



MADHYA PRADESH

Judicial Services Exam

CIVIL JUDGE (Junior Division)

High Court of Madhya Pradesh

Criminal Law & Procedure

Volume - 1



MADHYA PRADESH JUDICIARY SERVICES

CONTENTS

S.No.	Chapter Name	Section No.
1.	The Indian Penal Code 1860	(Pg. 1)
Ch. I	Introduction	1-5
Ch. II	General Explanations	6-25 A
Ch. III	Punishments	53-75
Ch. IV	General Exceptions	76-106
Ch. V	Abetment	107-120
Ch. V A	Criminal Conspiracy	120A-120 B
Ch. VI	Offences Against the State	121-130
Ch. VII	Offences Relating to The Army, Navy and Air Force	131-140
Ch. VIII	Offences Against the Public Tranquility	141-160
Ch. IX	Offences by Or Relating to Public Servants	161-171
Ch. IXA	To Offences Relating to Elections	171A-171 I
Ch. X	Contempts of The Lawful Authority of Public Servants	172-190
Ch. XI	False Evidence and Offences Against Public Justice	191-229 A
Ch. XII	Offences Relating to Coin and Government Stamps	230-263 A
Ch. XIII	Offences Relating to Weights and Measures	264-267
Ch. XIV	Offences Affecting the Public Health, Safety, Convenience, Decency and Morals	268-294 A
Ch. XV	Offences Relating to Religion	295-298
Ch. XVI	Offences Affecting the Human Body of Offences affecting Life	299-377
Ch. XVII	Offences Against Property of Theft	378-462
Ch. XVIII	Offences Relating to Documents and to Property Marks	463-489 E
Ch. XIX	The Criminal Breach of Contracts of Service	490-492
Ch. XX	Offences Relating to Marriage	493-498
Ch. XXA	Cruelty by Husband or Relatives of Husband	498 A
Ch. XXI	Defamation	499-502
Ch. XXII	Criminal Intimidation, Insult and Annoyance	503-510
Ch. XXIII	Attempts to Commit Offences	511

Part A

Ch. I	Preliminary	1-5
Ch. II	Constitution of Criminal Courts and Offices	6-25 A
Ch. III	Power of Courts	26-35
Ch. IV A	Powers of Superior Officers of Police	36
Ch. IV B	Aid to The Magistrates and The Police	37-40
Ch. V	Arrest of Persons	41-60 A
Ch VI	Process to Compel Appearance	61-90
	A. Summons	61-69
	B. Warrant of arrest	70-81
	C. Proclamation and attachment	82-86
	D. Other rules regarding processes	87-90
Ch. VII	Process to Compel the Production of Things	91-105
	A. Summons to produce	91-92
	B. Search-warrants	93-98
	C. General provisions relating to search	99-101
	D. Miscellaneous	102-105
Ch. VII A	Reciprocal Arrangements for Assistance in Certain Matters and Procedure for Attachment and Forfeiture of Property	105 A-105 L
Ch. VIII	Security for Keeping the Peace and For Good Behaviour	106-124
Ch. IX	Order for Maintenance of Wives, Children and Parents	125-128
Ch. X	Maintenance of Public Order and Tranquility	129-148
	A. Unlawful Assemblies	129-132
	B. Public Nuisances	133-143
	C. Urgent cases of nuisance or apprehended danger	144-144 A
	D. Disputes as to immovable property	145-148
Ch. XI	Preventive Action of The Police	149-153
Ch. XII	Information to The Police and Their Powers to Investigate	154-176
Ch. XIII	Jurisdiction of Criminal Courts in Inquiries and Trials	177-189

Ch. XIV	Conditions Requisite for Initiation of Proceedings	190-199
Ch. XV	Complaints to Magistrates	200-203
Ch. XVI	Commencement of Proceedings Before Magistrates	204-210
Ch. XVII	The Charge	211-224
Ch. XVIII	Trial Before a Court of Session	225-237
Ch. XIX	Trial of Warrant-Cases by Magistrates	238-250
Ch. XX	Trial of Summons-Cases by Magistrates	251-259
Ch. XXI	Summary Trials	260-265
Ch. XXIA	Plea Bargaining	265A-265 K
Ch. XXII	Attendance of Persons Confined Or Detained In Prisons	266-271
Ch. XXIII	Evidence in Inquiries and Trials	272-299
Ch. XXIV	General Provisions as To Inquiries and Trials	300-327
Ch. XXV	Provisions as To Accused Persons of Unsound Mind	328-339
Ch. XXVI	Provisions as To Offences Affecting the administration of Justice	340-352
Ch. XXVII	The Judgment	353-365
Ch. XXVIII	Submission of Death Sentences For Confirmation	366-371
Ch. XXIX	Appeals	372-394
Ch. XXX	Reference and Revision	395-405
Ch. XXXI	Transfer of Criminal Cases	406-412
Ch. XXXII	Execution, Suspension, Remission and commutation of Sentences	413-435
Ch. XXXIII	Provisions as To Bail and Bonds	436-450
Ch. XXXIV	Disposal of Property	451-459
Ch. XXXV	Irregular Proceedings	460-466
Ch. XXXVI	Limitation for Taking Cognizance of Certain Offences	467-473
Ch. XXXVII	Miscellaneous	474-484

The Indian Penal Code

The Indian Penal Code, 1860

Definition

- * AR + MR = Offence (Elements of AR and MR must be clear)
 - AR = Actus Reus (Guilty Act)
 - MR = Mens Rea (Guilty Mind)

Difference

- * कानूनी भेद

Punishment

- * Act no. 45 of 1860.
- * Came in force on 1 January, 1860.
- * Assent of Governor General 6 October, 1860.
- * Divided into 23 chapters and 511 sections.
- * Father of IPC - Lord Macaulay
- * Other contributions by:
 - a. Lord Mc. Lord
 - b. Lord Anderson
 - c. Lord Millet

Part A Ch. 1-5A [1-120B]	Part B Ch. 6-15 [121-298]	Part C Ch. 16-23 [299-511]
---------------------------------------	--	---

Part A

- * Ch. 1
[1-5]
Preliminary
- * Ch. 2
[6-52A]
Explanations
- * Ch. 3
[53-75]
Punishments

- * Ch. 4
[76-106]
Exceptions
- * Ch. 5
[107-120]
Abetment
- * Ch. 5A
[120A-120B]
Criminal Conspiracy

Part C

- * Ch. 16
Body
[299-377]
- * Ch. 17
Property
[378-462]
- * Ch. 18
Document
[463-489E]
- * Ch. 19
Breach of contract of service
[490-492]
- * Ch. 20
Marriage
[493-498]
- * Ch. 20A
Cruelty
[498A]

- * Ch. 21
Defamation
[499-502]
- * Ch. 22
Intimidation, Insult and Annoyance
[503-510]
- * Ch. 23
Attempt to commit offences
[511]

Part B

- * Ch. 6
Offences against the state
[121-130]
- * Ch. 7
Offences relating to army, navy, air force
[131-140]
- * Ch. 8
Offences against the public tranquility
[141-160]
- * Ch. 9
Offence by or related to public servant
[161-171]
- * Ch. 9A
Offence relating to elections
[171A-171I]
- * Ch. 10
Contempt of the lawful authority of public servants
[172-190]
- * Ch. 11
False residence and offence against public justice
[191-229A]

- * Ch. 12
Offences relating to coin and government stamps
[230-263A]
- * Ch. 13
Offences relating to weights and measures
[264-267]
- * Ch. 14
Offences affecting the public health, safety, convenience, decency and morals
[268-294A]
- * Ch. 15
Offences relating to Religion
[295-298]

Que. What are the various theories of punishment of crime?

Ans. Retributive [Eye for an eye]
Expiatory [Penance]
Deterrent [Fear]
Preventive [Before offence prevent]
Reformative [Hate the crime not the offender]

All have their own relevance. In my opinion, [any of the above and then give explanation for that].

- * Coke "Actus non facit reum nisi mens sit rea"
[AR + MR = Offence]
This Latin maximum means offence shall only be constituted when along with guilty act there is also guilty mind.
- * Actus rea = Any act prohibited by law
Means rea = Guilty mind
- * Fowler Vs. Padget
C.J. Kenyon said, for offence intention and act both must concur.
This principle is the fundamental principle of criminal liability.
R Vs. Khandu

STAGE I

AR = Hit by stick [Not dead]

O = MR = Murder not

AR + MR = O

Murder + Murder = Murder

STAGE II

MR = Cause disappearance evidence

AR = Murder

Q. The question was whether seen as a whole or divided in stages?

* R Vs Shorty

AR = Greivous hurt

MR = Murder

O = MR = Murder Not

AR = Remove Evidence

Q. The same question was raised?

* In both cases accused got benefit.

* Mali Vs. R

No benefit was given.

Conclusion/Inference

- * It seems in matter of melic, the above cases were not cited.
- * W/e offences can be divided int stages accused must be given benefit.
- * Duty of prosecution to prove beyond reasonable doubt.
- * Judges can be of various nature will not give benefit i.e., where of strict nature will not give benefit but where liberal judge there divide the offence in stages and give benefit.

AR + MR = O [Offence]

AR + MR = O

If MR is O, AR = Offence

AR + MR = O

AR = O

Actus Rea is sufficient

Eg. Sex before 18

Therefore, MR = Offence

Mens Rea is sufficient

Eg. Sec 120 A-B

Actus Rea

According to Kemy Actus Rea is of six types:

1. No physical participation required
2. Participation is indirect.
3. Interference of another person.
4. Victims own conduct.
5. Contributory negligence.
6. Such participation which was superfluous.

Q. Whether merely on grounds of Actus Rea, person can be convicted or not? [AR = Offence]

Ans.

- * W/e there is a strict liability [Sec. 292 of IPC]
- * Socio economic offence. Eg. Currency note.
- * W/e offence is Male-in-Se.
- * W/e matter of public nuisance.
- * W/e defamation.

Offence is of two types

1. Male-in-Se - act itself is offence.
No benefit of mistake of fact.
Eg. Kidnapping. R Vs. Prince
[Age of girl below 18, then punishable].
2. Male Prohibita - Act not offence but prohibited by state. There can be mistake of act.

Mens Rea

In India it is found in 3 manners:

1. Positive (+ve)

In IPC, few words are used, i.e., Intention, good faith, negligence, rashness, etc. by which criminal mind is made out negatively.

2. Negative (-ve)

In Ch. 4 of IPC, there are general exceptions where no mens rea is considered. Eg. Murder by 4-year infant.

3. Strict liability

Act itself is offence, no mens rea is required.

Q. Whether there is any condition, where on bases of mens rea person can be convicted?

Ans. Yes, refer Sec. 120A, B of IPC.

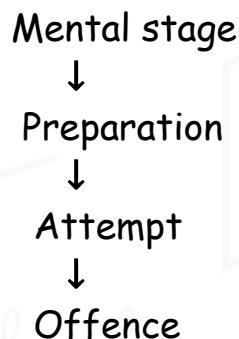
Eg. A and B go to railway station to murder C. But C doesn't appear.

Whether

A and B convicted any offence. Yes. of Criminal conspiracy to commit offence.

Q. What are the various stages of offence?

Ans. Generally, No Punishment except



1. **Mental Stage**: It is primarily shown as mental stage.

It is not punishable except Sec. 120 A/B i.e., Criminal Conspiracy.

2. **Preparations**: Generally, preparations is not punishable under IPC, like following sections,

122: Collecting arms	257:
126: Committing depredations	472:
399: Making preparations to commit dacoity	473:
233:	474:
234:	475:
235:	476:
242:	485:
243:	486:
259:	489C:
266:	489D:
256:	

3. **Attempt:** W/e any person does any act towards offence but expected result don't occur and it becomes unsuccessful then it is called attempt.
- * This is the last proximate act to commit offence.
 - * State of Maha. Vs Mohd. Yakub.
 - * Abhayanand Mishra Vs State of Bihar where false document/false statement then person shall be liable for attempt. Sec. 415, 420/511.
4. **Offence:** When attempt is completed, it becomes offence.

Attempt

1. Possible attempt:

2. Impossible attempt:

- * Body person shoot on doll, statue even if hit on statue then also not liable for murder, i.e., W/e matter is offences related to body because it depends on result so person not liable.
- * Property W/e matter of property there, person shall be liable [pick-pocket-pocket-empty] then also liable because use in matter of property, valuation is not essential.

Q. A person open box - found nothing- got emotional - left Rs. 100. Is he liable?

Sol. Yes, for attempt.

Possible attempt

- * Attempt + Offence in the same sec. Eg. Sec. 124A
- * Attempt + Offence in different section but nearly. Eg. 302, 307
- * Only attempt is punishable not Offence. Eg. 309.
Presently no punishment, Person shall be dealt in Sec. 511. Personal mental health act will be applicable.
- * W/e there is no punishment, then sec. 511 will apply.

Chapter - 23

Attempt to commit offences

Section 511

- * W/e any person attempts or causes commission of offence punishable by life imprisonment or imprisonment [Death/fine not included].
- * Does any act towards commission of offence.
- * No expressed provision.
- * Then following LI/2, I/2
 - Fine always taken full.
 - LI = Whole life
- * W/e there is commutation of offence there 14 yrs [Sec. 55].
- * W/e LI is to be calculated in fractions.
- * Therefore, In Section 511, LI/2 = 10yrs.
- * Koppula Venkat Rao Vs State of AP. In this case, SC Supreme Court had differentiated prepration from attempt.
- * Vasudev Balwant Gogte Vs Emperor. In this case Section 307 and 511 been differentiated.
- * Cassidy Vs Emperor
(Same as the above)

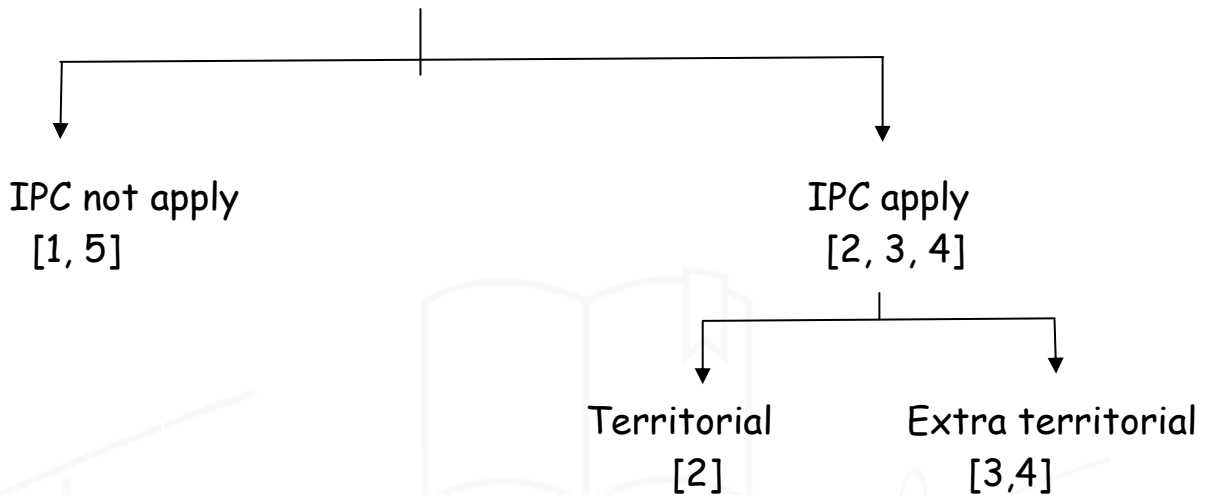
Chapter - 1

Preliminary [1-5]

Q. What do you understand by Jurisdiction?

Ans.

Jurisdiction



Section. 1

Apply to whole India [Previously not applied to J & K but now applicable by J & K reorganization act, 2019].

Section 5

Not apply on following:

- (a) Not apply on mutiny or desertion of soldiers.
- (b) Any special law or local law.

Chandi Prasad Vs Abdul Rehman. W/e any special law is complete then no jurisdiction of IPC.

Section. 2

Every person shall be liable for punishment under the code for any act or omission contrary to the provisions shall be guilty within India.

India = Air, land, water

It includes territorial water all rights [12NM] contiguous zone [24NM] Fishing exclusive economic zone [200NM] research.

NM = Nautical miles [1.852Km]

Every person: shall be liable for punishment under the act except,

- | | |
|-----------------------|------------------|
| (a) President | (e) Alien Enemy |
| (b) Governor | (f) Foreign army |
| (c) Foreign Sovereign | (g) Warship |
| (d) Ambassador | |

Q. A foreigner comes to India and commit murder in India, Whether liable?

Ans. Yes

* Mubarik Ali Vs State of Bombay

One person was commissioered agent, he committed cheating by letters and he was held liable for cheating in India.

* Mayor Hans George Vs State

A plane was going stopped in India, gold was conphiscated liable in India.

Section 3

Where any person is liable Under Indian law and offence committed out of India/beyond India.

Then act committed as if done within India.

Eg. Grey Chhappal → Dubai → Cheating

Section 4

W/e offence is committed by citizen of India [without/beyond India]

On any ship or aircraft registered in India.

In any computer resource which is located in India done by an outsider.

Mohd. Sajeed Vs State of Kerala

Offence committed beyond India then can be investigated by an Indian police but with permission of Indian Govt [Refer Sec. 188, 189 of IPC and act 20 of constitution].

Chapter - 2

General Explanations [6-52A]

- | | |
|----------------------------|------------------|
| 6- Definition | 34- |
| 7- Sense | 35- Common |
| 8- Gender | 36- Intention |
| 9- Number | 37- |
| 10- Men/Women | 38- |
| 11- Person | 39- Voluntary |
| 12- Public | 40- Offence |
| 13- XXX | 41- Special Law |
| 14- Govt. Servant | 42- Local law |
| 15- XXX | 43- Illegal |
| 16- XXX | 44- Injury |
| 17- Govt. | 45- Life |
| 18- India | 46- Death |
| 19- Judge | 47- Animal |
| 20- Court of justice | 48- Vessel |
| 21- Public Servant | 49- Year [Month] |
| 22- Moveable party | 50- Section |
| 23- Gaining wrongfully | 51- Oath |
| 24- Dishonesty | 52- good faith |
| 25- Fraudelty | 52A- Harbour |
| 26- Reason to believe | |
| 27- Possession of propery | |
| 28- Counterfeit | |
| 29- Document | |
| 29A- Election record | |
| 30- Valuable security | |
| 31- Will | |
| 32- A/O → Act of Ommission | |
| 33- A/O | |

Section 19

- * Judge is a person who is officially designated as a Judge (RJS).
Such person who is empowered by law in criminal or civil proceedings.
 - (a) Give definite Judgement
 - (b) If not appeal then final judgement
 - (c) If confirmed then definitive
- * It can comprise of one person or body of person [Consumer forum].
- * Kishan Swaroop Vs Bijender Singh
Sarpanch is also a Judge.

Section 20

When a Judge who is empowered by law to act judicially.
Is acting judicially
It includes body of person also.

Q. What do you understand by public servant?

Ans. Section. 21:

- (a) XXXXXX
- (b) Commissioned officer of armed forces
- (c) Judge
- (d) Officers of Court i.e. liquidator, receiver, commissioner.
- (e) Juryman assessor, member of Panchayat
- (f) Arbitrator
- (g) Every man can confine the person [Jailor]
- (h) Every person whose duty to prevent offence, protect health Safety
- (i) Such person whose duty is to survey and assess
- (j) Whose duty to collect tax
- (k) Whose duty to conduct election
- (l) Every person who is in survive or pay of govt. and receive fees
or commission. Every person who is with legal authority or account to
state or central.
- (m) Rajasthan amendment

Any such person included which conduct exam and supervise exam at public body.

- * Explanation. 1: Person can be appointed by Govt. or not.
- * Explanation. 2: W/e any person is on post then he shall be considered as public servant, although legal effect.
- * Explanation. 3: W/e any election although legislature, municipality or any public authority, any manner all are included in election, i.e., the person conducting election is a public servant.
- * M. Karuna Hidhi Vs UOI
CM is a public servant
- * P.V. Narsimha Rao Vs State
PM is a public servant
- * R.S. Nayak Vs A.R. Anatulay
MLA is not a public servant, then how CM can be public servant?
MLA/MP is responsible for the party whereas CM/PM for the whole nation/Country.
- * Is Judge a public servant?
V. Ramaswami Vs State
Yes, He is also
- * Asha Parikh Vs State of Bihar
Are various Organization a public servant?
For this we have to see the functioning.
Censor board is a public servant.
- * Ram Avatar Vs State of Bihar
Surveyor [Revenue] a public servant
- * Bajranglal Vs State of Punjab
Khalasi is a public servant.
- * A.S. Rao Vs CNN Kutty
MD Govt. Company is PS
- * State Vs OP Dogra
LIC is (Public Servant)
- * Balram Singh Vs State
Superintendent Engineer, State Electricity board is PS
- * Sushil Modi Vs Mohan Guru Swamy
Leader of Opposition of Legislative assembly is not a PS
- * PN Nallammal Vs State
Speaker of Legislative assembly is a PS

Section. 22: Corporal property of every description except,

1. Land
2. Things attached to earth
3. Things permanently fastened to things attached to earth [door]
 - * Also refer TPA and registration act section. 3 for immovable property.
 - * Corporeal property = such property which has any shape.

Section 23

1. Wrongful gain - W/e any person in property gains by unlawful means for which he was not legally entitled. E.g. Theft
2. Wrongful loss - W/e any person for which he is not legally entitled loses it. E.g. Theft
 - * The General rule is that one person obtains gain and another loss.
 - * Is there any offence where there is wrongful loss?
Yes in case of mischief [425-440].
3. Gaining and losing wrongfully - Whoever retains or acquires wrongfully.
 - * Whoever keeps out person wrongfully from property or deprives him from the title.

Section 24

Whoever does act with such intention that there is wrongful gain to one and wrongful loss to another.

Section. 25

- * W/e any person does an act with intention to defraud.
- * Dr. Vimla Vs Delhi Administration
Injury is necessary.