of Sessions Judge

- ✓ Every Court of Session will have a Sessions Judge, who is appointed by the High Court.

(3) Additional Sessions Judges

- ✓ ***The High Court*** can also appoint Additional Sessions Judges to help in dealing with the workload of the Court of Session.

(4) Dual Jurisdiction

- ✓ A Sessions Judge from one sessions division may also be appointed as an Additional Sessions Judge in another division.
- ✓ In such cases, he can hold court in the other division, at a place directed by the High Court.

(5) Vacancy or Urgent Matters

- ✓ If the office of the Sessions Judge is vacant, ***the High Court*** can authorize:
  - An Additional Sessions Judge, or
  - If none is available, a Chief Judicial Magistrate (CJM),

  to deal with any urgent application (like bail, interim relief, etc.) pending in the Sessions Court.
- ✓ Such officers will have the legal authority to act in these matters.

(6) Place of Sitting

- ✓ Normally, the Court of Session holds its sittings at the place notified by ***the High Court.*** However, if for convenience of parties and witnesses, it feels necessary, and both prosecution and accused agree, it can hold the trial or record evidence at any other place in the same sessions division.

(7) Distribution of Work

- ✓ The ***Sessions Judge*** can make orders for distribution of work among Additional Sessions Judges, in accordance with this Sanhita.

(8) Alternate Arrangements in Absence

- ✓ ***The Sessions Judge*** can also make advance arrangements for the disposal of urgent matters during his absence or inability to act:
  - By an Additional Sessions Judge, or
  - If none is available, by the Chief Judicial Magistrate.
- ✓ These officers will be deemed to have the necessary jurisdiction to hear and decide those urgent matters

Explanation:

The word **"appointment"** here **does NOT include**:

- ✓ First appointment
- ✓ Posting
- ✓ Promotion
- ✓ made by the **Government** for services under Union or State.
- ✓ This section only talks about **judicial appointments by the High Court**, not government service appointments.

Section 9 – Courts of Judicial Magistrates

(1) Establishment of Courts

- ✓ In every district, there must be **Courts of Judicial Magistrates**:
  - **of the first class**, and
  - **of the second class**.
- ✓ **How many such courts** and **where they should be located** is decided by the **State Government**.
- ✓ But the State Government **must consult the High Court** before deciding this.

Special Court

- ✓ The State Government, after consulting the High Court, can also set up **Special Courts of Judicial Magistrates** (first class or second class).
- ✓ These special courts are for:
  - a particular **local area**, or
  - a particular **case**, or
  - a particular **class of cases**.

- ✓ **Effect of creating a Special Court**:
  - When a Special Court is established, **no other Magistrate's Court** in that local area can try that case or class of cases. Only the Special Court will have jurisdiction over those matters.

(2) Appointment of Magistrates

- ✓ The **High Court appoints the presiding officers** (the Judicial Magistrates) for these courts.

(3) Civil Court Judges as Magistrates

- ✓ The High Court has the power to:
  - give the powers of a Judicial Magistrate (either first class or second class) to **any Judge from the State's Judicial Service** who is working in a **Civil Court**.
- ✓ This is done **when it seems necessary or expedient**.
- ✓ Example:
  - A Civil Judge may be empowered to act as a Magistrate if required to handle criminal cases in certain circumstances.

Section 10 – Chief Judicial Magistrate and Others

(1) Chief Judicial Magistrate (CJM)

- ✓ In **every district**, the **High Court appoints** one Judicial Magistrate of the First Class as the **Chief Judicial Magistrate (CJM)**.
- ✓ The CJM is the **head of all Judicial Magistrates** in the district.

(2) Additional Chief Judicial Magistrate (Addl. CJM)

- ✓ The High Court **may also appoint one or more Judicial Magistrates of the First Class** as **Additional Chief Judicial Magistrates**.
- ✓ An Additional CJM:
  - Has **some or all the powers** of the Chief Judicial Magistrate.
  - The extent of powers is as per the **High Court's directions**.

(3) Sub-Divisional Judicial Magistrate (SDJM)

- ✓ In any **sub-division** of a district:
  - The High Court **may designate a Judicial Magistrate of the First Class** as the **Sub-Divisional Judicial Magistrate (SDJM)**.
- ✓ The High Court can also **relieve him of those responsibilities** whenever needed.