BLOGS

Practice Passage-based Questions on CrPC for CLAT PG 2024

Indrasish Majumder · 06 Sep 2023

PASSAGE

Section 154 And 156(3) of CrPC-What, When And How?

Sections 154 And 156 of CrPC

Hon'ble Apex Court, in the matter of "M. Subramaniam & Anr. Vs. S. Janaki & Anr[1], has recently set aside a High Court order which directed the police to register an FIR and file the final report on the basis of the complaint. Hon'ble Supreme Court placed reliance on its previous decision in the matter of Sakiri Vasu v. State Of Uttar Pradesh And Others[2] ("**Case 1**") in which it has dealt with due process in connection with the non-registration of FIR.

Beginning with the essential differences between sections 154 and 156(3) of the Code of Criminal Procedure, 1973, this article culminates with the chronology of remedies to be exhausted for registration of FIR through the Court.

Section 154: Information in cognizable cases

Section 154 (1) Cr. P.C elucidates that any information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station, shall be reduced to writing by himself or under his direction, and all such information, whether in writing or reduced to writing as aforesaid, shall be signed by the person who furnishes it.

Section 154 (3) Cr. P.C explicates that a complaint shall be given in writing or by post to the Superintendent of Police if any person is aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection.

The Superintendent of Police, upon receipt of such complaint, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or

direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code.

Section 156 (3): Magistrate's power to investigate Cognizable Cases

Section 156(3) entails that any Magistrate empowered under Section 190 may order an investigation by a police officer performing its duties under Chapter XII of Cr.P.C

The above-mentioned sections highlight the chronology/series of remedies available to a person. Firstly, filing a complaint before the police official and secondly, in the event of failure of the registration of the complaint by the official, one shall approach the SSP/SP for the said purpose. However, if the complaint is not registered even after that, then the next remedy is to seek help from the Judicial Magistrate.

Hon'ble Apex Court citing various judgments has clarified the right approach for registration of FIR.

Court's Observation

Hon'ble Apex Court has observed that if any application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and an appropriate investigation to take place, in the event where, according to the aggrieved person, no proper investigation was done. Under the same provision, the Magistrate may monitor the investigation to ensure a proper investigation.

Supporting Case Laws

In **Mohd. Yousuf v. Afaq Jahan Hon'ble,** Apex Court observed: (SCC p. 631, para 11)[3] that *a Judicial Magistrate, before taking cognizance of the offence, may order investigation under Section 156(3) of the Code. If he does so, he should not consider the complainant's oath because he was not taking cognizance of any offence therein.*

This Court had taken the same view in **Dilawar Singh v. State of Delhi** (JT vide para 17).[4]. The Hon'ble Court clarified that even if an FIR has been registered and the police have made the investigation or are making the investigation, which the aggrieved person feels is not satisfactory, such a person can approach the Magistrate under Section 156(3) Cr. P.C., and if the Magistrate is

satisfied he can order a proper investigation and may take other appropriate actions.

Thus, in cases where the Magistrate finds that the police have not done their job or are not satisfied with the investigation of the case, he can direct the police to supervise the investigation and monitor it.

In ***State of Bihar v. J.A.C. Saldanha*** (SCC: AIR para 19)[5], the Hon'ble Court held that a Magistrate can order an investigation to resume even after the police have submitted the final report.

Thus, Section 156(3) Cr. P.C. although briefly worded, is very extensive and includes all such incidental powers as are necessary to ensure a proper investigation.

In **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others**[6]it was observed that *if a person has a grievance that his FIR has not been registered by the police, proper investigation is not being done, then the remedy available to the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) Cr.P.C.*

High Court's Power – (Why not move the High Court by filing a writ petition or Under Section 482 Cr. P.C)

Hon'ble Apex Court relying on its judgment passed in Case 1 observed that-*we have found in this country that the High Courts are flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.*

The High Court should not encourage this practice and should generally refuse to intervene in such matters and relegate the petitioner to his alternating remedy under Section 154(3) and Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36, his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C.

The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person's FIR has not been registered by the police, or after being registered, a proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail,

under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C.

It is true that alternative remedies are not the absolute bar to a writ petition, but it is equally settled that the High Court should not intervene if there is an alternative remedy.

[Extracted, with edits and revisions, from ' Section 154 and 156(3) of Code of Criminal Procedure-What, When and How' by Lexology, King Stubb and Kasiva, April 6 2020]

Question 1: In a metropolitan city, the police arrest Mr. Singh without a warrant for an alleged breach of contract dispute related to a multi-million-dollar business deal. Mr. Singh claims it's a non-cognizable offence. Is the arrest lawful?

A) Yes, the police can arrest without a warrant for any breach of contract dispute.

B) No, the police cannot arrest without a warrant for a non-cognizable offence, especially in a civil matter of this magnitude.

C) Yes, but Mr. Singh can apply for bail immediately.

D) No, the arrest is only lawful if the breach of contract caused a financial loss exceeding Rs. 1 crore.

Question 2: Amanda is charged with a bailable offence of cyberbullying and arrested by the local police. She applied for bail, but the magistrate denied it due to concerns about witness tampering. Can Amanda appeal this decision?

A) No, once denied bail cannot be appealed.

B) Yes, Amanda can appeal the bail denial on the grounds of her right to freedom of speech.

C) Only if the offence is non-bailable.

D) Only if the offence is more severe.

Question 3: Several workers were injured in a chemical plant accident. One of the injured workers, Mr. Kumar, died in the hospital due to toxic exposure. His family wants to pursue a case against the factory owner for negligence. Who is considered a victim under CrPC?

A) Only Mr. Kumar

B) Only Mr. Kumar's family

C) Both Mr. Kumar and his family

D) Only the factory owner

Question 4: Mr. Verma is arrested for an offence punishable with life imprisonment, precisely a case of financial fraud involving millions of dollars. Who has the authority to confirm this sentence?

A) The Sessions Judge

B) The Chief Metropolitan Magistrate

C) The Judicial Magistrate of the First Class

D) The Chief Judicial Magistrate

Question 5: Lisa is arrested for a warrant case involving an offence punishable with the death penalty, precisely a case of premeditated murder. Can the Chief Metropolitan Magistrate pass the death sentence?

A) Yes, the Chief Metropolitan Magistrate can pass any sentence.

B) The Chief Metropolitan Magistrate cannot pass the death sentence.

C) Yes, but the sentence needs confirmation from the Sessions Judge.

D) No, only the Supreme Court can pass the death sentence.

Question 6: A person is arrested by the police without a warrant for a cognizable offence. However, the arrest was made at midnight. Can the accused challenge the arrest in court?

A) Yes, the accused can challenge the arrest in court.

B) No, for cognizable offences, the police can arrest without a warrant at any time.

C) Only if the accused has a prior criminal record.

D) Only if the accused has a medical condition that requires attention.

Question 7: Emma is arrested for a summons case related to an offence punishable by six months of imprisonment. What type of case is this?

A) Cognizable case

B) non-cognizable case

C) Bailable case

D) Warrant case.

Question 8: A police officer arrests a person without a warrant for an offence listed in the First Schedule of the CrPC. Is this arrest lawful?

A) It is always lawful to arrest without a warrant for offences in the First Schedule.

B) No, the arrest is unlawful without a warrant.

C) Yes, but the accused must be produced before the court within 48 hours.

D) Yes, but the accused must be a habitual offender with multiple charges.

Question 9: A person is arrested for a non-bailable offence without a warrant. Can the court grant bail to the accused?

A) No, bail cannot be granted for non-bailable offences.

B) Yes, bail can be granted, but only for heinous non-bailable offences.

C) Yes, bail can be granted at the court's discretion based on the circumstances.

D) Only if the accused has connections with influential individuals

Question 10: In a bustling city, a person is arrested for an alleged robbery involving a complex web of financial transactions without a warrant. The accused claims that it's a non-bailable offence. Is the arrest lawful?

A) Yes, the police can arrest anyone without a warrant for any robbery.

B) No, the police cannot arrest without a warrant for a non-bailable offence, especially in a financial matter of this complexity.

C) Yes, but the accused can apply for bail immediately.

D) No, the arrest is only lawful if the robbery involved violence and harm to individuals.

ANSWERS

1. Answer 1: B) The police cannot arrest without a warrant for a non-cognizable offence, especially in a civil matter of this magnitude.Explanation: In a non-cognizable case, the police do not have the authority to arrest without a warrant, particularly in civil matters. The other options are incorrect because the arrest is not lawful in this scenario, and the financial loss does not determine its recognizability.
2. Answer 2: Yes, Amanda can appeal the bail denial on the grounds of her right to freedom of speech.Explanation: The denial of bail can be appealed if the court refuses to grant bail, even for a bailable offence. The other options must be corrected because Amanda's appeal is based on her right to bail, not freedom of speech.
3. Answer 3: C) Both Mr. Kumar and his familyExplanation: The term "victim" in CrPC includes the person who suffered the loss or injury (Mr. Kumar) and their guardian or legal heir (his family). The other options are incorrect because CrPC defines the victim broadly.
4. Answer 4: A) The Sessions JudgeExplanation: The Sessions Judge has the authority to pass any sentence authorized by law, including life imprisonment. The other options must be corrected because the Sessions Judge holds this authority.
5. Answer 5: Yes, but the sentence needs confirmation from the Sessions Judge.Explanation: In cases involving the death sentence, the Chief Metropolitan Magistrate can pass the sentence, but the Sessions Judge must confirm it. The other options are incorrect because the death sentence requires confirmation from a higher authority.
6. Answer 6: Yes, the accused can challenge the arrest in court.Explanation: Even in cognizable offences, the accused can challenge the arrest if it's not lawful. The other options are incorrect because the time of arrest does not affect the right to challenge it.
7. Answer 7: B) Non-cognizable caseExplanation: Since the offence is punishable with less than two years of imprisonment, it is considered a non-cognizable case. The other options are incorrect because the nature of the offence determines the nature of the case.
8. Answer 8: Yes, it is always lawful to arrest without a warrant for offences in the First Schedule.Explanation: The First Schedule of the CrPC allows the police to arrest without a warrant for specified offences. The other options are incorrect because the arrest is lawful based on the first schedule.
9. Answer 9: Yes, bail can be granted at the court's discretion based on the circumstances.Explanation: While non-bailable offences generally do not grant an absolute

right to bail, the court can grant bail at its discretion based on the facts and circumstances of the case. The other options are incorrect because bail can be granted for non-bailable offences in certain situations.

10. Answer 10: B) No, the police cannot arrest without a warrant for a non-bailable offence, especially in a financial matter of this complexity.Explanation: In a non-cognizable case, the police do not have the authority to arrest without a warrant, particularly in complex financial matters. The other options are incorrect because the arrest is not lawful in this scenario, and the presence of violence is not the determining factor for recognizability.

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