

## **LL.B. - II Term**

### **Paper LB – 203 - Law of Crimes – II** **The Code of Criminal Procedure**

The Code of Criminal Procedure provides the machinery for the detection of crime, apprehension of suspected criminals, collection of evidence, determination of the guilt or innocence of the suspected person, and the imposition of suitable punishment on the guilty. It is further aimed at trying to provide a balance between the needs of the investigating and adjudicatory bodies to detect crime, maintain law and order and the rights of the accused. With the increasing complaints regarding abuse of powers of arrest by the police, custodial torture and death, denial of bail, etc., the course particularly focuses on investigation, arrest, bail and principles of fair trial. The provision relating to plea bargaining has been included to critically examine its operation under the criminal law which may be oppressive unless all the stakeholders are equally positioned.

The primary objectives of this course are to:-

- To familiarize the students with the crucial aspects relating to investigation and trial of offences (like initiation of criminal cases, powers and duties of police during investigation of offences, stages of criminal trial, functions, duties, and powers of criminal courts)
- To sensitize the students about critical issues in administration of criminal justice (like protection of human rights of accused, victims, principles of fair trial)

Learning Outcomes:

At the end of the course, the students will be able to:

1. Identify the stages in investigation and procedure of trial in criminal cases
2. Explain the powers, functions, and duties of police and criminal courts
3. Critically analyze the recent amendments in the Cr PC
4. Employ and promote adoption of humane and just practices in administration of criminal justice

**Prescribed Legislation:** The Code of Criminal Procedure, 1973

**Prescribed Books:**

1. K.N.Chandrsekharan Pillai (Rev.), **R. V. Kelkar's *Criminal Procedure***, (7<sup>th</sup> ed., 2021).
2. K.N.Chandrsekharan Pillai (Rev.), **R. V. Kelkar's *Lectures on Criminal Procedure***, (6<sup>th</sup> ed., 2017).

## Topics

Total Lectures (50)

### **1. Introduction to Cr PC**

( 4 Lectures)

- a. Importance of Criminal Procedure
- b. Stakeholders and Functionaries in the Criminal Justice Administration
- c. Hierarchy, powers and duties of Criminal Courts
- d. Definitions- Sections 2(a), (g), (h), (w), (wa), (x)

### **2. Initiation of Criminal Case** - Ss. 2 (c) (d) and (1), 154-156, 160-164A, 167, 173, 176 of the Cr PC

(8 lectures)

In the scheme of the Code of Criminal Procedure, 1973, for the purposes of setting criminal investigating agency into motion, offences are classified into two categories: (i) cognizable offences and (ii) non-cognizable offences. In case of cognizable offences, a police officer can arrest an accused without a warrant but in case of non-cognizable offences he cannot arrest or investigate into such an offence without authorization in this behalf by the magistrate. In case of cognizable offences, an F.I.R forms the basis for putting the investigative machinery into motion. A general overall view of investigation will be given to the students with special emphasis on the essentials of F.I.R and its evidentiary value, police officer's powers to investigate cognizable cases, procedure for investigation, police officer's powers to require attendance of witnesses, examination of witnesses by the police, recording of confessions and statements and report of police officer on completion of investigation.

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|--------------------------------------------------------------------------------------------------------------------|----|
| <b><u>Cases:</u></b> <i>Lalita Kumari v. Govt. of Uttar Pradesh</i> , 2008 (11) SCALE 154                          | 01 |
| <i>Lalita Kumari v. Govt. of Uttar Pradesh</i> , 2008 (11) SCALE 157                                               | 03 |
| <i>Lalita Kumari v. Govt. of Uttar Pradesh</i> , 2013 (13) SCALE 559                                               | 05 |
| <i>Lalita Kumari v. Govt. of Uttar Pradesh</i> ,<br>Crl.M.P. no.5029 of 2014 in Writ Petition (Crl.) No.68 of 2008 | 14 |
| <i>Youth Bar Association of India v. Union of India</i> , (2016) 9 SCC 473                                         | 15 |
| <i>State of Orissa v. Sharat Chandra Sahu</i> , (1996) 6 SCC 435                                                   | 19 |
| <i>Madhu Bala v. Suresh Kumar</i> , (1997) 8 SCC 476                                                               | 21 |
| <i>Sakiri Vasu v. State of Uttar Pradesh</i> , (2008) 2 SCC 409                                                    | 25 |

*\*Vinubhai Haribhai Malaviya v. State of Gujarat*,  
2019 SCC OnLine SC 1346

### **3. Investigation** - Ss. 157, 41-41D, 46-47, 93, 50-50A, 51-53, 53A, 54-54A, 55A, 56-57, 60A,

(7 lectures)

- a. Procedure for Investigation

|               |                                                              |    |
|---------------|--------------------------------------------------------------|----|
| b.            | Arrest – procedure and rights of arrested person             |    |
| c.            | Search and seizure (sections 165, 166 read with section 100) |    |
| <b>Cases:</b> | <i>D.K.Basu v. State of West Bengal</i> , (1997) 6 SCC 642   | 30 |
|               | <i>State of Haryana v. Dinesh Kumar</i> , (2008) 3 SCC 222   | 33 |
|               | <i>Arnesh Kumar v. State of Bihar</i> , (2014) 8 SCC 273     | 40 |

#### 4. **Bail-** Ss. 436 - 439 of the Cr PC. (8 lectures)

Criminal offences are further classified under the Cr.P.C. into bailable and non-bailable offences. In case of bailable offences, an accused is entitled to bail as a matter of right on furnishing of surety. In case of non-bailable offences, bail is a matter of discretion with the courts and the discretion becomes narrower depending upon the severity of the punishment that an offence entails. How this discretion is to be exercised and what are the principles governing grant of bail in such cases is discussed in the cases given below. The concept of anticipatory bail and the principles governing its grant are also a subject matter of study here. Further, principles governing cancellation of bail are also discussed here.

- a. Grant of Bail, including anticipatory bail
- b. Cancellation of Bail
- c. Compulsory release

|               |                                                                                   |     |
|---------------|-----------------------------------------------------------------------------------|-----|
| <b>Cases:</b> | <i>State v. Captain Jagjit Singh</i> , (1962) 3 SCR 622                           | 46  |
|               | <i>Moti Ram v. State of M.P.</i> , (1978) 4 SCC 47                                | 49  |
|               | <i>Gurcharan Singh v. State (Delhi Admn.)</i> , (1978) 1 SCC 118                  | 57  |
|               | <i>Sanjay Chandra v. Central Bureau of Investigation</i> , (2012) 1 SCC 40        | 67  |
|               | <i>Shri Gurbaksh Singh Sibbia v. State of Punjab</i> , (1980) 2 SCC 565           | 83  |
|               | <i>*Sushila Aggarwal v. State (NCT of Delhi)</i> , (2020) 5 SCC 1                 |     |
|               | <i>State (Delhi Administration) v. Sanjay Gandhi</i> , (1978) 2 SCC 411           | 100 |
|               | <i>*Gautam Navlakha v. National Investigation Agency</i> , 2021 SCC OnLine SC 382 |     |

#### 5. **Pre-Trial Proceedings** - Ss. 190, 193, 199, 200, 202, 204, 209-224, 228 (5 lectures)

- a. Cognizance of Offences
- b. Committal Proceedings
- c. Framing of Charges

|  |                                                                     |     |
|--|---------------------------------------------------------------------|-----|
|  | <i>Mohan Singh v. State of Bihar</i> , (2011) 9 SCC 272             | 107 |
|  | <i>Ajay Kumar Parmar v. State of Rajasthan</i> , (2012) 9 SCALE 542 | 115 |

6. **Trial** - Ss. 2(w) (wa) and (x), 225-226, 230-231, 233-234, 242-244, 251, 260, 262 of the Cr PC. (4 lectures)
  - a. Differences among warrant, summons, and summary trials
  - b. Production of Witnesses - Summons and warrants
  - c. S.321-Withdrawal of Prosecution

*Abdul Karim v. State of Karnataka*, (2000) 8 SCC 710 124
7. **Rights of Accused and Victims** (5 lectures)
  - a) Features of Fair Trial – Ss.273, 300, 303-304, 313, 316, 317, 319, 321, 327, 406, 409; Articles 20 (1) (3), 22(1), 39A of the Constitution
  - b) Rights of Victims – Ss.357, 357A, 357B, 357C, 372, Proviso
  - c) Witness Protection - Delhi High Court Guidelines for Protection of Vulnerable Witnesses.

**Cases:**

|                                                                          |     |
|--------------------------------------------------------------------------|-----|
| <i>Zahira Habibulla H. Shiekh v. State of Gujarat</i> , (2004) 4 SCC 158 | 143 |
| <i>Mohammed Hussain v. State (Govt. of NCT Delhi)</i> , (2012) 9 SCC 408 | 161 |
| <i>Mohd. Ajmal Amir Kasab v. State of Maharashtra</i> , (2012) 9 SCC 1   | 163 |
| <i>Hardeep Singh v. State of Punjab</i> , (2014) 3 SCC 92                | 169 |
| <i>Mehmood Nayyar Azam v. State of Chhattisgarh</i> , (2012) 8 SCC 1     | 181 |
| <i>Mrs. Neelam Katara v. Union of India</i> , ILR (2003) II Del 377      | 188 |
8. **Judgment** - Ss. 227, 229, 232, 235 353-355 of the Cr PC (2 lectures)
  - a. Discharge and acquittal
  - b. Conviction
  - c. Hearing on sentence
  - d. Content of judgments

*Ajay Pandit @ Jagdish Dayabhai Patel v. State of Maharashtra*, (2012) 8 SCC 43 193
9. **Other Means of Disposal of Cases** - Ss. 265A-265L, 320, 360-361 of the Cr PC. (4 lectures)
  - a. Plea Bargaining

154<sup>th</sup> Report of the Law Commission of India, 1996, pp. 51-54. 203

  - b. Compounding of cases
10. **Appeals, Inherent Powers of the High Court** - Ss. 372, 374 - 376, 482 of the Cr PC (3 lectures)
 

*Gian Singh v. State of Punjab*, (2012) 10 SCC 303 207

*State of M.P. v. Deepak*, (2014) 10 SCC 285

232

*\*Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur. v. State of Gujarat*,  
(2017) 9 SCC 641

**Important note** –

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up to date and consult the latest editions of books.