Subject Name: Code of Criminal Procedure
Topic Name: Complaint

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Object of a Complaint

The receipt of a 'complaint' serves as one of the avenues through which a Magistrate can take cognizance of an offence [s. 190(1)(a)]. The definition within this clause has been broadly construed to encompass even oral allegations. Thus, no specific format is mandated for the complaint. It is essential, however, that the complaint contains an allegation prima facie disclosing the commission of an offence along with necessary facts for the Magistrate to initiate action.

Ingredients of a Complaint

The prerequisites of a 'complaint' as per the current definition are:

(i) An oral or written allegation, which need not adhere to any particular form. A letter or telegram addressed to the Magistrate may suffice as a complaint if it meets the criteria of the definition.

(ii) The allegation must pertain to the commission of an offence by a known or unknown person, as defined in Clause (n). Omission to specify the relevant section of the law or citing an incorrect section doesn't invalidate the complaint if the facts provided could lead to conviction.

(iii) The complaint must be directed to a Magistrate with the intention of prompting action under the legal framework, distinct from administrative actions.

(iv) The complaint should disclose an offence that, if proven, could lead to a conviction. Mere requests to proceed under specific sections of the law do not constitute a complaint.

(v) The mention of the accused's name is not mandatory.

(vi) A complaint may be filed against known or unknown individuals.

(vii) It must be evident from the complaint that an offence has occurred. Mere naming of the accused without alleging the commission of an offence does not suffice.

(viii) The complaint need not replicate verbatim all elements of the offences alleged.

(ix) There is no prescribed format for a complaint, and nomenclature holds no significance. A petition addressing the Magistrate and alleging the commission of an offence, culminating with a request for appropriate action, qualifies as a complaint.

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Reference to Wrong Statutory Provision

The jurisdiction of the Magistrate is determined by the offence disclosed in the complaint, irrespective of any inaccuracies in citing statutory provisions. The Magistrate should proceed to take cognizance if the facts alleged disclose an offence, with any errors in statutory references rectifiable subsequently to prevent prejudice.

Protest Petition and Its Treatment

A protest petition challenging the Final Report submitted by the Police under s. 173, or a similar petition filed before report submission, urging the Magistrate to proceed with trial, may qualify as a complaint under certain conditions. However, the Magistrate has discretion in deciding whether to treat such a petition as a complaint or proceed based on the case-diary submitted with the police report.

Explanation: Police-Report in a Non-Cognizable Case

The Explanation elucidates that a report by the Police regarding a non-cognizable offence ranks as a 'complaint' under s. 190(1)(a), even if stemming from an investigation into a cognizable offence. However, this applies only where the investigation initially pertains to a cognizable case but subsequently reveals a non-cognizable offence.