BLOGS

Notes on Introduction to CrPC- History, Definitions, Stakeholders

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History of the Code

The Code of Criminal Procedure was first enacted in 1882 after the administration of British India was taken over by the Crown, subsequent to the 1857 rebellion. The Code was amended numerous times, most importantly in 1898, 1923 and 1955. After Independence, the First Law Commission submitted its Report on the Judicial Administration, popularly known as the Fourteenth Report, with recommendations to amend the Code. Later, the Law Commission reconstituted in 1961 and submitted the Forty-first Report in 1969 which recommended the revision of the Code.

Based on these recommendations, the Code of Criminal Procedure Bill, 1970 was drafted which lapsed in 1972 due to dissolution of the Parliament. On reintroduction as the Code of Criminal Procedure Bill,1972 and after being passed by both the Houses of the Parliament with 125 Amendments in 1973, the Code came into force on **1st April 1974**.

The Code of Criminal Procedure, 1973 attained its present state through various amendments, with the most recent Amendments being carried out in 2013 by the Nirbhaya Act and in 2014 by the Lokpal and Lokayuktas Act, 2013.

Importance of the Code

The Code of Criminal Procedure, 1973 consists of **484 sections, XXXVII Chapters and 2 Schedules.** The Code is applicable to the whole of India after the Jammu and Kashmir Reorganization Act, 2019 came into force. The object of the Code is to provide a machinery for the punishment of offences against the substantive criminal law and to ensure fair trial to the

accused. The Code is also based on the basic considerations of speedy delivery of justice, and to ensure fair deal to the poorer sections of the community. Most importantly, the Code is exhaustive in nature.

Criminal procedure is a subject under the Concurrent List of the Constitution, and hence States are competent to enact special laws. In such cases, the Code does not affect the special law. It also does not affect any local law, any special jurisdiction or power, or any special form of procedure.

Stakeholders and Functionaries in the Criminal Justice Administration

The following are the general stakeholders and functionaries in the Criminal Justice Administration.

1. State
2. Judges
3. Police
4. Victim
5. Accused
6. Advocate
7. Witness
8. Society or Members of the General Public

- Police: The CrPC does not define ‘police’ or mention its constitution. It rather operates assuming the existence of police and grants various powers and responsibilities to the police. The Police Act of 1861 defines police as all persons who shall be enrolled under the Act. The Director General of Police (DGP) heads the State Police Force, the Inspector General of Police (IGP) heads the Zone and the Superintendent of Police (SP) heads the Police District. The Inspector heads the Police Stations in urban areas, whereas the Sub-Inspector heads the Police Stations in rural areas.The powers of the police include the power to make an arrest, search and investigate. Section 2(s) of the Code defines a police station and section 2(o) defines the officer-in-charge of a police station.

- Prosecutor: A criminal offence is a wrong against an individual as well as the society. The State represents the society and participates in a criminal trial. The State in such a trial is represented by the Public Prosecutor (PP) or Assistant Public Prosecutor (APP). It is to be noted that the PP and APP represent the State and not the accused. Section 2(u) of CrPC defines Public Prosecutor as any person appointed under Section 24 or any person acting under the directions of a Public Prosecutor. While section 24 specifies the criteria for appointment of the Public Prosecutor, Section 25 specifies the criteria for appointment of Assistant Public Prosecutors.
- Defence Counsel: While the Prosecutor represents the State, the Defence Counsel represents the accused before the Court. Section 303 provides the accused the right to be defended by a pleader of his choice, and Section 304 provides that if the accused does not have means to hire a pleader, then the Court shall assign a pleader for the accused, at the expense of the State.
- Prison Authorities: Similar to the police force, the CrPC presumes the existence of prisons and prison authorities. The Code does not have specific provisions for the creation or administration of prison authorities either. Instead, those are covered under the Prisons Act of 1894, the Prisoners Act of 1900 and the Probation of Offenders Act of 1958.

Hierarchy, Powers, and Duties of Criminal Courts

Following is the hierarchy of criminal courts in India, with the Supreme Court being the highest Court, and the powers of the respective Courts. The duty of the Courts is to conduct a fair trial as per criminal law in cases that come under its jurisdiction.

- Supreme Court
- High Courts
- Courts of Session: It is the highest criminal court in the district. It is headed by the Sessions Judge, who is mostly the District Judge also. The Sessions Judge can pass any sentence authorized by law, but the death sentence passed has to be confirmed by the High Court
- Courts of Chief Judicial Magistrate (CJM)/ Courts of Chief Metropolitan Magistrate (CMM): The CJM can pass any sentence authorized by law except (i) death sentence or (ii) life imprisonment or (iii) imprisonment for a term not exceeding 7 years.
- Courts of Judicial Magistrate of the First Class (JMFC) / Courts of Metropolitan Magistrates (MM) in Metropolitan Areas: A JMFC can pass a sentence of imprisonment not exceeding 3

years or a fine up to Rs.10,000.

- Courts of Judicial Magistrates of Second Class: The Magistrate of this Court can pass a sentence of imprisonment up to 1 year and a fine of up to Rs.5000.

Important Definitions

Section 2 of the Criminal Procedure Code has 26 definitions relevant to administration of criminal jurisprudence of the country. Few of the important definitions are as follows:

- Section 2(a) – Bailable & non-bailable offence: An offence which is specified as bailable in the First Schedule of the Code or is made bailable by any other law in force is known as bailable offence. Whereas, any offence other than a bailable offence is called a non-bailable offence. In simple terms, offences where bail can be granted to the accused without any restriction, and as a right is known as bailable offence. These offences generally are less heinous in nature. This does not mean that bail cannot be granted in case of a “non-bailable offence,” rather bail can be granted on the discretion of the Court.
- Section 2(c) – Cognizable offence and cognizable case: “Cognizable offence” means an offence for which, and “cognizable case” means a case in which, a police officer can arrest without warrant, in accordance with the First Schedule or any other law in force.
- Section 2(l) – Non-cognizable offence and non-cognizable case: “Non-cognizable offence” means an offence for which, and “non-cognizable case” means a case in which, a police officer has no authority to arrest without warrant.
- Section 2(g) – Inquiry: Every inquiry, other than a trial conducted by a Magistrate under CrPC is defined as inquiry by this provision. The dictionary meaning of an inquiry is “an official investigation.” This is different from “enquiry” which is used to mean “less formal investigations.” The Magistrate’s power to hold investigation or preliminary inquiry is found in section 159 of CrPC.
- Section 2(h)– Investigation: It includes all proceedings under CrPC carried out for the collection of evidence by a police officer or any other person (other than a Magistrate) who is authorised by a Magistrate in this behalf. The procedure for such investigation is specified in section 157 of CrPC.

- Section 2(wa) – Victim: In CrPC, the term victim means a person who has suffered any loss or injury due to the action or omission of the accused, who is charged for the same. It also includes the said person's guardian or legal heir.
- Section 2(x) – Warrant-case: It includes a case relating to an offence (i) punishable with death, (ii) life imprisonment or (iii) imprisonment for a term exceeding two years.
- Section 2(w) – Summons-case: Any case which is related to an offence, but is not a warrant-case is called as summons-case. That is, any case relating to an offence punishable with imprisonment for less than two years is a summons-case.

Conclusion

The Code of Criminal Procedure has detailed provisions for arrest of persons, compelling appearance, compelling production of things, information of police and their powers to investigate, conditions required for initiation of proceedings, and procedure for trial among others. The Code by being a strong procedural law, aids in the systematic progress of the criminal justice system as mandated by the substantial law, that is, the Indian Penal Code.

References

1. Durga Das Basu, Criminal Procedure Code, 1953 (LexisNexis 2014)
2. The Code of Criminal Procedure, 1973.