

Q.1. Answer any five of the following :

- b) Bailable and non-Bailable offence
- c) Metropolitan Area
- d) Complaint
- e) Investigation
- f) Officer-in-Charge of a Police Station
- a) Offences.

Ans:-

a) 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 filed under Section 20 of the Cattle Trespass Act, 1871. as defined in Section 2(x) of the Cr.P.C. unless the context otherwise requires.

The term 'offence' is more elaborately defined in Sec. 40 I.P.C., 1860. There is also a special definition of Offence under Sec. 39 of Cr.P.C. Maintenance proceedings under Chapter IX of Cr.P.C. do not relate to any offence as defined in this Sec.

b) Bailable and non-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. It is defined in Sec. 2(a) of the Cr.P.C. unless the context otherwise requires.

c) Metropolitan Area: means that area declared, or deemed to be declared, under Sec. 8 of Cr.P.C., to be a metropolitan area - unless the context otherwise requires.

Q 1(d): Complaint: See answer to Q 1(c) of May/2002.

Q 1(e) Investigation: See answer to Q 1(b) of May/2002.

Q 1(f) 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 in 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.

This is defined in Sec. 2(o) of the Cr. P.C. unless the context otherwise so requires.

~~Q 1~~

Questions on Law Paper I / November 2012.

Q. 1. Answer any four of the following:—

- a) Bailable and non-bailable offence.
- b) Acquittal and Discharge.
- c) Enquiry and Trial.
- d) Complaint and First Information Report.
- e) Compoundable and non-compoundable offence.
- f) Summons Case and Warrant Case.

Ans:- 1(a) Bailable and non-bailable offence.
— See answer to Q 1(b) of May 2012

~~b) Acquittal and Discharge;~~

Unless

Q 1(b) Acquittal and Discharge:

Ans: Unless the Context otherwise requires in this Code the word "Acquittal", as per Cr. P. C., means when a charge after concluding the trial is not proved against the accused then the Magistrate in his judgement acquits him of the charges against him. Then it is a case of 'Acquittal' i.e. the accused is freed from his charges which were framed against him.

Discharge means when an accused is allowed to depart before framing of charges against him because of non-existence of sufficient materials to proceed against him. If Complainant and prosecution witnesses are absent, the order of 'discharge' may be passed (Ref: Bhagat Rai Vs. Mst. Gurai Dulaiya, AIR 1938 All 493; Khaja Ahmed Vs. Abdul Manan 1967 Cr.L.J. 1228)

1(c) Enquiry and Trial:

The term "Enquiry" has not been defined in the Cr. P. C. However, from its various uses the meaning of the word "Enquiry" is collection of information. For this purpose the person ~~enq~~ enquiring may visit the spot, ask certain persons, may take notes thereof, may draw up a sketch of the place, if any, involved and submit a report.

Contd. 'Enquiry' does not involve any element of offence in the petition. Enquiry may be done by any person other than the Magistrate.

The term 'Trial' has not been defined in Cr.P.C. However, 'Trial' may be said to be a judicial proceeding which ends in conviction or acquittal of the accused. If in a proceeding the Court has no power to convict or acquit it is no trial.

(Ref: R.B. Pande Vs. State of U.P 1974 AIR 507)

The word 'Trial' appears to have no fixed or universal meaning. In the chapters dealing with framing of charges (Chapter XVII), chapters dealing with trials (Chapters XVIII, XIX, XX, XXI) the word 'Trial' has been used in the sense of reference to a stage after enquiry. In many other sections such as Sections 300, Sec. 308, Section 321 the term 'Trial' is used in the sense of whole proceeding of trial from beginning till end.

(Ref: State of Bihar Vs. Ram Narain AIR 1957 SC 389)

Trial ends on the date on which the judgement is pronounced.

(Ref: Jyoti Prasad Vs. State, AIR 1951 All 549)

Q 1(d): Complaint and First Information Report.
- See answer to Q 1(c) of May 2002

Contd: Q1(e): Compoundable and non-Compoundable offence.

Ans:- Compoundable offence has been defined in Section 320 Cr.P.C. which means the offences punishable under the Section of Indian Penal Code (45 of 1860), specified in first two columns of the Table which may be compounded by the persons mentioned in the third columns of the Table as substituted by Cr.P.C. (Amendment) Act, 2008.

As for example, Section 323 I.P.C. relating to an offence of causing hurt voluntarily and Sec. 324 causing hurt voluntarily on provocation are compoundable offences to be made by the person to whom the hurt is caused.

There is another Table concerning offences which may be compounded with the permission of the Court before which any prosecution for such offence is pending by the person to whom the offence is committed.

non-Compoundable offence — Sub-Sec. 9 of Sec. 320 Cr.P.C makes it clear that any offence not specified in the Section is not compoundable and if such offences are ~~compounded~~ compounded, the composition is illegal and it can be set aside.

Q1(f) Summons-Case and Warrant Case:-

Ans: Summons-Case means a case relating

to an offence, and not being a warrant case as in Sec. 2(w) of Cr.P.C.
Warrant Case:

As defined in Sec. 2(w) Cr.P.C. Warrant Case means a case relating to an offence punishable with ~~death~~ death, imprisonment for life or imprisonment for a term exceeding two years.

The aforesaid definitions are applicable unless the context otherwise requires.

Questions on Law I / November 2011

Q.1. Distinguish between the expressions in any four of the following:-

- Bailable offence and non-bailable offence
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Ans to Q.1(a)

- Bailable offences are non-serious in nature but non-bailable offences are serious in nature.
- In bailable offences police officer is not empowered to arrest the offender without warrant but in non-bailable offences offenders are arrested by the police without warrant.
- Bailable offence is an offence which is shown as bailable in First Schedule of Cr.P.C. but non-bailable offences mean any other offences.

Q. 6: Under what circumstances a Court while convicting an accused Order him to furnish security for keeping peace. Discuss with reference to relevant sections of Cr.P.C.

Ans: This matter is dealt with in Sec. 106 Criminal Procedure Code.

When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in Sub-Sec. (2) or of abetting any such offences and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period not exceeding three years, as it thinks fit.

The offence under Sub-Sec (2) are —

- i) Offences punishable under Chapter VIII of the I.P.C. The offences under Sections 153A, 153B, or Sec. 154 are not included thereof.
- ii) any offence consisting of or including assault or using criminal force or mischief.
- iii) an offence of criminal intimidation
- iv) any other offence which caused or intended or known to be likely to cause a breach of the peace.

If the conviction is set aside on appeal or otherwise, the bond so executed shall become void. An order under this section may also be made by an Appellate Court or Revision Court.