

Rajasthan State Judicial Academy, Jodhpur
WORKSHOP / SEMINAR AT DISTRICT HEADQUARTERS
for Third Block, 2010-11 (March, 2011 to June, 2011)

Topic (1):

Legal rights of an arrested person.

General Instructions

Besides overall general discussion, area of discussion may cover the following issues:

1. Whether all the aspects of the fundamental right to have protection against arrest and detention as enshrined in Article 22 of Constitution of India are incorporated in Cr.P.C. ?
2. Whether the provisions contained in Section 50 to 54-A of Cr.P.C. are mutatis mutandis applicable to an arrest made by a Magistrate or, in a Court under order of Magistrate concerned ?
3. Whether an arrested person can be detained by Police Officer for 24 hours even if his detention for interrogation and investigation is not essential at the time of arrest even for a moment in the given facts and circumstances ?
4. Whether link Magistrate ought to take cognizance of offence where report u/s 173 (2) Cr.P.C. is filed on the day on which time limit as provided u/s 167 (2) is expiring ? Can he further extend term of his judicial custody remand without taking cognizance of offence ?
5. What are the legal rights of an arrested person as regards Legal Aid ?
6. What conditions may be considered as onerous so as to constitute clog on bail ?
7. What is 'protection against unnecessary restraint' as provided in section 49 of Cr.P.C. and what is the procedure for permitting more than usual restraint (e.g. permission to handcuff etc.) ?
8. Whether an accused acquires a right of bail whose detention has become illegal, because of non extension of his remand by competent Judicial Magistrate ?
9. What is the effect of irregularity of arrest ? Whether irregularity in arrest can affect trial or conviction ?
10. Whether a person, against whom more than one cases are pending investigation in same Police Station, can claim at the time of his arrest in one of such cases that he should be simultaneously arrested in all cases pending against him so that the total period of his police custody remand may not exceed 15 days in all ?

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Topic (2):

Seizure of property u/s 102 Cr.P.C. and subsequent procedure with special reference to Section 451 and 457 Cr. P.C. Disposal of property u/s 452 Cr.P.C..

General Instructions

Besides overall general discussion, area of discussion may cover the following issues:

1. What procedural aspects are to be kept in view while dealing with property seized u/s 102 Cr.P.C. and seizure is reported to a Magistrate ?

A vehicle bearing some registration number is seized by Police Officer u/s 102 Cr.P.C. and seizure is reported to the Magistrate concerned without naming the registered owner. Whether that Magistrate should issue proclamation u/s 457 (2) only or should hold enquiry about registered owner. Whether Police Officer himself should have held inquiry about true owner/registered owner before reporting seizure to the Magistrate ? Can such property be sold through auction as an interim measure without making any effort for finding out its owner ?

2. Whether property found on person of, or in the wearing of, an arrested person should be entered in seizure memo in every eventuality and what steps are required to be taken for safe custody of such items ?
3. What are the main considerations while deciding cases u/s 451 & 452 Cr.P.C. ?
4. When and under what provisions jurisdiction of magistrate u/s 451 Cr.P.C. stands barred ?
5. Whether Magistrate can determine the question of ownership of property while exercising jurisdiction u/s 451 Cr.P.C. ?
6. Whether a person having lawful right to possess motor vehicle is to be preferred against registered owner while disposing of their claim u/s 451 Cr.P.C. ?
7. What should be the appropriate approach while disposing of currency notes u/s 451 Cr.P.C.? Whether any taxation department may also have a right to claim property and to claim audience at this stage ?
8. While passing disposal order u/s 452 Cr.P.C., whether a Court can look into statements recorded u/s 161 Cr.P.C. or a confessional statement which is otherwise inadmissible against accused ?
9. Whether bail and bond (Supurdgi Nama) can be demanded while disposing of property u/s 452 Cr.P.C. ?
10. Whether a document, which is produced in a Criminal Court at investigation stage by Police, regarding which an offence appears to have been committed or which has been used for the commission of offence may be given on Supurdgi Nama u/s 451 or 457 Cr.P.C. to the complainant or to accused or to a third party ?