

Comparative Criminal Procedure

Syllabus

Introduction.

The Code of Criminal Procedure provides the machinery for the detection of crime, apprehension of suspected criminals, collection of evidence, determination of the guilt or innocence of the suspected person, and the imposition of suitable punishment on the guilty. It is further aimed at trying to provide a balance between the needs of the investigating and adjudicatory bodies to detect crime, maintain law and order and the rights of the accused.

With the increasing complaints regarding abuse of powers of arrest by the police, custodial torture and death, denial of bail, etc., the course particularly focuses on investigation, arrest, bail and principles of fair trial.

The provision relating to plea bargaining has been included to critically examine its operation under the criminal law which may be oppressive unless all the stakeholders are equally positioned.

Though the emphasis of this course would be on administration of criminal justice system in India but the students would also be familiarised with aspects of criminal justice system in countries like England , France etc.

The primary objectives of this course are to:-

- A. To make students aware about the Administration of criminal justice system in other countries like England and France.

- A. To familiarize the students with the crucial aspects relating to investigation and trial of offences (like initiation of criminal cases, powers and duties of police during investigation of offences, stages of criminal trial, functions, duties, and powers of criminal courts)

- B. To sensitize the students about critical issues in administration of criminal justice (like protection of human rights of accused, victims, principles of fair trial)

Topic 1. Comparative criminal justice administration in countries like England and France. This would be an introductory module where evolution of certain principles which evolved in these countries would be discussed and how far these principles, rules etc have been adopted in India. (5 lectures)

Topic 2.. Importance of Criminal Procedure

- (i). Stakeholders and Functionaries in the Criminal Justice Administration
- (ii). Hierarchy, powers and duties of Criminal Courts
- (iii). Initiation of Criminal Case - Ss. 2 (c) (d) and (1), 154-156, 160-164A, 167, 173, 176 of the Cr PC .

A general overall view of investigation will be given to the students with special emphasis on the essentials of F.I.R and its evidentiary value, police officer's powers to investigate cognizable cases, procedure for investigation, police officer's powers to require attendance of witnesses, examination of witnesses by the police, recording of confessions and statements and report of police officer on completion of investigation. (5 Lectures)

Topic 3. Investigation.

- (i) Ss. 157, 41-41D, 46-47, 93, 50-50A, 51-53, 53A, 54-54A, 55A, 56-57, 60A, (5 lectures)

Topic 4. Procedure for Investigation

- (i) . Arrest – procedure and rights of arrested person
- (ii) . Search and seizure(sections 165, 166 read with section 100) (5 lectures)

Topic 5. Bail- Ss. 436 - 439 of the Cr PC.

Criminal offences are further classified under the Cr.P.C. into bailable and non-bailable offences. In case of bailable offences, an accused is entitled to bail as a matter of right on furnishing of surety. In case of non-bailable offences, bail is a matter of discretion with the courts and the discretion becomes narrower depending upon the severity of the punishment that an offence entails.

How this discretion is to be exercised and what are the principles governing grant of bail in such cases is discussed in the cases given below. The concept of

anticipatory bail and the principles governing its grant are also a subject matter of study . Further, principles governing cancellation of bail will also be discussed here.

- a. Grant of Bail, including anticipatory bail
- b. Cancellation of Bail
- c. Compulsory release (**10 Lectures**)

Topic 6. Pre-Trial Proceedings

(i)- Ss. 190, 193, 199, 200, 202, 204, 209-224, 228.

- a. Cognizance of Offences
- b. Committal Proceedings
- c. Framing of Charges (**5 Lectures**)

Topic 7. Trial –

(i) Ss. 2(w) (wa) and (x), 225-226, 230-231, 233-234, 242-244, 251, 260, 262 of the Cr PC.

- a. Differences among warrant, summons, and summary trials
- b. Production of Witnesses - Summons and warrants
- c. S.321-Withdrawal of Prosecution (**5 Lectures**)

Topic 8.. Rights of Accused and Victims

- a. Features of Fair Trial – Ss.273, 300, 303-304, 313, 316, 317, 319, 321, 327, 406, 409; Articles 20 (1) (3), 22(1), 39A of the Constitution
- b. Rights of Victims – Ss.357, 357A, 357B, 357C, 372, Proviso
- c. Witness Protection -Guidelines for Protection of Vulnerable Witnesses. (**5 Lectures**)

Topic 9. Judgment

(i)- Ss. 227, 229, 232, 235 353-355 of the Cr PC a.

Discharge and acquittal

- b. Conviction
- c. Hearing on sentence
- d. Content of judgments (**5 Lectures**)

Topic 10 . Appeals, Inherent Powers of the High Court –

Ss. 372, 374 - 376, 482 of the CrPc (5 Lectures)

Total 50 Lectures.