

All about Jurisdiction of Criminal Courts in Inquiries and Trials

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Ques. 1 Whether an officer-in-charge of a police station has the constitutive jurisdiction to make investigation or not?

Ans. It's totally depends upon a large number of factors contained in Sections 177, 178 & 181 of the CrPC, 1973.

Sec. 177- Ordinary place of inquiry and trial.

Sec. 178- Place of inquiry or trial.

Sec. 181- Place of trial in case of certain offences.

Ques. 2 Where the trial can be held?

Ans. Any of the places falling within the limits of above-mentioned answer.

Ques. 3 Who can do the investigation?

Ans. Investigation can be done by the officer-in-charge of the police station related which has jurisdiction to investigate in relation there to.

Ques. 4 How is the Place of inquiry or trial decided?

Ans. (a) several local areas an offence was committed, or

(b) Where an offence is committed partly in one local area & partly in another area, or

(c) Where an offence is continuing one, and committed more than one areas, or

(d) Where it consist of several acts done in different local areas.

The offence may be tried by a Court within the local limits or jurisdiction where the act or offence was committed by the accused.

Ques. 5 Where is the place of trial in case of certain offences was been committed?

Ans. (a) in case of thug, or murder committed by thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, the accused or offence may be tried by a Court within the local limits or jurisdiction, an act or offence was committed by the accused or the accused person is found.

(b) in case of kidnapping or abduction, the accused or offence may be tried by a Court within the local limits or jurisdiction, the person was kidnapping or abducted or detained by the accused.

(c) in case of theft, extortion or robbery, the accused or offence may be tried by a Court within the local limits or jurisdiction, the stolen property was possessed by any person or by any person who received or retained such property or reason to believe in stolen property.

(d) in case of criminal misappropriation or criminal breach of trust, the accused or offence may be tried by a Court within the local limits or jurisdiction, the property was received or retained, or was required to be returned or accounted by the accused person.

(e) in case of possession of stolen property, the accused or offence may be tried by a Court within the local limits or jurisdiction, the offence or crime was committed or the stolen property was possessed by any person who received or retained or having the reason to believe in stolen property.

Ques. 6 When is a Offence committed by letters, etc?

Ans. (a) any offence includes cheating by means of letters or telecommunication messages, may be inquired or tried by the court within the local limits or jurisdiction such letters or messages were sent or were received;

and in case of cheating and dishonestly includes delivery of property may be inquired or tried by the court within the local limits or jurisdiction the property was deceived or received by the accused person.

(b) any offence punishable under section 494 or section 495 of the Indian Penal Code, 1860 may be inquired or tried by the court within the local limits or jurisdiction the offence was committed or the offender last resided with his or her spouse after the 1st marriage.

Ques. 7 How is jurisdiction of an offence committed at the time of journey or voyage decided?

Ans. When an offence is committed, until the person or against whom, or in respect of the offence is committed in the course of his performing journey or voyage, the offence may be inquired or tried by the court within the local limits or jurisdiction that the person or thing passed in course of journey or voyage.

Ques. 8 How is jurisdiction of Court decided in case of doubt?

Ans. In case of doubt, Hon'ble High Court decides, the district where the place of trial or inquiry will take place.

When two or more Courts have the power or jurisdiction to take cognizance in same case or offence and a question arises, which of them ought to inquire the offence, the question shall be decided by the-

(a) if the Courts are subordinate to the same High Court, by that High Court;

(b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction proceedings were 1st commenced,

and all other proceedings in respect of that offences shall be discontinued or disbarred.

Ques. 9 Do Indian Courts have jurisdiction for offence committed outside India?

If offence was committed outside India.

Ans. (a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being a citizen of India, or registered in India,

he/she may be dealt with such offence had been committed at any place within India at which he may be found.

FAQ on Conditions Requisite for Initiation of Proceedings

Ques. 1 Which Magistrates can take the cognizance of offences?

Ans. Any Magistrate of 1st class, and any Magistrate of 2nd class, may take cognizance of any offence-

- (a) receiving any complaint which constitutes such offences;
- (b) report by police of such facts;
- (c) information received from any person other than police officer.

(2) The Chief Judicial Magistrate may empower any Magistrate of the 2nd class take cognizance of such offences are within his competence to inquire.

Ques. 2 Whether the accused is to be informed in case where the case is to be tried by another Magistrate?.

Ans. When a Magistrate take cognizance of an offence by receiving information from any person other than police officer, the accused shall be informed that he is entitled to inquired or tried by the another Magistrate, if there are more than one accused, the further proceedings before the Magistrate taking cognizance, the case shall be transferred to other Magistrate as may be specified by the Chief Judicial Magistrate.

Ques. 3 What are the consequences of cognizance taken by a Magistrate who is not empowered to take cognizance?

Ans. Any Magistrate is not empowered to take cognizance of an offence under section 190(1)(a) and 190(1)(b) of The Code of Criminal Procedure, 1973 if by mistake in good faith take cognizance of an offence, his proceeding shall not be set aside merely on the ground of his not being empowered.

Ques. 4 Under what circumstances is cognizance of offences by taken by Session Courts?

Ans. No Session Court shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed by the Magistrate under The Code of Criminal Procedure, 1973.

Ques. 5 Which cases try by the Additional & Assistant Session Judges?

Ans. An Additional or Assistant Session judges shall try only such cases as the Session Judges of the division may, by the general or special order, make over to them for trial or as the High Court may, by special order, direct them to try.

Ques. 6 Procedure in case of threatening a witness by the accused person.

Ans. Complaint filed by a witness or any other person in relation to an offence under section 195A of the Indian Penal Code, 1860.

Ques. 7 What is the procedure to be followed in Prosecution of offences u/s 498A of the Indian Penal Code, 1860?

Ans. No Court shall take cognizance of an offence punishable u/s 498A of the Indian Penal Code, 1860 except upon a police report of facts which constitute such offence or upon a complaint made by person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the court, by any pther person related to her blood, marriage or adoption.

Ques. 8 What is procedure of taking Cognizance of offence under Section 376B of Indian Penal Code?

Ans. No Court shall take cognizance of an offence punishable u/s 376B of the Indian Penal Code, 1860 where the persons are in a material relationship, except upon *prima facie* satisfaction of the

facts which constitute the offence upon a complaint having been filled or made by the wife against the husband.

Ques. 9 Who can make complaint to Magistrate on behalf of lunatic or under the age of 18 years or sick or ill-person?

Ans. U/s 199 of The Code of Criminal Procedure, 1973 any person can make the complaint to Magistrate on behalf of lunatic or under the age of 18 years or sick or ill-person.

Ques. 10 Who can make complaint to Magistrate in the absence of the husband?

Ans. U/s 198 of The Code of Criminal Procedure, 1973 some person who had care of the woman on his behalf at the time when such offence was committed.

FAQ on Complaints to Magistrates

Ques. 1 When the Magistrate does not need to examine the complaint?

Ans. When the complaint is in writing.

Ques. 2 Which Section provides for the procedure to be followed by the Magistrate upon the receiving the Complaint?

Ans. Section 200 of The Code of Criminal Procedure, 1973 lays down the procedure for which a Magistrate shall follow on receiving a complaint.

Ques. 3 When does Section 200 of The Code of Criminal Procedure, 1973 applies?

Ans. This section apply when the Magistrate take cognizance.

Ques. 4 What is necessary under Section 200 of The Code of Criminal Procedure, 1973?

Ans. Summon may be issued.

Ques. 5 Under which section of The Code of Criminal Procedure, 1973 the Magistrate can order for inquiry?

Ans. Under section 202 of The Code of Criminal Procedure, 1973 the Magistrate can order for inquiry.

Ques. 6 Under which section of The Code of Criminal Procedure, 1973 the Magistrate can dismiss the complaint?

Ans. Under section 203 of The Code of Criminal Procedure, 1973 the Magistrate can dismiss the complaint.

Ques. 7 What happen when there is no ground in the complaint filed to Magistrate?

Ans. The Magistrate have the power to dismiss the complaint.

Ques. 8 What is the Procedure to be followed when the Magistrate not competent to take cognizance?

Ans. If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall-

- (a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;
- (b) if the complaint is not in writing, direct the complainant to the proper Court.

Ques. 9 What is the main object of section 202 of The Code of Criminal Procedure, 1973.

Ans. (i) To ascertain the facts constituting offence;

(ii) To prevent abuse of process resulting in wastage of time of the Court and harassment to the accused;

(iii) To help the Magistrate to judge if there is sufficient ground calling for investigation and for proceeding with the case.

Ques. 10 An inquiry under section 202 of The Code of Criminal Procedure, 1973 is the nature of trial or not?

Ans. An inquiry under section 202 of The Code of Criminal Procedure, 1973 is not in the nature of a trial.