

Code of Criminal Procedure (CrPC) - UPSC Notes

Popularly known as the Criminal Procedure Code (CrPC), it is the primary legislation regarding the procedural aspects of criminal law. It also contains certain provisions that are not strictly procedural in nature which include provisions pertaining to the prevention of nuisance (Section 133) and Maintenance of Wife and Children (Sections 125-128). The Code contains 484 sections spread along 37 chapters, along with 2 schedules and 56 forms.

The CrPC or the Code of Criminal Procedure is an important topic for the UPSC exam. It comes under the polity, governance, law, and internal security segments of the [UPSC syllabus](#).

Criminal Procedure Code - CrPC

The administration of India was taken over after the rebellion of 1857 by the British crown and subsequently, the Criminal Procedure Code was enacted in the year 1861.

- The enactment of 1861 made the European natives immune from the jurisdiction of the criminal courts except for the high Court.
- The code was amended in the years 1872, 1882 and 1898 to ensure uniform application over British and Indian subjects.
- The legacy of British India continued until the present Code came into effect in the year 1973.

What is Investigation?

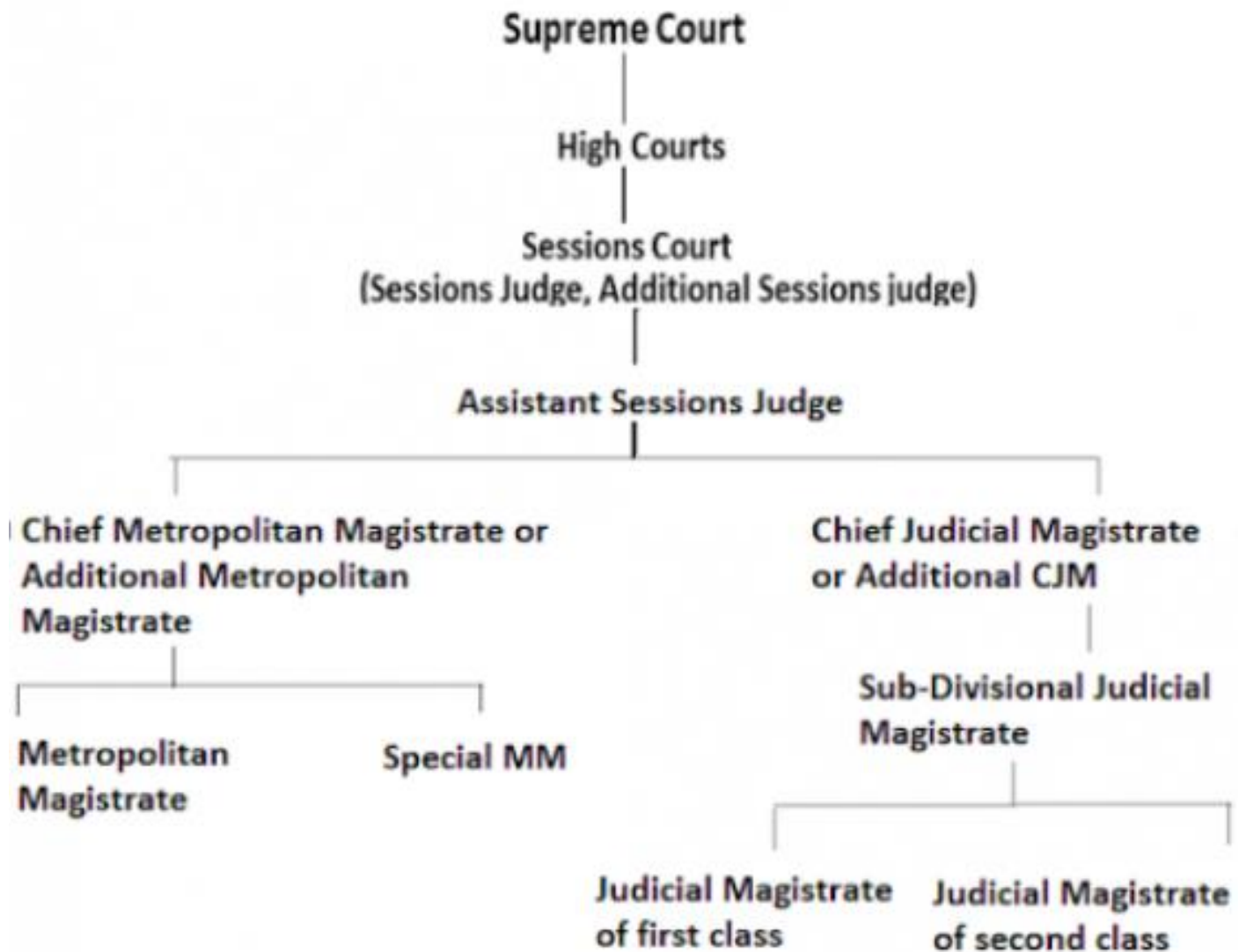
According to Section 2(h) of the Code, an investigation is the process of collecting evidence by either a police officer or any other person that is authorised by a Magistrate to do so.

- For the purposes of investigation, cases under CrPC have been divided into cognizable and non-cognizable cases.
 - Cognizable cases are serious criminal matters where the police can arrest without any warrant and can start investigating without permission by a magistrate. These cases include among others Murder, Rape, etc.
 - Non-cognizable cases on the other hand are less serious matters where the police cannot arrest without a valid warrant and also can start the investigation only when they obtain permission from a magistrate, for instance, cases like Assault and Defamation.
- The process of investigation starts by taking cognizance of a case and is completed when the police report is submitted under Section 173.
- The process of investigation is thorough and full of intricate procedures, any irregularities in the procedure may result in the acquittal of the accused.

Hierarchy of Criminal Courts

To know what are [criminal courts](#) in India, click on the linked article.

Hierarchy of Criminal Courts



Arrest in CrPC

Arrest means the apprehension of a person by the authorities, thus depriving him of his liberty. In criminal law, it is an essential aspect so that the accused is made to face the process of law and also prevents him from absconding. Some important rights that a person who is being arrested has are:

- There can be no legal arrest if there is no information or reasonable suspicion that the person has been involved in a cognizable offence or commits offence(s), specified in Section 41.
- Section 46 of CrPC envisages modes of arrest i.e. submission to custody, touching the body physically or confining the body. In case force is required to make an arrest, it should not be any more than is actually required.
- In the case of women, the body of the person is not to be touched unless the arresting person is also a female. A female can also not be arrested after sunset and before sunrise, except in exceptional circumstances with the prior permission of a Magistrate.

- The arrested person must be informed of the grounds of arrest as soon as he is arrested. By virtue of the judgement in D.K. Basu case and subsequent amendments in the CrPC, the arresting officer is to inform a friend, relative or nominated person of the arrestee.
- Section 54 of the CrPC provides for a compulsory medical examination of the accused by a medical practitioner, in case of females, the examiner has to be female too.
- The arrestee is also entitled to be counselled and defended by a lawyer of his choice, in addition to being entitled to free legal aid.

What is Bail?

Bail means the temporary release of an accused; it is not only the essence of criminal procedure but also a bulwark of individual liberty. Under CrPC the cases in which the accused is entitled to bail are referred to as bailable offences. On the other hand, non-bailable are those cases where the release on bail is to be decided by a competent court. The accused can be released on bail in these cases by the court after imposing some conditions. The Code also provides for anticipatory bail in case any person is apprehending arrest, i.e. bail even before the person is arrested.

Trial under CrPC

For the purposes of trials, the cases under CrPC can be classified in into four categories:

1. **Sessions Case:** These are cases where the punishment for the offences involved is death, life imprisonment or imprisonment for a period of more than seven years. In such cases, the trial is to be handled by a Sessions Court after the case has been forwarded by the magistrate or after the commission of the crime.
2. **Summons Case:** These are cases where the punishment for the offence is less than two years and is triable by a magistrate. These are relatively less serious offences and the procedure involved is also simpler.
3. **Warrants Case:** Cases other than summons cases are often referred to as warrants cases whereby the punishment prescribed is more than two years of imprisonment. The warrants cases can be further classified into:
 1. Cases established by a police report
 2. Cases established other than by a police report
4. **Summary Cases:** Basically, summary trials are those kinds of trials where speedy justice has to be given, which means those cases which are to be disposed of speedily and the process of these cases is quite simplified.

Also read: [Difference between criminal law and civil law](#)

Trial Procedure

The procedure for trials is laced with detailed procedures, they are in place so that the guilty may be punished but also so that innocent persons get every possible opportunity to prove their innocence.

- Once the innocence or guilt of an accused is determined, the aggrieved party has the option to go in appeal and challenge the decision within the stipulated statutory time.
- The appeals generally lie from a Magistrates Court to the Sessions Court, from the Sessions Court to the High Court and from the High Court to the Supreme Court.
- The Court can also pass some post-conviction orders like for instance having regards to the age, character and antecedents of the offender, and the circumstances in which the offence was committed. If the Court convicting the accused considers it expedient to release the offender, it may do so either on probation of good conduct or after due admonishment.

The CrPC is a comprehensive document designed to provide due process to the accused by laying down a procedure for cognizance, arrest, bail, collection of evidence, trial and determination of innocence or guilt. The procedure laid down is basically a procedure to ensure that the rights of individuals are protected against the strong state machinery. The Code has also been supplemented well by the [Supreme Court judgements](#) and amendments to become more robust.

