

CRIMINAL PROCEDURE

UNIT – I

Introductory & Pre-trial Process

Expanded 20+ Slides • FIR • Arrest • Investigation • Fair Trial

UNIT-I Full Coverage

1. Meaning of Procedure

2. Functionaries under the Code

3. Police & Magistrates

4. First Information Report

5. Complaint

6. Arrest – Meaning & Types

7. Arrest without Warrant

8. Rights of Arrested Person

9. Search & Seizure

10. Inquest

11. Inquiry vs Investigation

12. Investigation Process

13. Charge-sheet / Final Report

14. Features of Fair Trial

15. Speedy Trial

16. Legal Aid

17. Presumption of Innocence

18. Key Case Laws

19. Exam Strategy

20. Key Takeaways

Adjective Law of Crimes

Criminal Procedure is the method by which the substantive criminal law is enforced. It provides the machinery for investigation, inquiry, trial, appeal and execution. It balances the power of the State to prosecute with the rights of the accused.

Substantive Law

Defines offences and punishments (IPC / BNS).

Procedural Law

Provides the process to enforce substantive law (CrPC / BNSS).

Object

Fair, speedy and just determination of criminal liability.

Nature

Adjective law – means to an end, not an end in itself.

Who Administers Criminal Justice

Police

Investigation, arrest, search, seizure, prevention of crime. First contact with the criminal justice system.

Prosecutors

Present the case for the State. Public Prosecutors, Assistant PPs, Special PPs.

Magistrates

Take cognizance, conduct trials of summons/warrant cases, commit cases, grant bail, remand.

Sessions Courts

Trial of serious offences. Sessions Judge, Additional / Assistant Sessions Judges.

High Court

Appeals, revisions, writs, inherent powers, transfer of cases.

Supreme Court

Appeals, special leave, constitutional remedies, guidelines for fair procedure.

Section 154 CrPC

FIR is the information relating to the commission of a cognizable offence given to an officer in charge of a police station. It sets the criminal law in motion. It must be reduced to writing, read over to the informant, and a copy given free of cost.

Object

To set the investigation in motion and to ensure that the earliest version is recorded.

Essentials

Information of cognizable offence + given to officer in charge + reduced to writing + signed / thumb impression.

Zero FIR

Can be registered at any police station irrespective of jurisdiction; later transferred.

Refusal to Register

Can be compelled by approaching Superintendent of Police or Magistrate under Sec 156(3).

Section 2(d) CrPC

Definition

Any allegation made orally or in writing to a Magistrate, with a view to his taking action under the Code, that some person has committed an offence.

Who can file

Any person (with exceptions for certain offences requiring specific complainant).

Distinction from FIR

FIR is to police for cognizable offence. Complaint is to Magistrate and can be for both cognizable and non-cognizable.

Process

Magistrate examines complainant on oath, may inquire or direct investigation, and then take cognizance or dismiss.

Dismissal

Under Sec 203 if no sufficient ground. Must record reasons.

Exam Tip

Always distinguish FIR and Complaint clearly – definition, authority, and consequence.

Meaning, Types and Limits

Arrest is the restraint of a person's liberty by legal authority. It is a serious invasion of personal liberty and is therefore strictly regulated by the Code and constitutional guarantees under Articles 21 and 22.

Arrest with Warrant

Issued by Magistrate / Court. Police executes the warrant.

Arrest without Warrant

Sec 41 – cognizable offence, habitual offender, absconder, etc. Conditions tightened after amendments.

Arrest by Private Person

Sec 43 – limited right when cognizable and non-bailable offence is committed in presence.

Arrest by Magistrate

Sec 44 – Magistrate may arrest or order arrest when offence is committed in his presence.

Constitutional & Statutory

Art. 22

Right to be informed of grounds of arrest; right to consult lawyer; produce before Magistrate within 24 hours.

Sec 41A / Notice

In certain cases, notice of appearance instead of immediate arrest (post-Aradesh Kumar guidelines).

Medical Examination

Right to medical examination; injuries to be recorded.

Inform Relative

Police must inform a nominated relative / friend about the arrest.

Legal Aid

Right to free legal aid if unable to engage a lawyer (Art. 39A + case law).

D.K. Basu Guidelines

Mandatory guidelines on arrest and detention – still the leading authority.

Powers and Safeguards

Search with Warrant

Sec 93–94 – search warrant by Court for documents or things.

Search without Warrant

Sec 165 – police officer's power during investigation when urgency exists.

Search of Person

Sec 51 – search of arrested person; inventory of articles; female searched by female.

Search of Place

Procedure under Sec 100 – independent witnesses, signature, copy of list.

Seizure

Police may seize property suspected to be stolen or connected with offence (Sec 102).

Safeguards

Illegal search does not always vitiate trial, but evidence may be carefully scrutinised.

Inquiry into Cause of Death

When Held

Unnatural, suspicious, suicidal, or custodial death – police or Magistrate inquest.

Police Inquest

Sec 174 – officer in charge prepares report on apparent cause of death.

Magistrate Inquest

Sec 176 – mandatory in custodial death, death of woman within 7 years of marriage in certain circumstances, etc.

Object

To ascertain whether death was natural, accidental, suicidal or homicidal and to collect early evidence.

Not a Trial

Inquest is not a judicial trial; it is a preliminary inquiry into the cause of death.

Exam Tip

Distinguish police inquest (174) and Magistrate inquest (176) clearly.

Key Distinctions

Investigation

Collection of evidence by police (or authorised person). Starts after FIR / order. Ends with report under Sec 173.

Inquiry

Every inquiry other than a trial conducted by a Magistrate or Court. Includes inquiry into complaint, security proceedings, etc.

Trial

Judicial determination of guilt or innocence. Begins after charge is framed (or in summons cases when accused appears).

Who Conducts

Investigation – Police. Inquiry & Trial – Judicial officers.

Object

Investigation – to collect material. Inquiry – to ascertain truth for further action. Trial – to decide guilt.

Exam Tip

This distinction is asked almost every year. Prepare a clear table.

From FIR to Final Report

Registration of FIR

Sec 154 – sets investigation in motion for cognizable offences.

Proceed to Spot

Secure scene, collect physical evidence, record statements.

Examine Witnesses

Sec 161 – statements to police. Not signed. Can be used for contradiction.

Arrest & Remand

Arrest if necessary; produce before Magistrate within 24 hours; seek remand.

Search & Seizure

Collect material objects; prepare seizure memos.

Final Report / Charge-sheet

Sec 173 – police report. Either charge-sheet (for trial) or closure report.

Constitutional Core

Presumption of Innocence

Accused is presumed innocent until proved guilty beyond reasonable doubt.

Independent & Impartial Court

Trial by a court free from bias. Judge must be independent.

Notice of Charge

Accused must know the exact accusation to prepare defence.

Right to Counsel

Including free legal aid if indigent (Art. 22 + 39A + case law).

Right to Cross-Examine

Opportunity to confront and cross-examine prosecution witnesses.

Speedy Trial

Undue delay violates Art. 21. Guidelines in Hussainara Khatoon and later cases.

Open Trial

Generally public hearing; in camera only in specified cases.

Reasoned Judgment

Judgment must record reasons; no conviction without clear findings.

Protection against Double Jeopardy

Art. 20(2) + Sec 300 CrPC.

Self-Incrimination

Legal Aid

Humane Treatment

Pre-trial & Fair Trial

D.K. Basu (1997)	Guidelines on arrest and detention – still binding.
Arnesh Kumar (2014)	Arrest not automatic in offences punishable up to 7 years; notice of appearance preferred.
Hussainara Khatoon	Speedy trial is part of Art. 21; undertrials cannot be kept indefinitely.
Khatri v. State of Bihar	Free legal aid is a fundamental right of the accused.
State of Haryana v. Bhajan Lal	Guidelines on when FIR can be quashed; scope of investigation.
Lalita Kumari (2014)	Mandatory registration of FIR in cognizable offences; preliminary inquiry only in limited categories.

UNIT-I

01

Procedure is Adjective Law

Machinery to enforce substantive criminal law fairly and efficiently.

02

FIR vs Complaint

FIR to police (cognizable); Complaint to Magistrate (both).

03

Arrest is Regulated

24-hour rule, rights under Art. 22, D.K. Basu, Arnesh Kumar.

04

Investigation → Inquiry → Trial

Clear distinction is essential for every answer.

05

Fair Trial is Constitutional

Presumption of innocence, counsel, speedy trial, open justice – Art. 21 core.

06

Landmark Cases

Lalita Kumari, D.K. Basu, Arnesh Kumar, Hussainara – must be cited.

End of UNIT – I

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