

LAW OF CRIMES – PAPER II - THE BHARATIYA NAGARIK SURAKSHA SANHITA

Outcome

This paper equips students with comprehensive knowledge of the procedural aspects of criminal courts, police investigations, special provisions for juveniles, and the probation of offenders.

Module I

Definitions – Constitution of criminal courts and offices – Court of Session – Courts of judicial magistrates – Executive magistrates – special executive magistrates. Public prosecutors – Assistant Public Prosecutors - Directorate of Prosecution. Power of courts – Powers of Superior Officers of Police and aid to the Magistrates and the Police.

Module 2

Arrest of Persons – When police may arrest without warrant – procedure of arrest and duties of officer making arrest – rights of arrested persons – arrest on refusal to give name and residence – arrest by private person – arrest by Magistrate – arrest how made - Search of place entered by person sought to be arrested - Search of arrested person – Examination of accused by medical practitioner at the request of police officer - Examination of persons accused of rape by medical practitioner - Identification of person arrested - Persons arrested not to be detained more than 24 hours - process to compel appearance - A- Summons - B- Warrant of arrest - C - Proclamation and attachment - D- Other rules regarding process - Process to compel the production of things - A- Summons to produce - B- Search warrants - C- General provisions relating to searches- D – Miscellaneous - Recording of search and seizure through audio-video electronic means. Reciprocal arrangements for assistance in certain matters and procedure for attachment and forfeiture of property - Assistance in securing transfer of persons- Assistance in relation to orders of attachment or forfeiture of property. Management of properties seized or forfeited- Forfeiture of properties in certain cases.

Security for keeping the peace and for good behavior - Security for keeping peace on conviction- Security for good behavior from persons disseminating certain matters- Security for good behavior from habitual offenders- Security for good behavior from suspected persons.

Order for maintenance of wives, children and parents - procedure- alteration in



allowance- enforcement of order of maintenance. Maintenance of public order and tranquility - A- Unlawful assemblies - B- Public nuisances - C-Urgent Cases of nuisance or apprehended danger - D- Disputes as to immovable property. Preventive action of police - Police to prevent cognizable offences - Arrest to prevent commission of cognizable offences.

Module 3

Information to the police and their powers to investigate - Information in cognizable cases- information as to non- cognizable cases and investigation in such cases – Police officer’s powersto investigate cognizable cases- Procedure for investigation. Police officer’s power to require attendance of witnesses- Examination of witnesses by police. Recording of confessions and statements. Medical examination of victims of rape --search by police officer- Diary of proceedings in investigation- Report of police officer on completion of investigation- Police to enquire and report on suicide etc. Inquiry by Magistrate into cause of death. Jurisdiction of the criminal courts in inquiries and trials - Ordinary place of inquiry and trial. Place of trial in case of certain offences- offences committed outside India. Conditions requisite for initiation of proceedings - Cognizance of offence by Magistrate- Cognizance of offences by Court of Sessions - Prosecution of Judges and Public Servants - Prosecution of cases against marriage - Prosecution for defamation, Complaints to Magistrates - Examination of complainant - Dismissal of complaint-- Commencement of proceedings before Magistrate. Issue of process - Supply to accused copy of police report and other documents- commitment of case to court of sessions - When offence is triable exclusively by it.

The charge - Contents of charge- court may alter charge- separate charge for distinct offences-Trial for more than one offence- Who all may be charged jointly. Trial before a Court of Sessions - Opening case for prosecution- Discharge- Framing of charge- Conviction on plea of guilty- Evidence for prosecution- Acquittal- Entering upon defence- Arguments – Judgment of acquittal or conviction. Trial of warrant cases by Magistrate - Cases instituted on a police report- cases instituted otherwise than on police report- acquittal or conviction. Trial of Summons cases by Magistrate - Substance of accusation to be stated. Conviction on plea of guilty - Procedure when not convicted- acquittal or conviction. Summary Trials - Power to try summarily- Procedure for summary trials – Judgment in cases tried summarily. Plea bargaining - Report of mutually satisfactory depositions to be submitted before Court-Disposal of case-- Judgment of court. Attendance of persons confined or detained in prisons - Power to require attendance of prisoners-Prisoners to be



brought in court in custody- power to issue commission for examination of witness in prison. Evidence in inquiries and trials - Mode of taking and recording evidence- Commission for the examination of witness.

Module 4

General Provisions as to inquiries and trials - Persons once convicted or acquitted not to be tried for same offence- Appearance by Public Prosecutor- Legal aid to accused at State expense in certain cases- Tender of pardon to accomplice- Trial of persons not complying with conditions of pardon- Local inspection- Power to examine accused- Accused persons to be competent witness-- Compounding of offences- Court to be open. Provisions as to accused persons of unsound mind - Procedure in case of accused being person of unsound mind. Procedure where prisoner of unsound mind is reported capable of making his defence. Delivery of person of unsound mind to care of relative or friend. Provisions as to offences affecting the administration of justice - Procedure in cases mentioned in Section 215. Appeal- Procedure in certain cases of contempt- Discharge of offender on submission of apology. The judgment - Language and contents of judgment- order to pay compensation. Victim compensation Scheme- Treatment of victims- Witness Protection Scheme. Compensation to persons groundlessly arrested- order to release on probation of good conduct after admonition- Court not to alter judgments. Submission of death sentences for confirmation - Power of High Court to confirm sentence or annul conviction. Procedure in case of difference of opinion. Appeals - Appeals from conviction- No appeal in certain cases when accused pleads guilty- No appeal in petty cases- Appeal by state Govt. against sentence- Appeal in case of acquittal. Summary disposal of appeal- Procedure for hearing appeals not dismissed summarily- Powers of appellate court. Suspension of sentence pending appeal- release of appellant on bail. Arrest of accused in appeal from acquittal. Finality of judgments and orders on appeal. Abatement of appeals. Reference and Revision. Transfer of Criminal Cases - Power of Supreme Court to transfer cases and appeals- Power of High Courts to transfer cases and appeals. Power of Sessions Courts to transfer cases and appeals. Execution, suspension, remissions and commutation of sentences - Death sentences- imprisonment- Levy of fine- General provisions regarding executions- suspension, remission, commutation of sentences, Bail and Bond - In what cases bail to be taken- maximum period for which under trial prisoners can be detained- when bail can be taken in case of non-bailable offence- direction for grant of bail to person apprehending arrest- Special powers of High Court or Court of Sessions regarding bail. Amount of bond and reduction thereof- Bond of accused and sureties. Discharge of sureties- procedure when bond has been forfeited- cancellation of bond and bail



bond. Disposal of property - Order for custody and disposal of property pending trial in certain cases. Order for disposal of property at conclusion of trial. Irregular proceedings - Irregularities which do not vitiate proceedings- irregularities which vitiate proceedings. Limitation for taking cognizance of certain offences - Bar to taking cognizable after lapse of period of limitation - Commencement of period of limitation. Miscellaneous - Cases in which Judge or Magistrate is personally interested- Public servant concerned in sale not to purchase or bid for property. Trial and proceedings to be held in electronic mode.

Module 5

Juvenile Justice (Care and Protection of Children) Act, 2015 - Definitions- General Principles of Care and Protection of Children- Juvenile Justice Board- Procedure in relation to children in conflict with law- Child Welfare Committee-- Procedure in relation to children in need of care and protection- Rehabilitation and social re-integration. Adoption- other offences against children. Miscellaneous. The Probation of Offenders Act, 1958 - (Section 1 to 19).

Prescribed/Reference Books (with amendments):

1. Takwani, Criminal Procedure, Justice C.K. Thakker, Lexis Nexis, EBC, 5th Edition, 2021
2. R. V. Kelkar, Criminal Procedure, K. N. Chandrasekharan Pillai, 7th Edition, 2021
3. Ratanlal and Dhirajlal, Code of Criminal Procedure, 23rd Edition, 2020
4. Sarkar, The Code of Criminal Procedure, (2 Volumes), 12th Edition, 2018
5. D. D. Basu, Criminal Procedure Code, 6th Edition, 2017
6. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)
7. Juvenile Justice (Care and Protection of Children) Act, 2015.
8. The Probation of Offenders Act, 1958.
9. The Bharatiya Nagarik Suraksha Sanhita, 2023

