Subject Name: Code of Criminal Procedure
Topic Name: Definitions

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Definitions under CrPC

Section 2 of the Code elucidates certain terms and expressions, whose meanings are ascribed within this section, unless the context necessitates otherwise.

Bailable/Non-bailable Offences

A bailable offence, as delineated, is one explicitly designated as such in the First Schedule to the Code or is rendered bailable by any concurrent law. Conversely, a non-bailable offence denotes any other transgression [Sec. 2(a)].

Granting bail signifies the liberation from legal constraint or custody. In instances of bailable offences, bail can be invoked as an inherent entitlement; its issuance is routinely sanctioned by either the police officer or the court. However, the characterization of non-bailable offence doesn't preclude the possibility of bail; rather, it vests the authority to grant bail at the discretion of the court.

The Code abstains from establishing definitive criteria for the classification of bailable and non-bailable offences. Nonetheless, this categorization can be elucidated on the premise that bailable offences are generally perceived as less severe and consequential compared to non-bailable ones.

Per the First Schedule to the Code, infractions under statutes other than the Indian Penal Code, punishable by imprisonment exceeding three years, are deemed "non-bailable" offences; contrariwise, offences punishable by less than three years' imprisonment or solely by fine are regarded as "bailable" offences, albeit subject to any contradictory provision within such statutes.

Some examples of bailable offences encompass membership in an unlawful assembly, bribery, affray, perjury, etc. The assembly of bailable offences might be likened to an islet enveloped by an expanse of non-bailable offences. The former lends itself to analysis, while the latter remains impervious. The former exhibit constancy and precision, whereas the latter constitute the residual spectrum.

Charge

The term "charge," as per the Code, encompasses any separate accusation when the charge comprises multiple accusations [Sec. 2(b)]. Therefore, the Code refrains from explicitly defining what constitutes a charge. Legally, a charge can be construed as a clear articulation of a particular allegation levelled against an individual for an alleged offence committed by them.

The formulation of a charge occurs subsequent to an inquiry and necessitates specificity and exactitude. In trials of a summary/summons nature, the formal framing of charges is dispensable; however, in warrant cases, it is imperative.

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Inquiry

‘Inquiry’ is defined as any proceeding, excluding a trial, conducted by a Magistrate or Court under this Code [Sec. 2(g)].

All proceedings before a Magistrate leading up to the framing of charges that do not culminate in a conviction can be categorised as an ‘inquiry’. Additionally, an inquiry preceding the transfer of a case to the Sessions Court also falls under this definition (Sec. 209).

Upon receiving a police report in a non-cognizable case, the Magistrate may initiate a preliminary inquiry (Sec. 159). Furthermore, in the event of a person's demise while in police custody, a Magistrate is obligated to conduct an inquiry into the cause of death. When a complaint alleging an offence is brought before a Magistrate, he has the authority to defer the issuance of process and conduct an inquiry into the matter personally (Sec. 202).

While both 'inquiry' and 'trial' constitute judicial proceedings, they are distinct from each other; indeed, an inquiry concludes as the trial commences. It is noteworthy that the term 'trial' remains undefined within the Code.

Investigation

'Investigation' encompasses all proceedings under this Code aimed at gathering evidence, conducted either by a police officer or by any individual (other than a Magistrate) duly authorised by a Magistrate for this purpose [Sec. 2(h)].

The definition of this term is not exhaustive. "Investigation" signifies the search for evidence and facts to determine whether or not an offence has been committed. The apprehension and detention of an individual for the purpose of probing a crime are integral facets of the investigative process **(Baldev Singh, 1975 CrLJ 1662 (Punj) (F.B.)).**

Similarly, the interrogation of witnesses and the initiation of raids to address a complaint are included. The term "investigation" must be interpreted not only in light of the powers bestowed upon police officers but also in consideration of the constraints imposed upon them in the exercise of such powers **(Asst. Collector of C.E.C. V. Krishnamurthy, 1983 CrLJ 1880)**.



Investigation, Inquiry, and Trial

Investigation, Inquiry, and Trial delineate distinct stages within the progression of a criminal case. The initial stage commences when a police officer, either independently or upon the directive of a Magistrate, delves into a case. Should the officer conclude that no offence has transpired, they report this finding to the Magistrate, who consequently terminates the proceedings.

Conversely, if the officer holds a contrary view, the case is forwarded to a Magistrate. Subsequently, the second stage ensues, involving an inquiry by the Magistrate into the case. If no prima facie case is established, the Magistrate dismisses the complaint or releases the accused. However, if the Magistrate finds evidence warranting further action, a charge is framed.

The culmination of this process leads to the third and final stage, where the trial commences upon the framing of charges. The Magistrate may preside over the case personally, rendering a verdict to either convict or acquit the accused. Notably, in cases of grave offences, the trial is conducted before the Sessions Court.

Judicial Proceeding

'Judicial proceeding' encompasses any proceeding during which evidence is or may be lawfully taken under oath [Sec. 2(i)].

This term includes inquiry and trial, albeit excluding investigation. However, as per Sec. 202, an inquiry investigation may be directed, and such inquiry investigation constitutes a component of judicial proceeding. An inquiry qualifies as judicial if its purpose is to ascertain the legal relationship between individuals or groups of individuals, or between an individual and the community at large.

Conversely, an inquiry devoid of discretion or judgement, but rather necessitating action as a matter of obligation, does not qualify as judicial but rather as administrative inquiry. Consequently, proceedings before a Collector under the Land Acquisition Act do not constitute judicial proceedings.

The following have been deemed judicial proceedings:
- Maintenance proceedings.
- Inquiry by a Magistrate preceding the issuance of an order under Sec 144.
- Proceedings in the execution of a decree.
- Preliminary inquiry under Sec. 340.

Conversely, the following have been determined not to constitute judicial proceedings:
- Examination by a police officer under Sec. 161.
- Government order sanctioning a prosecution under Secs. 196-197.
- Inquiries conducted by a Chief Judicial Magistrate upon receipt of information indicating an imminent grave crime.
- Departmental inquiries.

Summons-Case/ Warrant-Case

"Summons-case" means a case relating to an offence, and not being a warrant-case [Sec. 2(w)]. "Warrant-case" means a case relating to an offence punishable with death, life-imprisonment or imprisonment for a term exceeding two years [Sec. 2(x)].

"Victim"

Sec. 2(wa) was introduced by the 2008 Amendment (Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009)):

“victim” refers to an individual who has endured any form of loss or injury resulting from the act or omission for which the accused person stands charged, and the term ‘victim” encompasses their guardian or legal heir.

This amendment instates a definition of "victim" to extend particular rights to the guardian and legal heirs of the victim.

