# Bharatiya Nagarik Suraksha Sanhita, 2023 (Criminal Law – II)

*KSLU LL.B. — Complete Exam-Ready Study Bundle (BNSS + JJ Act 2015 + Probation of Offenders Act 1958)*

KSLU LL.B. Study Bundle

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June 2026

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> ***Read this first page, then go to your unit.*** *This single file holds the whole subject: how to use the notes, the rules that win marks, and all units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.*

> ⚠ ***A word about the new law.*** *This subject — **Criminal Law – II** — is now taught under the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, which replaced the **Code of Criminal Procedure, 1973** with effect from **1 July 2024**. These notes are written in **BNSS sections**. **Unit 5** is special-statute law — the **Juvenile Justice (Care and Protection of Children) Act, 2015** and the **Probation of Offenders Act, 1958**; note that older papers cite the JJ Act, 2000, which the **2015 Act** has replaced, so those answers are written under the 2015 Act.*

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# How to Use These Notes

**What this is.** A complete, exam-focused bundle covering all five units of KSLU Criminal Law – II (BNSS, 2023 + JJ Act 2015 + Probation of Offenders Act 1958). Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.

**Who it is for.** The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

**What is inside every topic** — the same blocks, in the same order:

| Block | Its job | The mark it earns |
|---|---|---|
| **Previous Year Questions** | Real questions + years asked | What to prepare and how often it repeats |
| **The Hook** | A true story / landmark-case opener | Memorable; a strong opening line |
| **Jurist / Statutory Quotes** | Exact definitions & sections | Examiners reward precise authority |
| **In Simple Terms** | Plain-English translation | Ensures you *understand* |
| **The Visual (chart)** | Maps the topic structure | Recall and structure at a glance |
| **Case Laws** | Landmark judgments + ratio | Case names with years are pure marks |
| ▤ **Tracker +** ⚠ **Risk Alert** | Answer plan + applied IRAC | Converts knowledge into a scoring answer |

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

**The 4-step study plan.** (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the Tracker and one Risk Alert.

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## The 10 Rules That Win Marks

1. **Lead with a definition + roadmap.**
2. **Follow the Blueprint Tracker** stage by stage.
3. **Name the case AND the year** every time.
4. **Quote the exact BNSS / JJ Act / Probation Act section.**
5. **Translate every Latin maxim in [brackets].**
6. **Use the four IRAC headings** for problems; spot the decoy fact.
7. **Always give a definite verdict.**
8. **Use the chart's structure** to organise the body.
9. **Close with a short, confident conclusion.**
10. **Manage time** so no high-mark question is left unwritten.

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# BNSS Quick Section Reference

> *The high-frequency provisions, by topic. Citing the right BNSS (or JJ/Probation) section is pure marks.*

| Topic | Section |
|---|---|
| Classes of criminal courts | **BNSS S.6** |
| Sentences courts may pass | **BNSS Ss 21–23** |
| FIR (Zero FIR / e-FIR) | **BNSS S.173** |
| Investigation / police report | **BNSS S.175 / S.193** |
| Inquest | **BNSS S.194** |
| Complaint; examination of complainant | **BNSS S.2(1)(h) / S.223** |
| Arrest without warrant; necessity | **BNSS S.35 (S.35(7))** |
| Rights of arrested / 24-hour production | **BNSS Ss 47–48 / S.58** |
| Cognizance | **BNSS S.210** |
| Charge / alteration | **BNSS Ss 234, 239** |
| Joinder of charges | **BNSS Ss 241–246** |
| Summons / warrant / proclamation / attachment | **BNSS Ss 63 / 72 / 84 / 85** |
| Production of things | **BNSS S.94** |
| Bail (bailable / non-bailable) | **BNSS Ss 478 / 480** |
| Anticipatory bail | **BNSS S.482** |
| Default bail | **BNSS S.187(3)** |
| Limitation for cognizance | **BNSS S.514** |
| Trial before Court of Session | **BNSS Ss 248–258** |
| Warrant / summons / summary trials | **BNSS Ss 261–273 / 274–282 / 283–288** |
| Maintenance | **BNSS Ss 144–147** |
| Security for peace / public nuisance / urgent order | **BNSS Ss 125–129 / 152 / 163** |
| Appeals / reference / revision | **BNSS Ss 413–435 / 436 / 438–442** |
| Compounding / plea bargaining | **BNSS S.359 / Ss 289–300** |

| Topic | Section |
|---|---|
| Tender of pardon | **BNSS Ss 343–345** |
| Double jeopardy / concurrent-consecutive sentences | **BNSS S.337 / S.25** |
| Judgment | **BNSS Ss 392–406** |
| Transfer of cases (SC / HC / Sessions) | **BNSS Ss 446 / 447 / 448** |
| Suspension / remission / commutation / mercy | **BNSS Ss 473 / 474 / 472** |
| Disposal of property | **BNSS Ss 497–505** |
| Irregular proceedings | **BNSS Ss 507–510** |
| Victim compensation / treatment / witness protection | **BNSS Ss 395–396 / 397 / 398** |
| Preventive action of police | **BNSS Ss 168–172** |
| Juvenile Justice Board / CWC | **JJ Act 2015, S.4 / S.27** |
| Child in conflict / in need of care | **JJ Act 2015, S.2(13) / S.2(14)** |
| Bail of a child / orders | **JJ Act 2015, S.12 / S.18** |
| Admonition / probation / under-21 | **PO Act 1958, S.3 / S.4 / S.6** |
| Probation officer / breach of bond | **PO Act 1958, S.14 / S.9** |

> ***Disclaimer.*** *A study aid, not a substitute for the bare BNSS, 2023, the JJ Act, 2015, the Probation of Offenders Act, 1958 and prescribed texts. Cross-check every section number against the official text. © Medha-Academy.in · KSLU LL.B. · For personal academic use.*

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# UNIT 1 — Introduction, FIR, Investigation & Arrest

**Bharatiya Nagarik Suraksha Sanhita, 2023 (Criminal Law – II) · KSLU LL.B. · Medha-Academy.in**

> ***Unit focus.*** *The opening of the criminal process under the BNSS, 2023 — the meaning and salient features of the new Code, the constitution and powers of the criminal courts and the police/prosecution, and the first steps of a case: the* ***FIR (with Zero FIR and e-FIR), investigation, complaint and arrest****.*

## Table of Contents



## 1. Salient Features & Constitutional Dimensions of the BNSS

### *Previous Year Questions*

- ***[10M]*** *Explain the constitutional dimensions of the BNSS, 2023. (BNSS 2026)*
- ***[10M]*** *Meaning and importance of criminal procedure; salient features of the BNSS. (BNSS papers)*

## The Hook

On **1 July 2024** India's procedural law was rewritten: the **Bharatiya Nagarik Suraksha Sanhita, 2023** replaced the 1973 Code of Criminal Procedure, promising time-bound investigation and trial, technology at every stage, and a victim-centred process — the most sweeping reform of Indian criminal procedure in fifty years.

## The Concept

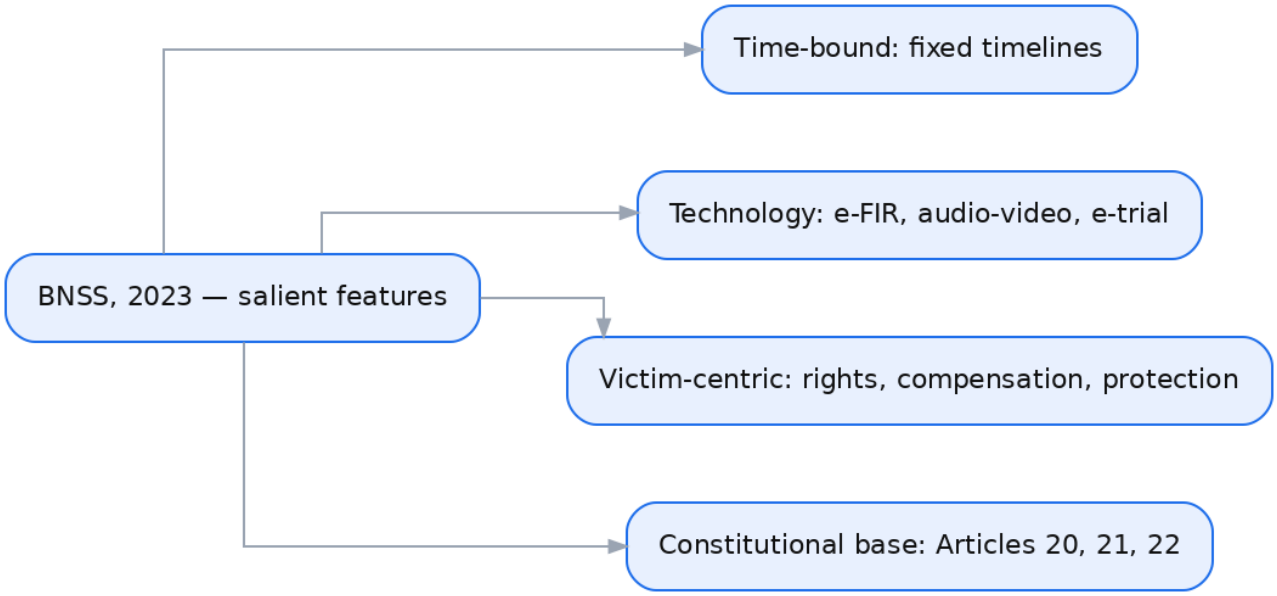
Criminal procedure is the **machinery** that enforces the substantive criminal law — it tells us *how* an offence is investigated, *how* an accused is tried, and *how* a sentence is executed. The BNSS is **adjective law**, serving the Bharatiya Nyaya Sanhita. Its salient features:

1. Time-bound process — fixed timelines for investigation, framing of charge, judgment (e.g. judgment within 45 days of trial; charge within 60 days), to curb delay.
2. Technology at every stage — *audio-video electronic* recording of search, seizure and statements; **e-FIR** and **Zero FIR**; trial and evidence by electronic means; mandatory forensic visits for offences carrying 7+ years.
3. Victim-centric — the victim's right to be heard, to free first-aid/treatment, to information on investigation progress, and a witness-protection scheme.
4. New tools — trial *in absentia* of proclaimed absconders; *Sanjeevani*-style timelines; mercy-petition timelines.

> ***Constitutional dimensions:*** *the Code operationalises* ***Articles 20, 21 and 22*** *— fair procedure (Art. 21), protection against double jeopardy/self-incrimination/ex-post-facto law (Art. 20), and the rights of an arrested person (Art. 22).*

**In Simple Terms:** The BNSS keeps the familiar skeleton of the old Code but speeds it up, digitises it, and tilts it towards the victim — all within the constitutional guarantees of a fair, humane procedure.

## The Visual




## Case Laws

- ***Maneka Gandhi v. Union of India (1978)*** — "procedure established by law" under Art. 21 must be just, fair and reasonable.
- ***Hussainara Khatoon v. State of Bihar (1979)*** — speedy trial is a fundamental right under Art. 21.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *1 July 2024 reform; promise meaning, features, constitutional base.*
- ***STAGE 2 ⟶ Meaning & importance:*** *procedure as the machinery of substantive law.*
- ***STAGE 3 ⟶ Salient features:*** *timelines, technology, victim-centricity, new tools.*
- ***STAGE 4 ⟶ Constitutional dimensions:*** *Articles 20, 21, 22; Maneka Gandhi, Hussainara Khatoon.*
- ***STAGE 5 ⟶ Verdict:*** *a modernised, time-bound, rights-based Code.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *A student argues the BNSS is "just the CrPC renamed." (Decoy: the structure is largely retained.)*

- ***I — ISSUE:*** *Is the BNSS merely a renamed Code?*
- ***R — RULE:*** *the BNSS retains the procedural skeleton but adds binding timelines, electronic processes, victim rights and trial in absentia.*
- ***A — ANALYSIS:*** *continuity of structure does not erase substantive procedural reform.*
- ***C — CONCLUSION:*** *the BNSS is a reform, not a mere renaming.*

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# 2. Constitution, Jurisdiction & Powers of Criminal Courts

### *Previous Year Questions*

- ***[16M]*** *Discuss the constitution and powers of criminal courts. (2012, 2014, 2015, 2016, 2019, 2021, 2022; BNSS 2025, 2026)*
- ***[Problem]*** *Sentencing power of an Assistant Sessions Judge. (2013)*

## The Concept

**Section 6** sets out the classes of criminal courts (besides the High Court and courts under special laws):

1. Courts of Session — headed by the Sessions Judge, with Additional and Assistant Sessions Judges.
2. Judicial Magistrates of the first class (and, in a metropolitan area, the like), with the Chief Judicial Magistrate at the apex of the magistracy.
3. Judicial Magistrates of the second class.
4. Executive Magistrates — for preventive and administrative functions.

**Sentences the courts may pass:**

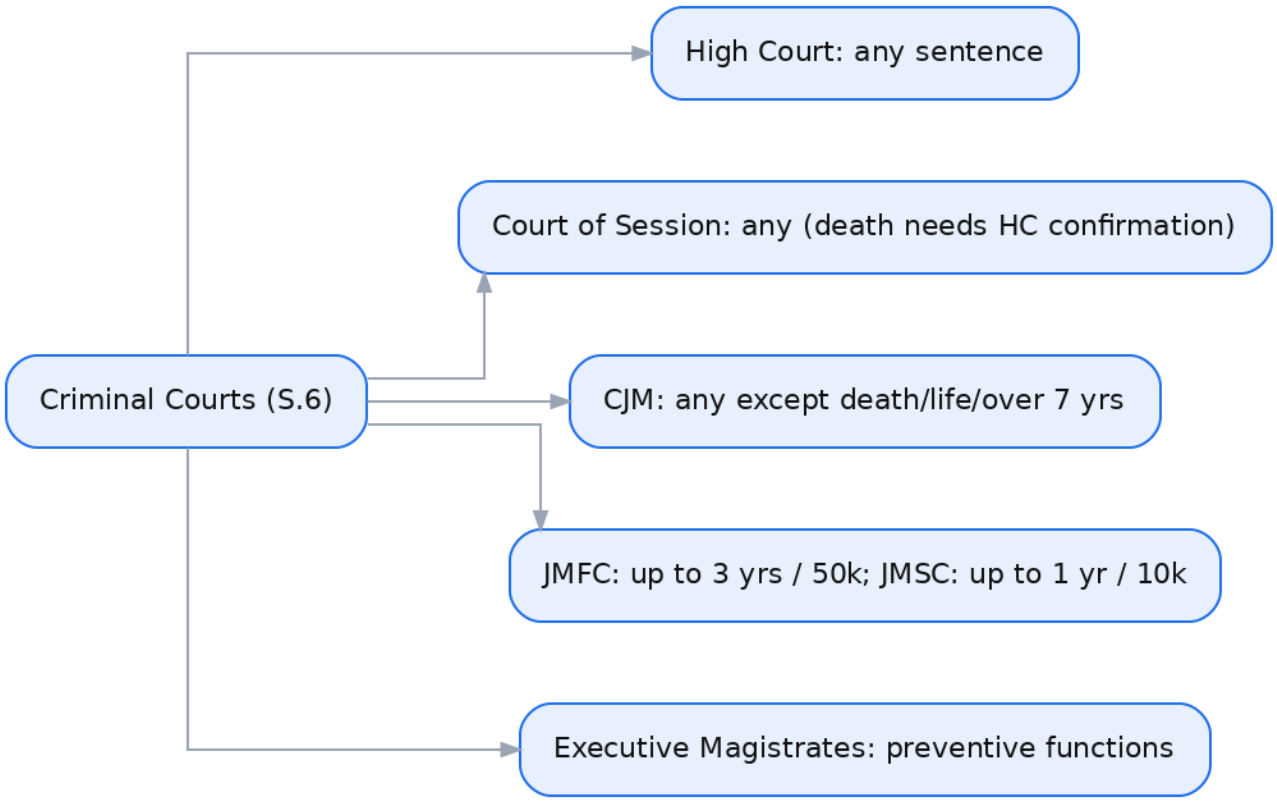
1. High Court (S.21) — any sentence authorised by law.
2. Sessions Judge / Additional Sessions Judge (S.22) — any sentence, but a **death sentence needs confirmation by the High Court**; an Assistant Sessions Judge may pass up to **10 years** and fine.

3. Chief Judicial Magistrate (S.23) — any sentence except death, life, or imprisonment beyond **7 years**.
4. JMFC — up to **3 years** and/or fine up to ₹50,000 and/or community service; **JMSC** — up to **1 year** and/or fine up to ₹10,000.

> ***Section 6, BNSS:*** *"Besides the High Courts... there shall be, in every State, the following classes of Criminal Courts — (i) Courts of Session; (ii) Judicial Magistrates of the first class; (iii) Judicial Magistrates of the second class; and (iv) Executive Magistrates."*

**In Simple Terms:** The courts form a hierarchy — Sessions at the top of the trial courts, then first- and second-class magistrates — and each rung can impose only the sentence the Code allows it, the gravest reserved for the higher courts.

## The Visual




## Case Laws

- ***A.R. Antulay v. R.S. Nayak (1988)*** — a case must be tried by the court of competent jurisdiction; jurisdiction cannot be conferred by consent.
- ***State of Bihar v. Ram Naresh Pandey (1957)*** — the hierarchy and powers of criminal courts explained.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *the ladder of courts; promise constitution + sentencing powers.*
- ***STAGE 2 ⟶ Classes of courts (S.6).***
- ***STAGE 3 ⟶ Sentences each may pass (Ss 21–23).***
- ***STAGE 4 ⟶ Executive v. Judicial Magistrates; jurisdiction.***
- ***STAGE 5 ⟶ Verdict:*** *a graded hierarchy with capped sentencing powers.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *An Assistant Sessions Judge sentences an accused to 7 years' rigorous imprisonment. Has he the power? (Decoy: a "Sessions" judge.)*

- ***I — ISSUE:*** *Can an Assistant Sessions Judge pass a 7-year sentence?*
- ***R — RULE:*** *S.22 — an Assistant Sessions Judge may pass any sentence except death/life and not exceeding* ***10 years****.*
- ***A — ANALYSIS:*** *7 years is within the 10-year ceiling and is neither death nor life.*
- ***C — CONCLUSION:*** *the sentence is valid; the Assistant Sessions Judge had the power.*

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# 3. First Information Report (incl. Zero FIR & e-FIR)

### *Previous Year Questions*

- ***[16M]*** *Examine the procedure for recording an FIR; discuss its evidentiary value and the effect of delay. (2011, 2012, 2016, 2017, 2022)*
- ***[16M]*** *What amounts to first information and when it does not. (2018)*
- ***[Short Note]*** *First Information Report; Zero FIR. (2015, 2017, 2019, 2023; BNSS 2024, 2025, 2026)*

## The Hook

In ***Lalita Kumari v. Govt. of U.P. (2014)*** the Supreme Court ended decades of police discretion: registration of an FIR is **mandatory** the moment information discloses a

cognizable offence — the officer cannot first “verify” the complaint. The BNSS goes further, allowing an FIR to be filed at *any* police station (Zero FIR) and *electronically* (e-FIR).

## The Concept

**Section 173** governs information in cognizable cases (the “FIR”):

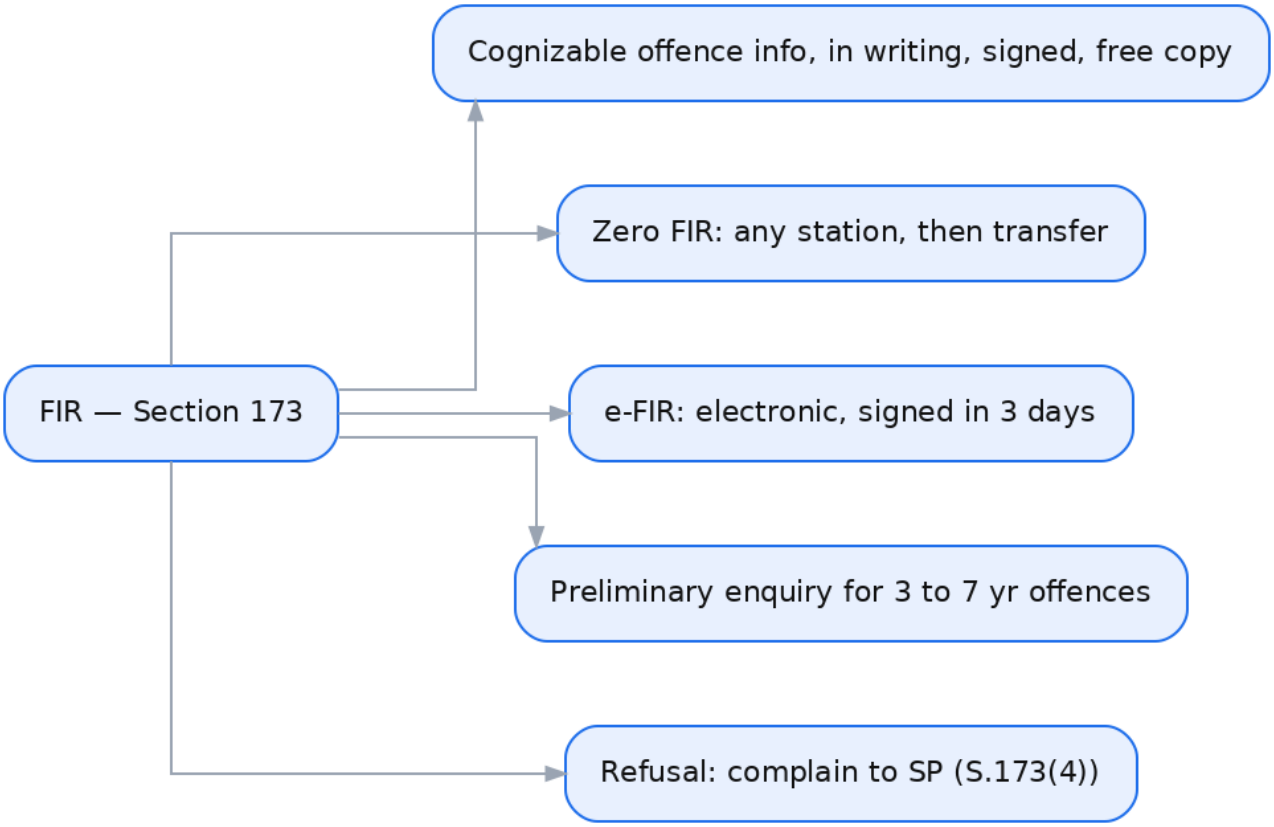
1. Information of a cognizable offence — given to the officer in charge, reduced to writing, read over, and signed by the informant; a copy is given free.
2. Zero FIR — the FIR may be registered at **any** police station *irrespective of jurisdiction*, and then transferred to the proper station.
3. e-FIR — information may be given by **electronic communication**, taken on record on being signed within three days.
4. Preliminary enquiry (S.173(3)) — for offences punishable with **3 to 7 years**, the officer may, with a superior’s permission, hold a 14-day preliminary enquiry to check if a *prima facie* case exists.
5. Refusal remedy (S.173(4)) — if registration is refused, the informant may send the substance to the **Superintendent of Police**.

**Evidentiary value.** An FIR is **not substantive evidence**; it can be used to **corroborate** (S.160 BSA) or **contradict** (S.148 BSA) the informant, and a *dying-declaration* FIR or one by the accused himself has special value. **Delay** does not by itself defeat a case if satisfactorily explained (e.g. fear, trauma, sexual offences).

> ***Section 173(1), BNSS:*** *information relating to the commission of a cognizable offence may be given orally or by electronic communication, at any police station, and shall be entered in the prescribed book.*

**In Simple Terms:** The FIR sets the criminal law in motion. It must be registered for any cognizable offence (*Lalita Kumari*), can now be lodged anywhere and online, and — while not proof in itself — anchors the investigation and tests the informant’s later evidence.

## The Visual




## Case Laws

- ***Lalita Kumari v. Govt. of U.P. (2014)*** — FIR registration is mandatory on information of a cognizable offence.
- ***State of Haryana v. Bhajan Lal (1992)*** — categories where registration/investigation may be quashed.
- ***Hasib v. State of Bihar (1972)*** — FIR is not substantive evidence; used to corroborate or contradict.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *Lalita Kumari + Zero/e-FIR; promise procedure, value, delay.*
- ***STAGE 2 ⟶ Procedure (S.173):*** *writing, signing, copy; Zero FIR; e-FIR; preliminary enquiry.*
- ***STAGE 3 ⟶ Evidentiary value:*** *not substantive; corroboration/contradiction.*
- ***STAGE 4 ⟶ Effect of delay:*** *condonable if explained; refusal remedy (S.173(4)).*
- ***STAGE 5 ⟶ Verdict:*** *the FIR triggers and anchors the criminal process.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *A police officer records a cognizable offence in the station diary on the basis of a cryptic phone call, then later records a detailed statement at the spot. Which is the FIR? (Decoy: the first phone tip.)*

- ***I — ISSUE:*** *Is the cryptic phone message or the later detailed statement the FIR?*
- ***R — RULE:*** *S.173 — a vague, cryptic phone message that does not disclose details is not an FIR; the first information that discloses the cognizable offence is.*
- ***A — ANALYSIS:*** *the detailed statement recorded at the spot is the FIR; the earlier tip merely prompted the officer to go.*
- ***C — CONCLUSION:*** *the detailed statement is the FIR.*

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# 4. Investigation, Inquiry, Trial and Inquest

### *Previous Year Questions*

- ***[16M]*** *Explain the powers of a police officer to investigate. (2019; BNSS 2025)*
- ***[16M]*** *Explain investigation, inquiry, trial and inquest. (2017, 2021)*
- ***[16M]*** *Procedure where investigation is not completed within 24 hours. (2019)*

## The Concept

These four terms mark distinct stages:

1. Investigation (S.2(1)(j); Ss 175–193) — the collection of evidence by a *police officer* (or authorised person): visiting the scene, examining witnesses (S.180), recording statements (S.181), search and seizure, arrest, and filing the **police report/charge-sheet (S.193)**. A **preliminary inquiry (S.173(3))** may precede full investigation for 3–7-year offences.
2. Inquiry (S.2(1)(g)) — every inquiry, other than a trial, conducted by a *Magistrate or Court*.
3. Trial — the judicial process culminating in conviction or acquittal (not defined, but distinguished from inquiry).
4. Inquest (S.194) — the police/magisterial inquiry into the cause of an *unnatural or suspicious death*.

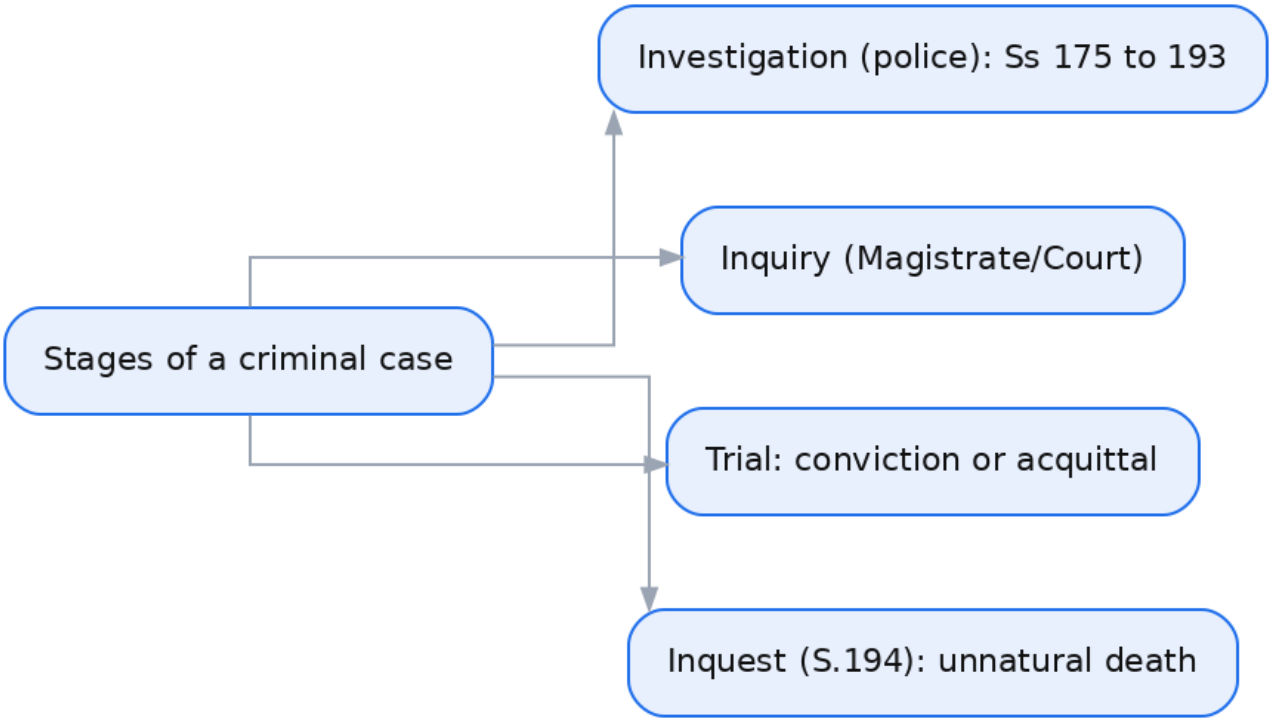
**Investigation powers** include arrest, search (S.185), requiring attendance of witnesses (S.179), recording statements, and seeking police custody/remand. Where investigation is

**not completed within 24 hours**, the accused must be produced before a magistrate (S. 58) and remand sought under **S.187**; if the charge-sheet is not filed within the statutory period (60/90 days), the accused gets **default bail**.

> ***Section 175, BNSS:*** *any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case.*

**In Simple Terms:** Investigation is the police's fact-gathering; inquiry and trial are the court's stages; inquest is the inquiry into a suspicious death. The police drive the investigation but are tied to strict timelines.

## The Visual




## Case Laws

- ***H.N. Rishbud v. State of Delhi (1955)*** — the components of "investigation".
- ***State of M.P. v. Mubarak Ali (1959)*** — investigation is the exclusive domain of the police.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *four stages; promise to define each.*
- ***STAGE 2 ⟶ Investigation (Ss 175–193):*** *steps & powers; preliminary inquiry.*
- ***STAGE 3 ⟶ Inquiry, trial, inquest*** *distinguished.*
- ***STAGE 4 ⟶ 24-hour rule & default bail (Ss 58, 187).***
- ***STAGE 5 ⟶ Verdict:*** *distinct, sequenced stages with police-court division of labour.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *The police cannot complete investigation within 24 hours of arrest. What must they do? (Decoy: continued detention "for investigation".)*

- ***I — ISSUE:*** *What is the procedure when investigation exceeds 24 hours?*
- ***R — RULE:*** *S.58 — the accused must be produced before a Magistrate within 24 hours; further detention only on remand under S.187.*
- ***A — ANALYSIS:*** *the police cannot detain beyond 24 hours on their own; they must seek judicial remand, and failure to charge-sheet in time gives default bail.*
- ***C — CONCLUSION:*** *produce the accused before a Magistrate within 24 hours and seek remand under S.187.*

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## 5. Complaint and Procedure on Receiving It

### *Previous Year Questions*

- ***[16M]*** *What is a complaint? Explain the procedure to be followed on receiving a complaint. (2016, 2018, 2019; 2019, 2022; BNSS 2025)*
- ***[Short Note]*** *Complaint. (2012, 2023)*

### The Concept

A complaint (S.2(1)(h)) is "any allegation made orally or in writing to a Magistrate, with a view to his taking action, that some person, whether known or unknown, has committed

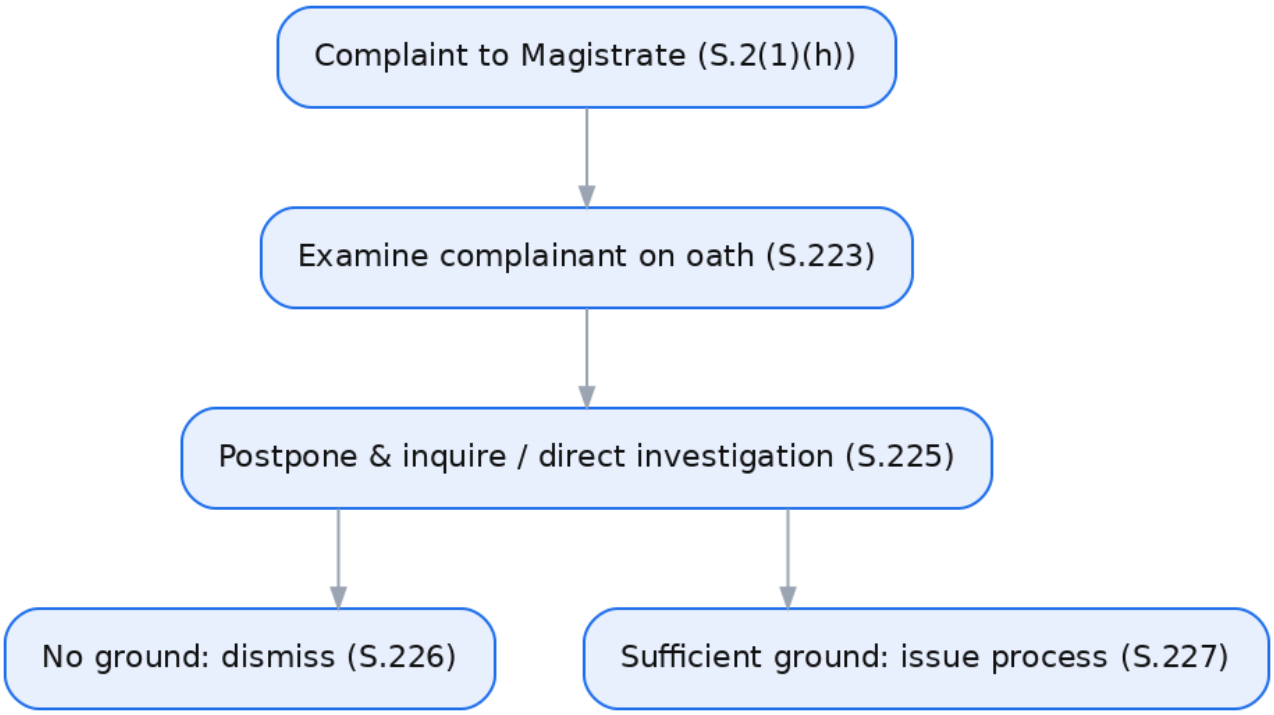
an offence" — but it **does not include a police report**. On receiving a complaint, a Magistrate (S.223 onwards) must:

1. Examine the complainant on oath (S.223) — and the witnesses present, reducing the substance to writing; **the accused must be given an opportunity of being heard before cognizance against a public servant** (a BNSS safeguard).
2. Postponement & inquiry (S.225) — the Magistrate may postpone process and either inquire himself or direct a police investigation to decide if there is sufficient ground.
3. Dismissal (S.226) — if, after examination/inquiry, there is **no sufficient ground**, the Magistrate dismisses the complaint, recording reasons.
4. Issue of process (S.227) — if there is sufficient ground, summons/warrant issues to the accused.

> ***Section 2(1)(h), BNSS:*** *"'complaint' means any allegation made orally or in writing to a Magistrate... that some person has committed an offence, but does not include a police report."*

**In Simple Terms:** A complaint is a citizen's direct allegation to a Magistrate (not the police). The Magistrate must examine the complainant, may inquire, and either dismisses the complaint for want of ground or issues process to the accused.

## The Visual




## Case Laws

- ***Mohd. Yousuf v. Afaq Jahan (2006)*** — a complaint need not be in any particular form; substance matters.

- ***Pepsi Foods Ltd. v. Special Judicial Magistrate (1998)*** — summoning an accused is a serious step requiring application of mind.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *citizen's direct route to court; promise meaning + procedure.*
- ***STAGE 2 ⟶ Meaning (S.2(1)(h));*** *complaint v. police report.*
- ***STAGE 3 ⟶ Procedure (Ss 223–227):*** *examination, inquiry, dismissal, process.*
- ***STAGE 4 ⟶ Safeguards:*** *reasons for dismissal; hearing for public servants.*
- ***STAGE 5 ⟶ Verdict:*** *a screened, judicially-controlled entry point.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *A finds B beaten by a group and the next day files a complaint naming those he recognised. Can the Magistrate take cognizance? (Decoy: A is not the victim.)*

- ***I — ISSUE:*** *Can a non-victim's complaint found cognizance?*
- ***R — RULE:*** *S.210 — a Magistrate may take cognizance on a complaint by any person; the law does not require the complainant to be the victim.*
- ***A — ANALYSIS:*** *A's complaint, examined under S.223, can found cognizance if it discloses an offence.*
- ***C — CONCLUSION:*** *yes, the Magistrate may take cognizance on A's complaint.*

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## 6. Arrest — Concept, Procedure, Rights & Safeguards

### *Previous Year Questions*

- ***[16M]*** *What is arrest? Who may arrest? When may a person be arrested without warrant? Explain the rights of the arrested. (2011, 2013, 2014, 2017, 2020; 2023; BNSS 2025)*
- ***[Short Note]*** *Rights of an arrested person. (2019, 2022, 2024)*

## The Hook

In ***D.K. Basu v. State of West Bengal (1997)*** the Supreme Court, appalled by custodial deaths, laid down 11 mandatory arrest safeguards — memo of arrest, informing a relative, medical examination — which the BNSS has now substantially codified. Arrest is the gravest interference with personal liberty short of conviction.

## The Concept

**Arrest** is the taking of a person into custody by legal authority. **Who may arrest:** the police (with/without warrant), a Magistrate (S.41), and a **private person** (S.40, for a non-bailable cognizable offence committed in his presence).

**Arrest without warrant — S.35:** a police officer may arrest without warrant a person who is concerned in a cognizable offence, against whom a reasonable complaint/credible information exists, etc. But **S.35(7)** (the *Arnesh Kumar* safeguard) requires that for offences punishable up to **7 years**, the officer record reasons why arrest is *necessary*, and **S.35(3)** allows a *notice of appearance* instead of arrest where arrest is not required.

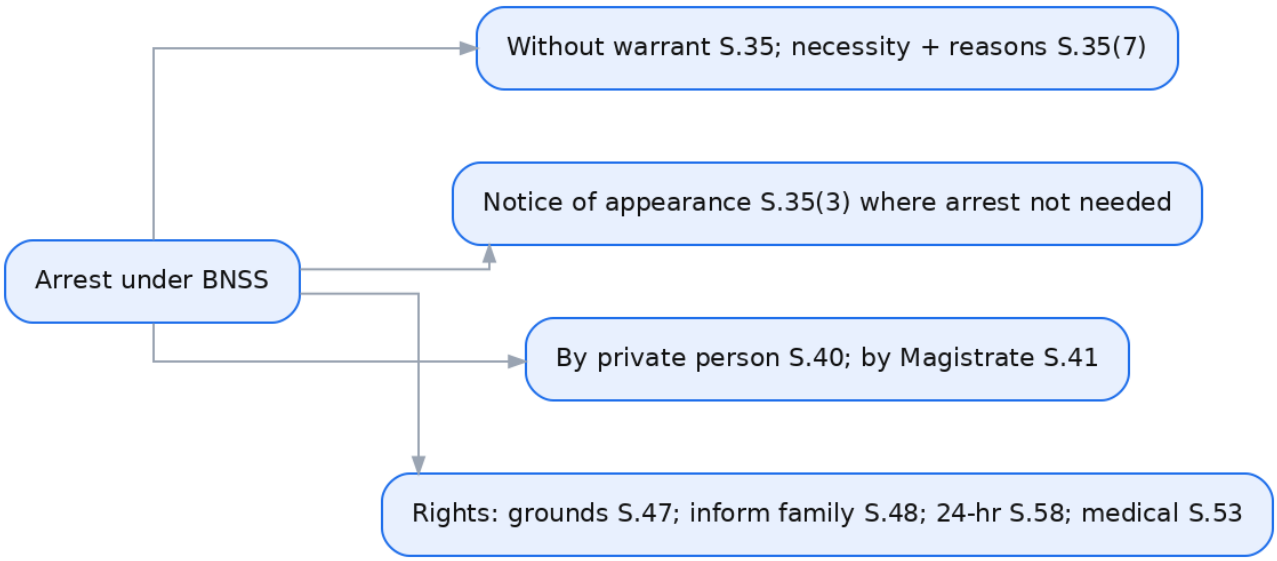
**Rights of the arrested person:**

1. Right to know the grounds of arrest (S.47; Art. 22(1)).
2. Right to inform a relative or friend (S.48) and to have the arrest information displayed.
3. Right to be produced before a Magistrate within 24 hours (S.58; Art. 22(2)).
4. Right to legal representation and to consult a lawyer (Art. 22(1)).
5. Right to medical examination (S.53–54) and to be free from torture.
6. Handcuffing — permitted only for habitual/repeat offenders or those who may escape or have committed grave offences (S.43(3)); routine handcuffing is barred.

> ***Section 35(7), BNSS:*** *for an offence punishable with imprisonment up to seven years, no arrest shall be made without recording reasons; a notice of appearance under S.35(3) may be issued instead.*

**In Simple Terms:** Arrest must be *necessary*, not automatic; the BNSS, following *Arnesh Kumar* and *D.K. Basu*, hedges it with safeguards — grounds, intimation to family, 24-hour production, medical check — to protect personal liberty.

## The Visual




## Case Laws

- ***D.K. Basu v. State of W.B. (1997)*** — mandatory arrest/custody safeguards against custodial abuse.
- ***Joginder Kumar v. State of U.P. (1994)*** — arrest must be justified by necessity, not mere power.
- ***Arnesh Kumar v. State of Bihar (2014)*** — no automatic arrest for offences up to 7 years; record reasons.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *D.K. Basu; promise meaning, who, without-warrant, rights.*
- ***STAGE 2 ⟶ Meaning & who may arrest (Ss 35, 40, 41).***
- ***STAGE 3 ⟶ Arrest without warrant (S.35) + necessity (S.35(7)) + notice (S.35(3)).***
- ***STAGE 4 ⟶ Rights of the arrested (Ss 47, 48, 58, 53) + Art. 22; Arnesh Kumar.***
- ***STAGE 5 ⟶ Verdict:*** *arrest is a guarded, necessity-based power.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *An accused is produced before a Magistrate **after** 24 hours of arrest; he seeks release on the ground that the custody became illegal. (Decoy: minor delay.)*

- ***I — ISSUE:*** *Does production beyond 24 hours vitiate the custody?*
- ***R — RULE:*** *S.58 / Art. 22(2) — an arrested person must be produced before a Magistrate within 24 hours (excluding journey time); breach makes the detention illegal.*
- ***A — ANALYSIS:*** *detention beyond 24 hours without production is unconstitutional and entitles the accused to release.*
- ***C — CONCLUSION:*** *the custody is illegal; the accused is entitled to be released.*

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# 7. Functions, Duties & Powers of the Prosecution

### *Previous Year Questions*

- ***[16M]*** *Explain the functions, duties and powers of the prosecution. (BNSS 2025-June)*

## The Concept

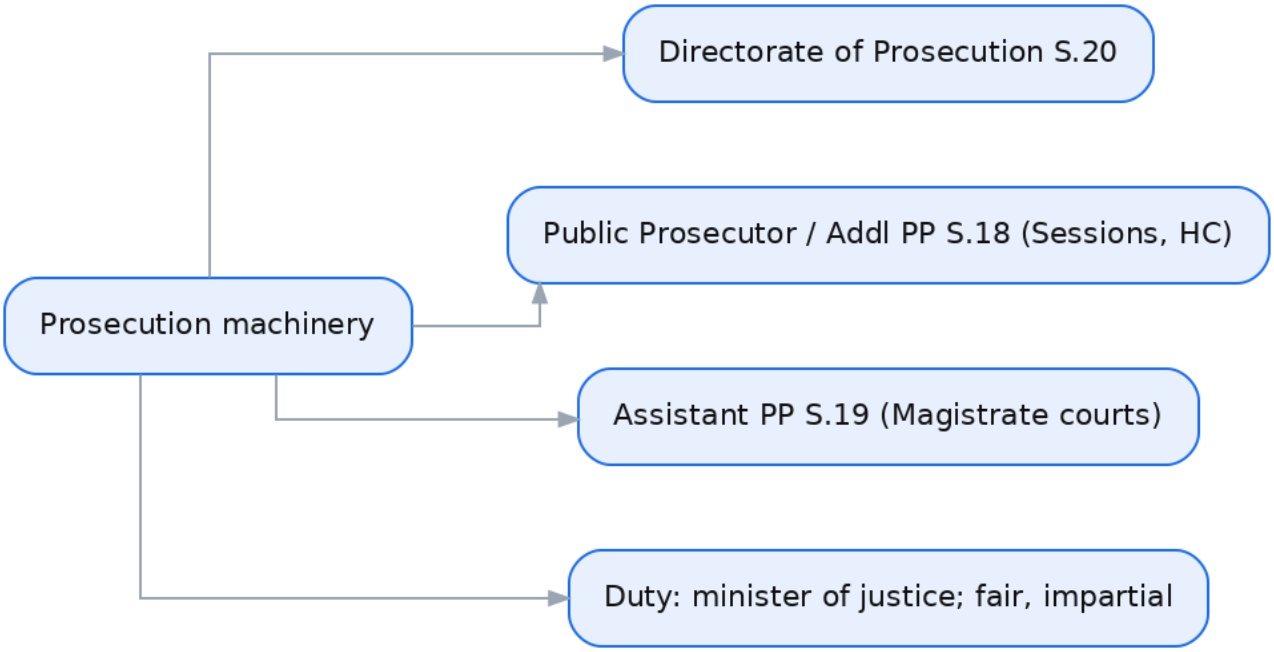
The BNSS strengthens an independent prosecution:

1. Directorate of Prosecution (S.20) — each State has a Directorate headed by a Director of Prosecution, supervising Public Prosecutors, to insulate prosecution from the investigating police.
2. Public Prosecutor / Additional PP (S.18) — conducts prosecutions, appeals and other proceedings in the Sessions Court and High Court; **Assistant Public Prosecutors (S. 19)** appear in the Magistrates' courts.
3. Duties — the PP is a **minister of justice**, not a mere mouthpiece of the police; he must place all material fairly before the court, may withdraw from prosecution with the court's consent (S.360), and must act impartially.

***Section 18, BNSS:*** *the State/Central Government shall appoint Public Prosecutors and Additional Public Prosecutors for conducting prosecutions and appeals.*

**In Simple Terms:** The prosecution presents the State's case fairly. The BNSS separates it from the police through a Directorate of Prosecution and treats the Public Prosecutor as an officer of the court bound to fairness, not merely to securing convictions.

## The Visual




## Case Laws

- ***Sheonandan Paswan v. State of Bihar (1987)*** — withdrawal from prosecution must serve public justice, with court's scrutiny.
- ***Zahira Habibulla Sheikh v. State of Gujarat (2004)*** — the prosecutor must act fairly to ensure a fair trial.

### ▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *prosecution as a minister of justice.*
- ***STAGE 2 ⟶ Machinery (Ss 18–20):*** *PP, APP, Directorate.*
- ***STAGE 3 ⟶ Functions & duties:*** *fairness, withdrawal (S.360).*
- ***STAGE 4 ⟶ Independence from police; cases.***
- ***STAGE 5 ⟶ Verdict:*** *an independent, fair prosecuting agency.*

### ⚠ *FACT-PATTERN RISK ALERT*

***Scenario:*** *A Public Prosecutor seeks to withdraw from a prosecution at the executive's instance. Is this proper? (Decoy: government's wish.)*

- ***I — ISSUE:*** *Can the PP withdraw merely because the government wishes it?*
- ***R — RULE:*** *S.360 — withdrawal needs the PP's independent application of mind and the* ***court's consent****, in the interest of justice.*
- ***A — ANALYSIS:*** *a withdrawal dictated by the executive, without public-justice grounds, will not get the court's consent.*
- ***C — CONCLUSION:*** *withdrawal is improper unless justified and approved by the court.*

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# Quick Revision & Case Law Table

## One-line memory hooks

- **BNSS features:** timelines + technology (e-FIR/Zero FIR/audio-video) + victim-centric + trial in absentia; constitutional base Arts. 20–22.
- **Courts (S.6):** Sessions → CJM → JMFC → JMSC + Executive Magistrates; sentences capped by Ss 21–23 (death needs HC confirmation).
- **FIR (S.173):** mandatory (*Lalita Kumari*); Zero FIR + e-FIR; preliminary enquiry 3–7 yrs; not substantive evidence; delay condonable if explained.
- **Investigation (Ss 175–193):** police domain; inquest S.194; 24-hr production S.58; default bail S.187.
- **Complaint (S.2(1)(h)):** to Magistrate, not police; examine (S.223), inquire (S.225), dismiss (S.226) or process (S.227).
- **Arrest (S.35):** necessity + reasons (S.35(7), *Arnesh Kumar*); notice S.35(3); rights — grounds S.47, family S.48, 24-hr S.58, medical S.53 (*D.K. Basu*).
- **Prosecution (Ss 18–20):** Directorate; PP a minister of justice; withdrawal S.360 with court's consent.

## Master Case List for Unit 1

| Case | Topic | One-line ratio |
|---|---|---|
| Maneka Gandhi v. Union of India (1978) | Fair procedure | Procedure under Art. 21 must be just, fair, reasonable |
| Lalita Kumari v. Govt. of U.P. (2014) | FIR | Registration mandatory for a cognizable offence |
| State of Haryana v. Bhajan Lal (1992) | FIR/quashing | Categories for quashing FIR/investigation |
| H.N. Rishbud v. State of Delhi (1955) | Investigation | Components of investigation |
| D.K. Basu v. State of W.B. (1997) | Arrest | Mandatory custody safeguards |
| Arnesh Kumar v. State of Bihar (2014) | Arrest | No automatic arrest up to 7 years; record reasons |
| Joginder Kumar v. State of U.P. (1994) | Arrest | Arrest must be justified by necessity |
| Pepsi Foods Ltd. v. Special Judl. Magistrate (1998) | Complaint | Summoning needs application of mind |
| Sheonandan Paswan v. State of Bihar (1987) | Prosecution | Withdrawal must serve public justice |

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*End of Unit 1.*

# Bharatiya Nagarik Suraksha Sanhita, 2023 (Criminal Law – II)

*KSLU LL.B. — Model Answers: Essays, Short Notes & Problems (All Five Units)*

KSLU LL.B. Question Bank

**Medha-Academy**

www.medha-academy.in

Notes Version: **v1.0**

June 2026

**Medha-Academy.in · KSLU LL.B. · Essays · Short Notes · Problems · All Units**

> ***Read this first, then go to your unit.*** *This companion to the study notes gives you a full, exam-ready* ***model answer*** *to every essay, every recurring short / explanatory note, and every fact-pattern problem asked in past KSLU Criminal Law – II papers — grouped by unit and topic in the same order as the notes. Everything is in BNSS sections (Unit 5 in JJ Act 2015 / Probation of Offenders Act 1958); sub-10-mark short notes are answered in the notes bundle, not here.*

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## How to Use This Question Bank

**What this is.** A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards, with the must-write phrases underlined.

**The 3-step drill.** (1) Read the question and try a 2-minute plan from memory. (2) Read the model answer; note the structure, the cases, and the verdict. (3) For problems, re-do the IRAC in your own words under time.

**Priorities.** The ★ rating shows how often a question repeats — ★★★ (5+ times) is a near-certainty; do these first. The Priority Index below lists them ranked.

**House rules that win marks.** Lead with a definition + roadmap; name the case **and** the year; quote the exact BNSS (or JJ Act / Probation Act) section; for problems use the four IRAC headings (Issue, Rule, Application, Conclusion) and always give a definite verdict; spot the planted decoy fact.

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## Exam Pattern & Mark Weights

> ***100-mark paper (BNSS pattern):*** *answer Q.9 (two problems × 10 = 20 marks) and any five of Q.1–Q.8 (16 marks each). Always attempt the problems first.* ***80-mark paper:*** *one essay (10M) and one short note / problem (6M) compulsory from each of the five units.*

| Mark slot | What it is | Where it is drilled |
|---|---|---|
| 16M (100-mark) / 10M (80-mark) | Long essay | Section A of each unit |
| 10M short / explanatory note | Recurring short note | Section B of each unit |
| Problems (10M / 6M) | Fact-pattern, IRAC | Section C of each unit |

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# Priority Index — Questions by Frequency

| Rank | Question (short) | Type | Frequency | Unit |
|---|---|---|---|---|
| 1 | Constitution, jurisdiction & powers of criminal courts | Essay | ★★★ | 1 (Q1.1) |
| 2 | FIR — procedure, evidentiary value, delay | Essay | ★★★ | 1 (Q1.2) |
| 3 | Arrest; who may arrest; without warrant; rights | Essay | ★★★ | 1 (Q1.3) |
| 4 | Charge — form, contents & alteration | Essay | ★★★ | 2 (Q2.2) |
| 5 | Separate charge the rule, joinder the exception | Essay | ★★★ | 2 (Q2.3) |
| 6 | Bail in bailable & non-bailable offences | Essay | ★★★ | 2 (Q2.6) |
| 7 | Maintenance of wife, children & parents | Essay | ★★★ | 3 (Q3.4) |
| 8 | Security for peace & good behaviour; public nuisance | Essay | ★★★ | 3 (Q3.5) |
| 9 | Appeals, reference & revision | Essay | ★★★ | 3 (Q3.6) |
| 10 | Trial before the Court of Session | Essay | ★★★ | 3 (Q3.1) |
| 11 | Trial of warrant cases by magistrates | Essay | ★★★ | 3 (Q3.2) |
| 12 | Powers of SC & HC to transfer cases | Essay | ★★★ | 4 (Q4.2) |
| 13 | Irregular proceedings — which vitiate | Essay | ★★★ | 4 (Q4.5) |
| 14 | Judgment — form, contents & delivery | Essay | ★★★ | 4 (Q4.1) |
| 15 | Juvenile Justice Board — constitution & powers | Essay | ★★★ | 5 (Q5.1) |
| 16 | Admonition & probation of good conduct; distinction | Essay | ★★★ | 5 (Q5.2) |
| 17 | Powers & duties of probation officers | Essay | ★★★ | 5 (Q5.3) |
| 18 | Child Welfare Committee — constitution & powers | Essay | ★★★ | 5 (Q5.5) |
| 19 | Rehabilitation & re-integration; homes | Essay | ★★★ | 5 (Q5.6) |
| 20 | Cognizance & its limitations | Essay | ★★ | 2 (Q2.1) |
| 21 | Investigation, inquiry, trial & inquest | Essay | ★★ | 1 (Q1.4) |
| 22 | Compounding of offences & plea bargaining | Essay | ★★ | 3 (Q3.7) |

| Rank | Question (short) | Type | Frequency | Unit |
|---|---|---|---|---|
| 23 | Suspension, remission, commutation & mercy | Essay | ★★ | 4 (Q4.3) |
| 24 | Tender of pardon to an approver | Essay | ★★ | 3 (Q3.8) |
| 25 | Double jeopardy & its exceptions | Essay | ★★ | 3 (Q3.9) |
| 26 | Anticipatory bail | Essay | ★★ | 2 (Q2.7) |
| 27 | Victim compensation & treatment | Essay | ★★ | 4 (Q4.6) |
| 28 | Default (statutory) bail | Short note | ★★ | 2 (S2.1) |
| 29 | Summary trial | Short note | ★★ | 3 (S3.1) |
| 30 | Breach of probation bond | Short note/ Problem | ★★ | 5 (S5.1/ P5.2) |
| 31 | Double jeopardy — victim later dies | Problem | ★★★ | 3 (P3.2) |
| 32 | Murder — no limitation for cognizance | Problem | ★★ | 2 (P2.8) |
| 33 | Bail of a juvenile | Problem | ★★ | 5 (P5.1) |

## Year Index — Questions by Paper

> *A representative cross-reference of recurring questions to the blocks that answer them. Use it to rehearse a whole past paper under time.*

| Year (paper) | Essays (examples) | Short notes / Problems (examples) |
|---|---|---|
| BNSS 2026 (80) | Q2.7 anticipatory bail; Q4.2 transfer; Q5.3 probation officer; Q5.5 CWC | S3.3 appeal v. revision; S4.1 judgment; S2.2 plea of guilt |
| BNSS 2025 June (80) | Q2.4 summons; Q3.4 maintenance; Q4.3 remission; Q5.6 rehabilitation | S4.3 victim compensation; S5.3 child in need of care; P5.2 breach of bond |
| BNSS 2025 Feb (80) | Q1.1 courts; Q2.1 cognizance; Q3.6 appeals; Q4.3 remission | S2.1 default bail; S3.1 summary trial; P4.2 no hearing on sentence |
| 2023 (100) | Q2.3 joinder; Q2.6 bail; Q3.6 reference & revision; Q4.2 transfer | P3.2 victim later dies; P3.13 plea-of-guilt appeal |
| 2022 (100) | Q2.2 charge; Q3.4 maintenance; Q3.6 revision; Q4.1 judgment | P2.4 charge alteration; P5.2 breach of bond |
| 2020 (100) | Q1.3 arrest; Q3.2 warrant trial; Q4.5 irregular proceedings | P2.8 murder limitation; P3.7 public nuisance |
| 2017 (100) | Q1.3 arrest; Q2.4 production of things; Q5.3 probation officer; Q5.5 CWC | P2.10 warrant abroad; P3.3 revolver acquittal; P4.6 unpronounced judgment |
| 2015 (100) | Q2.6 bail; Q3.4 maintenance; Q3.5 security for peace; Q5.1 JJ Board | P2.5 anticipatory after rejection; P3.5 maintenance enforcement; P5.2 breach of bond |
| 2013 (100) | Q2.2 charge; Q3.1 sessions trial; Q3.4 maintenance; Q4.1 judgment | P3.4 maintenance defences; P3.12 abatement of appeal; P5.2 breach of bond |
| 2011 (100) | Q2.5 proclamation & attachment; Q3.7 compounding; Q5.1 JJ Board; Q5.5 CWC | P3.5 maintenance at Hubli; P3.9 tender of pardon; P3.11 security one proceeding |

# UNIT 1 — Introduction, FIR, Investigation & Arrest · Question Bank

### Bharatiya Nagarik Suraksha Sanhita, 2023 (Criminal Law – II) · KSLU LL.B. · Medha-Academy.in

> ***Scope of this unit's bank:*** *full model answers to every* ***essay*** *(§A), every recurring* ***short / explanatory note*** *(§B), and every* ***fact-pattern problem*** *(§C) asked in past KSLU papers for this unit.*

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## A. Essay Questions — Model Answers

### Q1.1 — `[16M]` Discuss the constitution, jurisdiction and powers of criminal courts.

> *Asked: 2012(100), 2014(100), 2015(100), 2016(100), 2019(100), 2021(100), 2022(100); BNSS 2025, 2026; 2024(80)* · ★★★ · *Notes: Unit 1 → Criminal Courts*

**Introduction.** Section 6 of the BNSS sets out the classes of criminal courts, forming a hierarchy from the Court of Session down to the second-class magistrate, with the High Court and Supreme Court above; each court can pass only the sentence the Code permits it.

**The classes of criminal courts (S.6)**

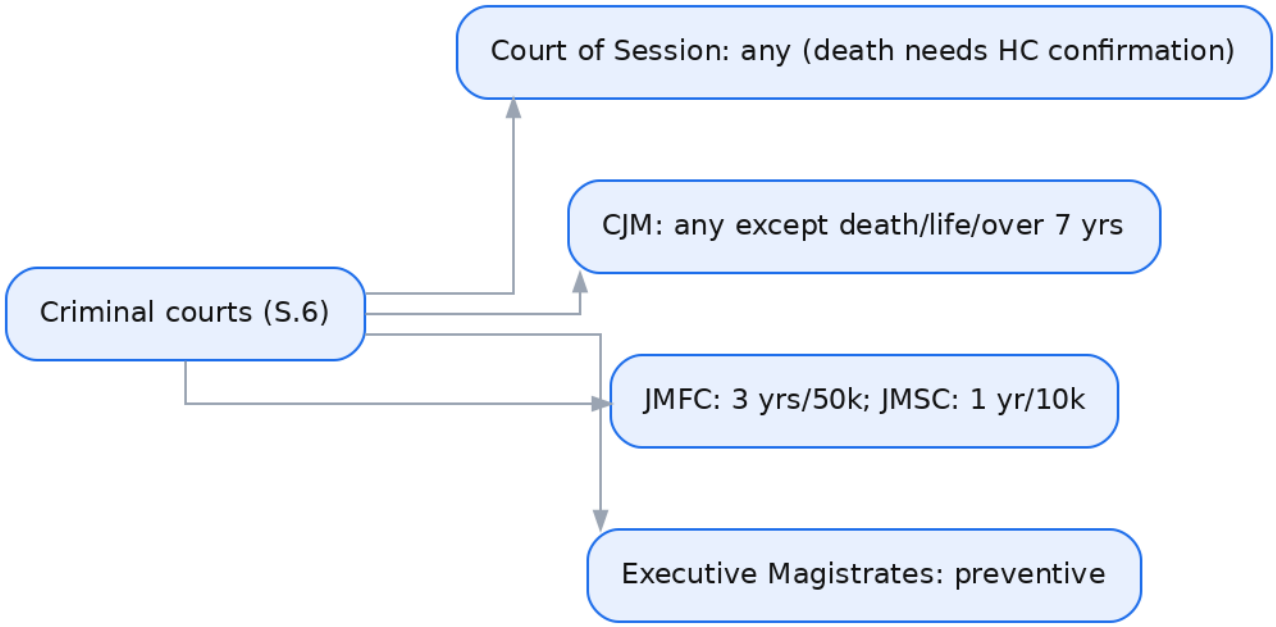
1. Courts of Session — the principal trial court for grave offences, presided over by the Sessions Judge, with Additional and Assistant Sessions Judges.
2. Judicial Magistrates of the first class, with the **Chief Judicial Magistrate** at the apex of the magistracy in a district.
3. Judicial Magistrates of the second class, for less serious offences.
4. Executive Magistrates — for preventive and administrative functions, not trial.

**Sentences the courts may pass**

1. High Court (S.21) — any sentence authorised by law.
2. Sessions / Additional Sessions Judge (S.22) — any sentence, but a **death sentence requires confirmation by the High Court**; an **Assistant Sessions Judge** may pass up to **10 years** and fine.

3. Chief Judicial Magistrate (S.23) — any sentence except death, life, or imprisonment exceeding **7 years**.
4. JMFC — up to **3 years**, fine up to ₹50,000, and/or community service; **JMSC** — up to **1 year** and fine up to ₹10,000.

**Jurisdiction.** Courts also have **territorial** jurisdiction (place of trial, Ss 197–205), **pecuniary**-equivalent limits expressed through sentencing powers, and **subject-matter** jurisdiction; jurisdiction cannot be conferred by the consent of parties.




*Sketch this in the exam — the 30-second version earns presentation marks.*

**Leading cases**

- ***A.R. Antulay v. R.S. Nayak (1988)*** — jurisdiction cannot be conferred by consent; a case must be tried by the competent court.
- ***State of Bihar v. Ram Naresh Pandey (1957)*** — explained the hierarchy and functions of the criminal courts.

**Conclusion.** The BNSS establishes a graded hierarchy of criminal courts (S.6) whose sentencing powers are capped by Ss 21–23, the gravest sentences reserved for the higher courts and a death sentence requiring High Court confirmation. The structure ensures that the seriousness of the offence is matched by the competence of the court, and that no court exceeds the authority the Code confers. The High Court and the Supreme Court stand above this hierarchy with appellate, revisional and supervisory powers, and the Court of Session is itself both a trial court for committed cases and an appellate/revisional court over the magistracy. A clear grasp of which court can pass which sentence is essential, because a sentence beyond a court's competence is without jurisdiction and liable to be set aside. The Executive Magistrates, though styled magistrates, perform only preventive and administrative functions and try no offences.

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## Q1.2 — [16M] Examine the procedure for recording an FIR; discuss its evidentiary value and the effect of delay.

> *Asked: 2011(100), 2012(100), 2016(100), 2017(100); 2022(80); + FIR short notes · ★★★ · Notes: Unit 1 → FIR*

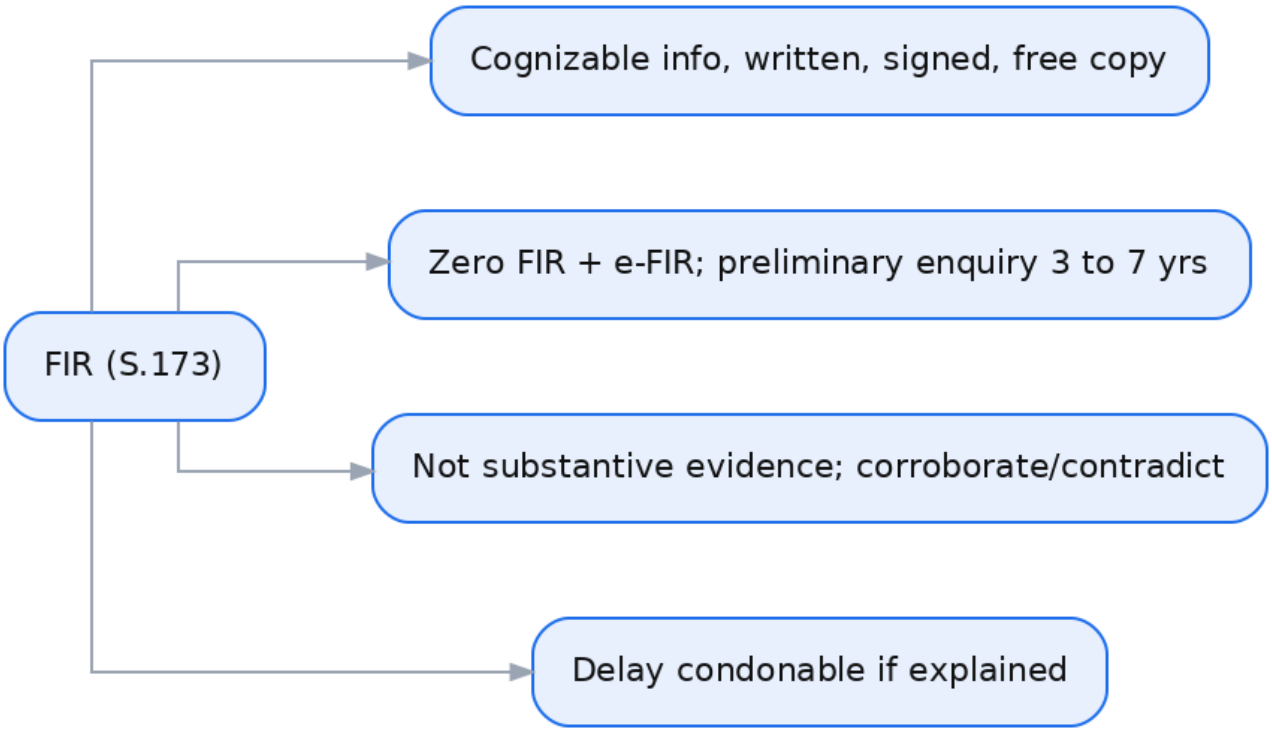
**Introduction.** The First Information Report under Section 173 is the earliest information of a cognizable offence given to the police, which sets the criminal law in motion. Its registration, the Supreme Court held in *Lalita Kumari*, is **mandatory**.

**Procedure for recording an FIR (S.173)**

1. Information of a cognizable offence — given orally or by **electronic communication** to the officer in charge; if oral, reduced to writing and read over to the informant.
2. Signature and copy — the information is **signed** by the informant and entered in the prescribed book; a **copy is given free** of cost.
3. Zero FIR — it may be registered at **any** police station irrespective of jurisdiction and then transferred to the proper station.
4. e-FIR and preliminary enquiry — information may be given electronically (signed within three days); for offences punishable with **3–7 years**, a **14-day preliminary enquiry** may be held with a superior's permission.
5. Refusal remedy (S.173(4)) — refusal to register may be taken to the **Superintendent of Police**.

**Evidentiary value.** An FIR is not substantive evidence; it may be used to **corroborate** or **contradict** the informant's later testimony, and an FIR that is a *dying declaration* or is made by the accused himself has special evidentiary significance. It fixes the time and the version of the prosecution at the earliest stage.

**Effect of delay.** Delay in lodging the FIR is **not by itself fatal**; if it is *satisfactorily explained* — by fear, trauma, the time taken to gather courage in sexual offences, or distance — the prosecution is not affected. An *unexplained* delay, however, may cast doubt and suggest concoction.




*Sketch this in the exam — the 30-second version earns presentation marks.*

**Leading cases**

- ***Lalita Kumari v. Govt. of U.P. (2014)*** — registration of an FIR is mandatory on information of a cognizable offence.
- ***Hasib v. State of Bihar (1972)*** — the FIR is not substantive evidence; only corroborative/contradictory.

**Conclusion.** The FIR (S.173) must be registered for any cognizable offence, may now be lodged anywhere and electronically, is not substantive evidence but corroborates or contradicts the informant, and a delay in lodging it is fatal only if left unexplained. It remains the foundation document that triggers and shapes the investigation. A second or subsequent statement to the police during investigation cannot be treated as the FIR, since only the first information setting the law in motion qualifies. The promptly lodged FIR also has the value of ruling out concoction and embellishment, which is why courts examine the time of its lodging closely. The informant need not be an eyewitness or even the victim; any person aware of the cognizable offence may set the law in motion.

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## Q1.3 — `[16M]` What is arrest? Who may arrest? When may a person be arrested without warrant? Explain the rights of the arrested.

> *Asked: 2011(100), 2013(100), 2014(100), 2017(100), 2020(100); 2023(80); BNSS 2025 · ★★★ · Notes: Unit 1 → Arrest*

**Introduction.** Arrest is the taking of a person into custody by lawful authority — the gravest interference with liberty short of conviction. The BNSS, following *D.K. Basu* and *Arnesh Kumar*, hedges it with safeguards.

**Who may arrest**

1. The police — with or without a warrant (Ss 35–36).
2. A private person (S.40) — may arrest one who commits a *non-bailable cognizable offence in his presence*, or a proclaimed offender, and must hand him to the police.
3. A Magistrate (S.41) — may arrest, or order arrest, of a person offending in his presence within his jurisdiction.

**Arrest without warrant (S.35)**

1. Grounds — a police officer may arrest without warrant a person concerned in a cognizable offence, against whom a reasonable complaint or credible information exists, who obstructs a police officer, is a proclaimed offender, etc.
2. Necessity test (S.35(7)) — for offences punishable **up to 7 years**, the officer must **record reasons** showing arrest is *necessary* (to prevent further offence, for proper investigation, to prevent tampering, etc.).
3. Notice of appearance (S.35(3)) — where arrest is not required, a *notice* to appear is issued instead.

**Rights of the arrested person**

1. To know the grounds of arrest (S.47; Art. 22(1)).
2. To inform a relative/friend (S.48) and to have arrest details displayed.
3. To be produced before a Magistrate within 24 hours (S.58; Art. 22(2)).
4. To consult a legal practitioner (Art. 22(1)); to **medical examination** (Ss 53–54); and freedom from torture; **handcuffing** only in defined cases (S.43(3)).

**Leading cases**

- ***D.K. Basu v. State of W.B. (1997)*** — mandatory arrest/custody safeguards.
- ***Arnesh Kumar v. State of Bihar (2014)*** — no automatic arrest up to 7 years; record reasons.
- ***Joginder Kumar v. State of U.P. (1994)*** — arrest must be justified by necessity.

**Conclusion.** Arrest may be made by the police, a private person or a Magistrate; arrest without warrant under S.35 must satisfy the necessity test (S.35(7)), and the arrested person enjoys the rights to grounds, intimation, 24-hour production, counsel and medical examination. The thread running through the law is that arrest is a guarded, necessity-based power, not an automatic incident of accusation. The notice of appearance under S. 35(3), backed by *Arnesh Kumar*, has shifted the default from arrest to summons in offences up to seven years, so that liberty is the norm and custody the exception. An arrest made in breach of these safeguards exposes the officer to departmental and legal consequences and may render the detention illegal. The whole scheme reflects the

constitutional value that personal liberty may be curtailed only by a fair, necessity-based procedure.

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## Q1.4 — `[16M]` Explain investigation, inquiry, trial and inquest; and the powers of the police to investigate.

> *Asked: 2017(100), 2021(100), 2019(100); BNSS 2025-Feb · ★★ · Notes: Unit 1 → Investigation*

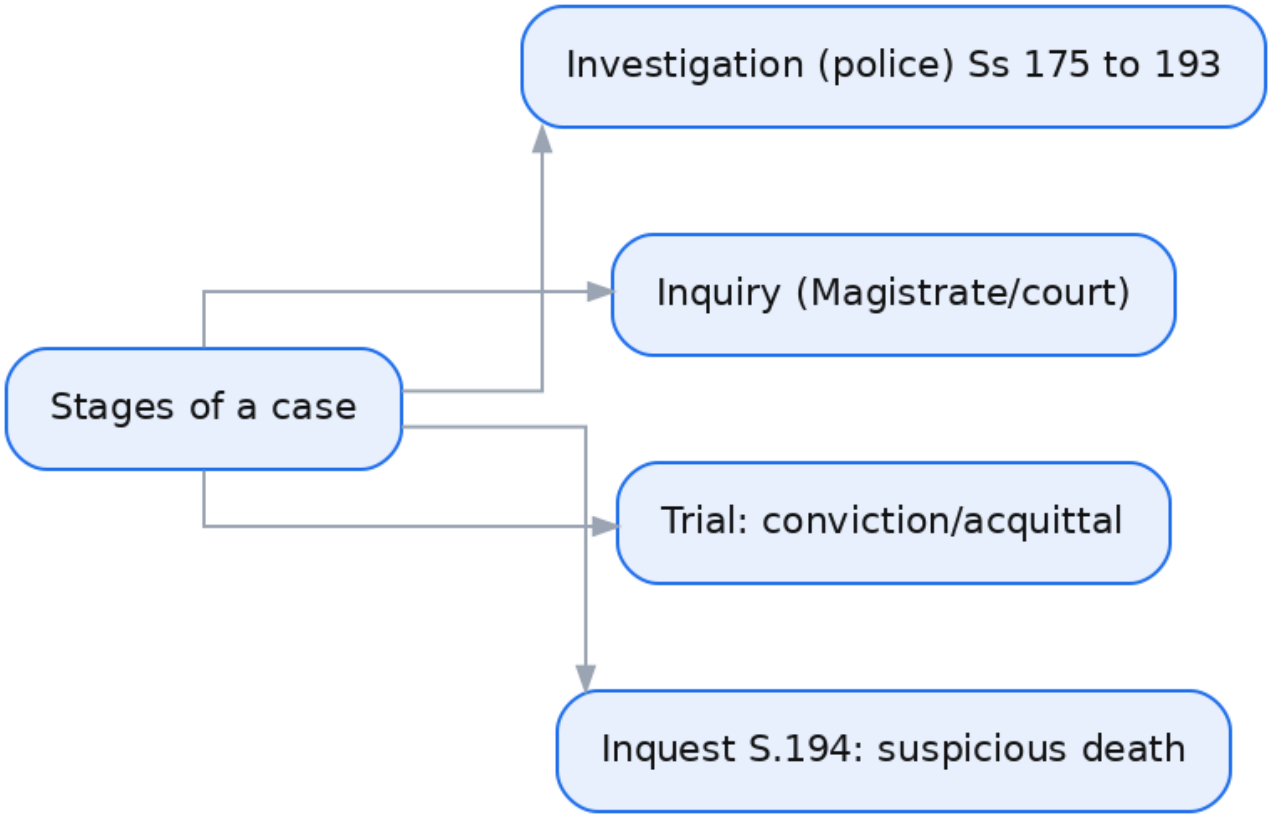
**Introduction.** A criminal case passes through distinct stages, the first of which — investigation — is the exclusive domain of the police (S.175), followed by the court's inquiry and trial; an inquest is a separate inquiry into a suspicious death.

**The four terms distinguished**

1. Investigation (S.2(1)(j); Ss 175–193) — the **collection of evidence by a police officer**: visiting the scene, examining witnesses (S.180), recording statements (S.181), search, seizure and arrest, ending in the **police report/charge-sheet (S.193)**.
2. Inquiry (S.2(1)(g)) — every inquiry *other than a trial* conducted by a **Magistrate or court** (e.g. an inquiry into a complaint).
3. Trial — the judicial adjudication of guilt, ending in conviction or acquittal.
4. Inquest (S.194) — the police/magisterial inquiry into the cause of an **unnatural or suspicious death**.

**Powers of the police to investigate**

1. To investigate cognizable offences without a Magistrate's order (S.175); for non-cognizable offences, only with a Magistrate's order.
2. To require attendance of witnesses (S.179) and **examine** them (S.180), recording statements.
3. To search and seize (S.185), to arrest, and to seek **police custody/remand (S.187)**.
4. Preliminary enquiry (S.173(3)) for 3–7-year offences; and to file the final report (S.193).




*Sketch this in the exam — the 30-second version earns presentation marks.*

**Leading cases**

- ***H.N. Rishbud v. State of Delhi (1955)*** — the components of investigation.
- ***State of M.P. v. Mubarak Ali (1959)*** — investigation is the exclusive province of the police; courts do not ordinarily interfere.

**Conclusion.** Investigation is the police's fact-gathering (Ss 175–193), inquiry and trial are the court's stages, and an inquest (S.194) probes a suspicious death; the police enjoy wide investigative powers but are bound by the 24-hour rule and default-bail timelines. The division of labour keeps fact-collection with the police and adjudication with the courts. The court will not normally interfere with an ongoing investigation, but it supervises it through remand, monitors the timelines, and may direct further investigation; the magistrate also receives the final report and decides whether to take cognizance. The inquest, conducted by the police or an Executive Magistrate, is confined to ascertaining the apparent cause of death and is not a trial of any person. This sequencing — investigate, inquire, try — gives the process both efficiency and fairness. The BNSS reinforces this by fixing timelines for the completion of investigation and by requiring forensic examination for grave offences, so that fact-collection is both prompt and scientific. A defective investigation does not by itself vitiate the trial, but it weakens the prosecution's proof and may benefit the accused.

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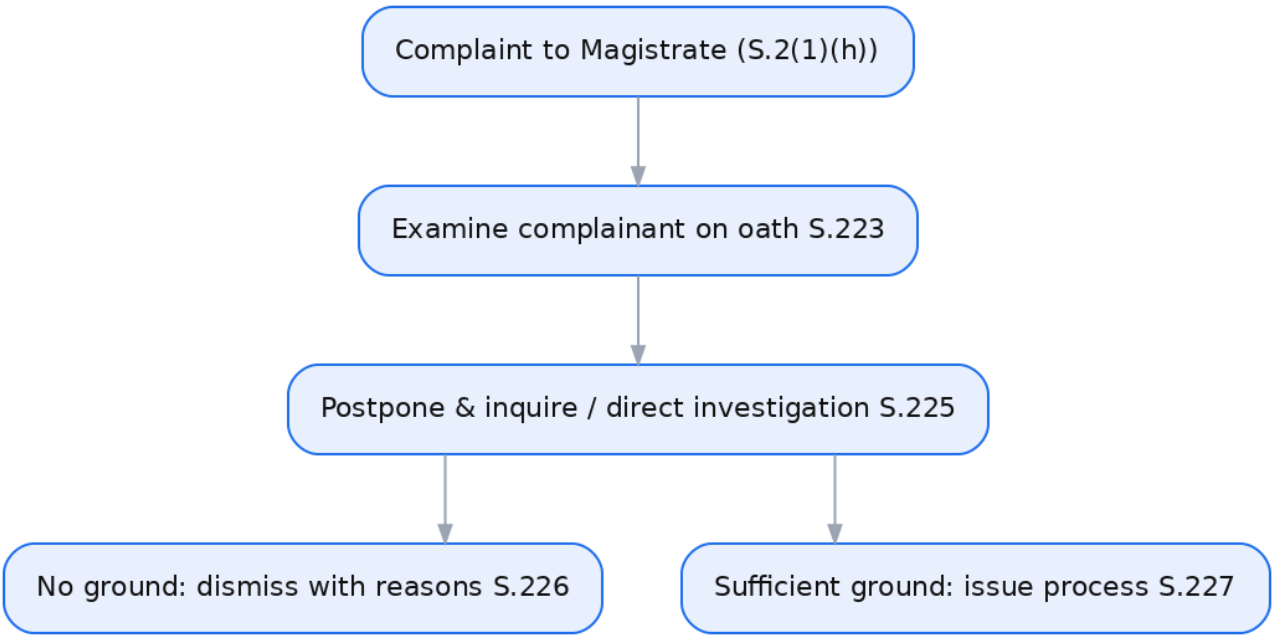
## Q1.5 — `[16M]` What is a complaint? Explain the procedure to be followed by a Magistrate on receiving a complaint.

> *Asked: 2016(100), 2018(100), 2019(100); 2019(80), 2022(80); BNSS 2025* · ★★★ · *Notes: Unit 1 → Complaint*

**Introduction.** A complaint (S.2(1)(h)) is any allegation made to a Magistrate, orally or in writing, that a person has committed an offence, with a view to his taking action — but it does not include a police report. It is the citizen's direct route to the criminal court.

**Procedure on receiving a complaint**

1. Examination of the complainant (S.223) — the Magistrate examines the complainant and the witnesses present **on oath**, reducing the substance to writing; a **public servant** accused is given an opportunity of being heard before cognizance (a BNSS safeguard).
2. Postponement and inquiry (S.225) — the Magistrate may postpone the issue of process and either **inquire himself** or direct a **police investigation** to decide whether there is sufficient ground to proceed.
3. Dismissal of the complaint (S.226) — if, after examination/inquiry, there is **no sufficient ground**, the Magistrate dismisses the complaint, **recording his reasons**.
4. Issue of process (S.227) — if there is sufficient ground, summons (in a summons case) or warrant (in a warrant case) issues to the accused.




*Sketch this in the exam — the 30-second version earns presentation marks.*

**Leading cases**

- ***Mohd. Yousuf v. Afaq Jahan (2006)*** — a complaint need not be in a particular form; substance governs.

- ***Pepsi Foods Ltd. v. Special Judicial Magistrate (1998)*** — summoning an accused is a serious step requiring application of mind.

**Conclusion.** A complaint is a citizen's direct allegation to a Magistrate (not the police); on receiving it the Magistrate examines the complainant (S.223), may inquire (S.225), and either dismisses it for want of ground (S.226) or issues process (S.227). The procedure screens frivolous complaints while preserving the citizen's access to the criminal court. The requirement of recording reasons for dismissal, and of examining the complainant on oath, guards against both frivolous prosecutions and arbitrary refusals to proceed. Where the Magistrate directs a police investigation under S.225, he postpones issuing process until the report is received. The complaint route is especially important where the police decline to register an FIR, as it gives the citizen a direct judicial remedy. The Magistrate's order on a complaint must reflect application of mind, since issuing process exposes the accused to a criminal trial; a mechanical summoning order is liable to be quashed. The complaint procedure thus balances the citizen's right to prosecute against the accused's right not to be harassed. In practice this is the citizen's most effective answer to police inaction, and the courts guard it jealously.

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## Q1.6 — `[16M]` Explain the functions, duties and powers of the prosecution.

> *Asked: BNSS 2025-June · ★ · Notes: Unit 1 → Prosecution*

**Introduction.** The prosecution presents the State's case in a criminal trial, and the Public Prosecutor is regarded as a "minister of justice", not a mere agent of the police. The BNSS strengthens its independence through a Directorate of Prosecution.

**The prosecution machinery**

1. Directorate of Prosecution (S.20) — each State establishes a Directorate headed by a **Director of Prosecution**, to supervise prosecutors and insulate prosecution from the investigating agency.
2. Public Prosecutor / Additional PP (S.18) — appointed for the High Court and Sessions Courts to conduct prosecutions, appeals and revisions.
3. Assistant Public Prosecutors (S.19) — conduct prosecutions in the courts of magistrates.

**Functions and duties**

1. To conduct the prosecution fairly — placing all relevant material before the court, including that favourable to the accused; the PP is an **officer of the court**.
2. To advise the investigating agency and scrutinise the charge-sheet.
3. To withdraw from prosecution (S.360) — only with the **court's consent** and in the interest of justice, not at the executive's mere wish.
4. Independence — to act impartially, free from political or police pressure.

**Leading cases**

- ***Sheonandan Paswan v. State of Bihar (1987)*** — withdrawal from prosecution must serve public justice, with judicial scrutiny.
- ***Zahira Habibulla Sheikh v. State of Gujarat (2004)*** — the prosecutor must act fairly to secure a fair trial.

**Conclusion.** The prosecution, led by an independent Public Prosecutor under the Directorate of Prosecution (Ss 18–20), conducts the State's case fairly as a minister of justice, and may withdraw only with the court's consent (S.360). Its fairness and independence are essential to a just trial. The separation of the prosecution from the investigating police, through the Directorate of Prosecution, is intended to ensure objective scrutiny of the police's work before a case goes to trial. A Public Prosecutor who suppresses material favourable to the accused, or who seeks a conviction at any cost, betrays his role as an officer of the court. The court's consent requirement for withdrawal (S.360) is the principal check against the misuse of the prosecutorial power to drop cases. The prosecutor's independence is reinforced by the rule that he is not bound by the instructions of the police or the complainant where they conflict with his duty to the court. In appeals and revisions too, the State is represented by the public prosecutor, who must assist the court fairly rather than press for affirmance at all costs. This duty of fairness is what distinguishes a prosecutor from an ordinary litigant's advocate. It is for this reason that the law clothes the office with independence and entrusts it to a separate Directorate of Prosecution.

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## Q1.7 — `[16M]` Explain the salient features and constitutional dimensions of the BNSS, 2023.

> *Asked: BNSS 2026; salient-features questions · ★ · Notes: Unit 1 → Salient Features*

**Introduction.** The Bharatiya Nagarik Suraksha Sanhita, 2023, in force from 1 July 2024, replaced the Code of Criminal Procedure, 1973, modernising procedure while operating within the constitutional guarantees of Articles 20, 21 and 22.

**Salient features**

1. Time-bound process — fixed timelines (e.g. judgment within 45 days of trial; charge within 60 days; forensic visit mandatory for offences carrying 7+ years) to curb delay.
2. Technology at every stage — **e-FIR and Zero FIR**, *audio-video electronic* recording of search, seizure and statements, and trial/evidence by electronic means.
3. Victim-centric reforms — the victim's right to be heard and informed, free first-aid/ treatment for acid and sexual-offence victims, a **victim compensation scheme** and a **witness-protection scheme**.
4. New tools — **trial in absentia** of proclaimed absconders; **mercy-petition timelines**; community service as a punishment.

**Constitutional dimensions**

1. Article 21 — the BNSS must provide a *just, fair and reasonable* procedure (*Maneka Gandhi*), including the right to a speedy trial (*Hussainara Khatoon*).
2. Article 20 — protection against *ex-post-facto* law, *double jeopardy* and *self-incrimination*.
3. Article 22 — the rights of an arrested person (grounds, counsel, 24-hour production).

**Leading cases**

- ***Maneka Gandhi v. Union of India (1978)*** — procedure under Art. 21 must be just, fair and reasonable.
- ***Hussainara Khatoon v. State of Bihar (1979)*** — speedy trial is a fundamental right.

**Conclusion.** The BNSS retains the procedural skeleton of the old Code but adds binding timelines, technology, victim-centric measures and trial in absentia, all anchored in Articles 20, 21 and 22. It is a substantive modernisation of criminal procedure, not a mere renaming. The BNSS also expands the use of forensic science, makes the recording of search and seizure by audio-video means compulsory, and provides for the supply of documents to the accused within fixed periods. These features together aim at a faster, more transparent and more accountable criminal process. At the same time, the settled safeguards of the old Code — fair trial, the presumption of innocence and the rights of the arrested — are carried forward intact. The constitutional dimensions thus work in two directions: they empower the State to investigate and try efficiently, and they constrain it to do so fairly. A provision of the BNSS that violated Articles 20, 21 or 22 would be open to challenge, which is why the Code is best read in harmony with those guarantees. Read so, the BNSS is both an instrument of effective prosecution and a charter of the accused's and the victim's rights.

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# B. Short Notes — Model Answers

## S1.1 — `[10M]` Rights of an arrested person.

> *Asked: 2019(80), 2022(80), 2024(80)* · ★★ · *Notes: Unit 1 → Arrest*

**Introduction.** An arrested person retains important rights under the BNSS and Articles 21–22, designed to prevent custodial abuse and to ensure that even an accused is treated with dignity.

**The rights**

1. Right to know the grounds of arrest (S.47; Art. 22(1)) — the arrested person must be informed *forthwith* of the full grounds and of his right to bail in a bailable offence.

2. Right to inform a relative or friend (S.48) — and the police must display information about the arrest and the arrested person.
3. Right to be produced before a Magistrate within 24 hours (S.58; Art. 22(2)) — excluding journey time; detention beyond this without remand is illegal.
4. Right to legal representation (Art. 22(1)) — to consult and be defended by a lawyer of choice, and to free legal aid.
5. Right to medical examination (Ss 53–54) and protection from torture; **handcuffing** only for habitual/escape-prone or grave offenders (S.43(3)).

**Leading case.** ***D.K. Basu v. State of W.B. (1997)*** — laid down the mandatory custody safeguards now substantially codified in the BNSS.

**Conclusion.** The arrested person's rights — grounds, intimation to family, 24-hour production, counsel and medical examination — convert the power of arrest into a controlled, accountable process protecting personal liberty under Articles 21 and 22. These rights are not empty formalities: their breach can render the detention illegal, found a claim for compensation, and expose the erring officer to action. The BNSS has codified much of what *D.K. Basu* laid down, making the safeguards part of the statutory text rather than mere judicial directions. The cumulative effect is that an arrest is lawful only when both the *power* to arrest and these *procedural* protections are satisfied.

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## S1.2 — `[10M]` Zero FIR and e-FIR.

> *Asked: BNSS 2026; FIR short notes · ★★ · Notes: Unit 1 → FIR*

**Introduction.** The BNSS modernises the registration of information through the Zero FIR and the e-FIR, removing the twin obstacles of jurisdiction and physical presence that once delayed justice.

**Zero FIR**

1. Registration regardless of jurisdiction — under S.173, an FIR may be registered at **any** police station even if the offence was not committed within its local limits; it is given **number "zero"** and then transferred to the police station having jurisdiction.
2. Object — to ensure that a victim is never turned away on the ground of "wrong jurisdiction", a problem especially acute in sexual offences and accidents.

**e-FIR (electronic FIR)**

1. Information by electronic communication — S.173 allows information of a cognizable offence to be given **electronically**, taken on record once **signed within three days** by the informant.
2. Effect — it speeds up registration and creates a verifiable digital record.

**Refusal remedy.** If registration is refused, the informant may approach the **Superintendent of Police** (S.173(4)) or seek a Magistrate's direction.

**Leading case.** ***Lalita Kumari v. Govt. of U.P. (2014)*** — registration of an FIR for a cognizable offence is mandatory, the principle Zero/e-FIR operationalise.

**Conclusion.** The Zero FIR (any station) and the e-FIR (electronic, signed in three days) ensure prompt, place-neutral registration of cognizable offences, advancing the mandatory-registration rule of *Lalita Kumari*. Together these reforms close the two classic excuses for inaction — "go to the right station" and "come in person" — and create a prompt, verifiable record that protects the victim and starts the investigation without delay. For the student, the key is that neither jurisdiction nor the absence of the informant in person is any longer a lawful ground to delay registration.

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# C. Problems — Model Answers (IRAC)

## P1.1 — `[Prob]` A teacher rapes a student who, fearing him, complains only after three months when found pregnant; the FIR is then lodged. Is the delay condonable?

> *Asked: 2011(100)* · ★ · *Notes: Unit 1 → FIR*

**Issue.** Does the delay of three months in lodging the FIR defeat the prosecution?

**Rule.** Section 173 — delay in lodging an FIR is **not fatal if satisfactorily explained**; in sexual offences, delay caused by fear, shame or trauma is readily condoned (*State of Punjab v. Gurmit Singh*).

**Application.** The victim, a student, was **threatened** by the teacher and complained only when pregnancy made the offence known — a wholly natural and satisfactory explanation for the delay. The decoy is the bare lapse of three months; but in sexual offences courts recognise that victims often delay out of fear and stigma, so the delay does not suggest concoction. The explanation removes any adverse inference.

**Conclusion.** The delay is condonable; the FIR is valid and the prosecution is not affected, the delay being satisfactorily explained by fear and the late discovery of pregnancy. Had the delay been wholly unexplained, an adverse inference might have arisen, but here the explanation is natural and the FIR is reliable. The court will therefore not discard the prosecution merely on the ground of delay. The medical confirmation of pregnancy independently corroborates the victim's account, further blunting the delay point.

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## P1.2 — `[Prob]` A police officer receives a cryptic telephonic report of a dacoity, rushes to the spot and there records the informant's detailed statement. Which is the FIR?

> *Asked: 2015(100)* · ★ · *Notes: Unit 1 → FIR*

**Issue.** Is the cryptic phone message or the later detailed statement the FIR?

**Rule.** Section 173 — the FIR is the **first information that discloses the commission of a cognizable offence** with sufficient particulars; a cryptic, vague telephonic message merely prompting the officer to go is **not** an FIR.

**Application.** The phone call was a bare, cryptic tip that did not disclose the details of the offence; it only set the officer in motion. The **detailed statement recorded at the spot**, disclosing the dacoity and its particulars, is the first information in law. The decoy is that the phone call came "first" in time; but priority in time does not make a cryptic message the FIR.

**Conclusion.** The detailed statement recorded at the spot is the FIR; the earlier cryptic phone message is not, being a mere intimation to reach the scene. The investigation and the trial will proceed on the basis of that detailed statement, and any earlier entry will be treated only as the information that prompted the officer to act. This protects the prosecution from being tied down to a cryptic and incomplete first message.

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## P1.3 — `[Prob]` A goes to a police station to report a cognizable offence; the officer refuses to register the FIR, saying it occurred outside the station's jurisdiction. Can he refuse? Decide.

> *Asked: 2016(70), 2021(80), BNSS 2025, 2025-June* · ★★ · *Notes: Unit 1 → FIR / Zero FIR*

**Issue.** Can a police officer refuse to register an FIR on the ground that the offence is outside his jurisdiction?

**Rule.** Section 173 + Zero FIR — registration of a cognizable offence is **mandatory** (*Lalita Kumari*), and a **Zero FIR** must be registered at *any* station irrespective of jurisdiction and transferred to the proper one; refusal may be taken to the **SP (S.173(4))**.

**Application.** The decoy is the "wrong jurisdiction" excuse. But jurisdiction is **no ground to refuse registration**: the officer must register a Zero FIR and forward it to the station having jurisdiction. His refusal is illegal; A's remedy is to approach the Superintendent of Police under S.173(4), or move the Magistrate, who may direct registration and investigation.

**Conclusion.** The officer cannot refuse; he must register a Zero FIR, and A may complain to the SP under S.173(4) if registration is still denied. The officer's duty is ministerial once a cognizable offence is disclosed; he has no discretion to refuse on jurisdictional grounds, and persistent refusal can attract disciplinary and even penal consequences. A's complaint will thus be registered one way or another.

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## P1.4 — `[Prob]` A police officer records information of a cognizable offence in the station diary on the basis of a phone call. Can it be treated as the FIR?

> *Asked: 2018(100), 2018(100), 2022(80); BNSS 2023 · ★★ · Notes: Unit 1 → FIR*

**Issue.** Does a station-diary entry made on a phone call amount to an FIR?

**Rule.** Section 173 — an FIR must be information disclosing a cognizable offence, reduced to writing and signed; a **cryptic phone message or a mere diary entry** that does not disclose the offence's details is **not** an FIR.

**Application.** The decoy is that the officer "recorded" the information. But a station-diary jotting based on a vague phone call lacks the character of first information — it neither discloses sufficient particulars nor is signed as an FIR. The real FIR will be the detailed information recorded thereafter. Treating the diary entry as the FIR would freeze the prosecution to an incomplete version.

**Conclusion.** The diary entry on a phone call is not the FIR; the FIR is the subsequent information that discloses the cognizable offence in detail. To hold otherwise would freeze the prosecution to an incomplete version and defeat the purpose of the FIR as the first full account of the offence. The diary entry retains value only as a record of when the information was first received. Accordingly the officer was right not to treat the phone call as the FIR.

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## P1.5 — `[Prob]` A, charged with belonging to a dacoit gang operating in another State, is arrested in Mumbai/Bengaluru. Can he be tried where he is arrested?

> *Asked: 2011(100), 2015(100) · ★ · Notes: Unit 1 → Jurisdiction*

**Issue.** Can A be tried at the place of arrest, which differs from where the gang operated?

**Rule.** Place of trial (Ss 197–205) — ordinarily an offence is tried by a court within whose local jurisdiction it was **committed**; but for the offence of *belonging to a gang of dacoits* (a continuing association), the offence is committed wherever the accused is a member, and special provisions permit trial where he is found/arrested.

**Application.** The decoy is that the gang "operated" in another State. But belonging to a dacoit gang is a continuing offence not tied to one spot; the court where A is arrested may have jurisdiction, or the case may be committed to the appropriate court. Mere place of arrest is not always the place of trial, but for a continuing membership offence it can ground jurisdiction.

**Conclusion.** A may be tried where arrested for the continuing offence of belonging to the gang, the offence not being confined to the State where the gang operated. The court will assume jurisdiction on this footing, and any doubt about the proper place of trial can be resolved by the High Court or, where two States are involved, by the Supreme Court. Mere arrest at a place is, by itself, not the test; it is the continuing nature of the offence that grounds jurisdiction here.

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## P1.6 — `[Prob]` M/P, travelling by train, has luggage stolen at night; the theft is discovered at one town and the thief caught with the goods at another. Where can he be tried?

> *Asked: 2015(100), 2023(100) · ★ · Notes: Unit 1 → Jurisdiction*

**Issue.** Which court has jurisdiction where a theft on a journey is discovered and the thief caught at different places?

**Rule.** Ss 197–205 — where an offence is committed during a **journey**, any court through whose local jurisdiction the person/property passed may try it; and a theft may be tried where the property was **stolen, possessed or received**.

**Application.** The theft occurred on a moving train, discovered at one town, and the stolen goods recovered from the accused at another. The decoy is the multiplicity of places. Because the offence was committed in the course of a journey and the property was found at the second town, the courts at any of these places — including where the goods were recovered — have jurisdiction.

**Conclusion.** The accused can be tried at any place through which the journey passed or where the stolen property was found/recovered (e.g. the town where he was caught with the goods). The prosecution may choose the most convenient of these competent courts, and the accused cannot defeat the trial by pointing to the multiplicity of places through which the journey passed. The convenience of witnesses and the location of the recovered property usually guide the choice.

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## P1.7 — [Prob] Smt. S wishes to lodge a dowry-harassment complaint; the Sub-Inspector, a family friend of her in-laws, refuses to receive it. Advise her.

> *Asked: 2016(70) · ★ · Notes: Unit 1 → FIR refusal*

**Issue.** What is S's remedy when the police refuse to register her cognizable-offence complaint?

**Rule.** Section 173 — registration of a cognizable offence is **mandatory**; on refusal, the informant may send the substance in writing to the **Superintendent of Police (S. 173(4))**, who may investigate or direct registration; she may also move the **Magistrate** to direct registration/investigation.

**Application.** Dowry harassment is a cognizable offence; the SI's refusal, motivated by his friendship with the in-laws (the decoy of bias), is illegal. S should send a written complaint to the **SP**; if still ignored, approach the **Magistrate** for a direction to register and investigate, and she may also use the **Zero FIR** route at another station.

**Conclusion.** S's remedy is to approach the Superintendent of Police under S.173(4), and failing that the Magistrate, since registration of her cognizable complaint cannot lawfully be refused. She may simultaneously lodge a Zero FIR at any other police station, which must register it and transfer it to the station having jurisdiction. The officer's personal relationship with the in-laws is an aggravating circumstance that strengthens her case for higher intervention. She may also lodge a Zero FIR at another station, which cannot decline it; and a petition to the High Court for a direction to register and investigate remains open if the SP too fails to act.

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## P1.8 — [Prob] An Assistant Sessions Judge sentences an accused to 7 years' rigorous imprisonment. Has he the power?

> *Asked: 2013(100) · ★ · Notes: Unit 1 → Courts*

**Issue.** Can an Assistant Sessions Judge impose a 7-year sentence?

**Rule.** Section 22 — an **Assistant Sessions Judge** may pass any sentence authorised by law **except death, life imprisonment, or imprisonment exceeding 10 years**.

**Application.** The decoy is that he is "only" an Assistant Sessions Judge. But his ceiling is **10 years** (not death/life); a 7-year sentence is comfortably within that limit and is neither death nor life. He therefore had the competence to pass it.

**Conclusion.** The sentence is valid; an Assistant Sessions Judge may pass up to 10 years, so 7 years is within his power. Had the sentence been one of life imprisonment, death, or imprisonment beyond ten years, it would have been beyond his competence and liable to

be set aside; but a 7-year term is squarely within the statutory ceiling fixed by S.22. The validity of the sentence therefore turns solely on the statutory limit, which the 7-year term respects, and not on the designation of the judge. Were the sentence to exceed ten years, or to be one of death or life, it would be without jurisdiction and the High Court could correct it in appeal or revision.

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*End of Unit 1 Question Bank.*