

MPSC_Judicial Magistrate _Powers of Courts:

Detailed Explanation of Key Topics in the Preliminary Provisions of the Code of Criminal Procedure (CrPC) for the Maharashtra Civil Judge (Junior Division) and Judicial Magistrate (First Class) Preliminary Examination

The Code of Criminal Procedure, 1973 (CrPC) lays the procedural foundation for the criminal justice system in India. Understanding the jurisdiction and powers of courts, procedures related to arrest, and mechanisms for compelling appearance and production of evidence is crucial for judicial aspirants.

1. Powers of Courts: Jurisdiction and Sentencing Powers (Sections 26-35)

A. Jurisdiction of Courts in Criminal Cases (Section 26)

Criminal cases can be tried by:

High Courts (for appeals and revisions).

Sessions Courts (for serious offenses).

Judicial Magistrates (First Class & Second Class).

Executive Magistrates (for public order and security).

Offenses under the Indian Penal Code (IPC) are triable as follows:

Sessions Court: Offenses punishable with death, life imprisonment, or imprisonment exceeding seven years (e.g., murder, rape).

Judicial Magistrate First Class (JMFC): Offenses punishable with imprisonment up to three years (e.g., theft, simple hurt).

Judicial Magistrate Second Class (JMSC): Offenses punishable with imprisonment up to one year (e.g., public nuisance, defamation).

B. Sentencing Powers of Courts (Sections 27-30)

Trial of Juveniles (Section 27)

Offenses committed by juveniles below 16 years are to be tried by a Juvenile Justice Board under the Juvenile Justice Act.

Sentencing Powers of Courts (Section 28)

Sessions Judge: Can impose any sentence, including the death penalty (subject to High Court confirmation).

Assistant Sessions Judge: Can impose imprisonment up to ten years.

Sentencing by Magistrates (Section 29)

Chief Judicial Magistrate (CJM): Up to seven years of imprisonment.

Judicial Magistrate First Class (JMFC): Up to three years of imprisonment and a fine.

Judicial Magistrate Second Class (JMSC): Up to one year of imprisonment and a fine.

Sentences in Default of Fine (Section 30)

A court can impose additional imprisonment if an accused fails to pay a fine.

2. Arrest of Persons: Procedures for Arrest with and Without a Warrant (Sections 41-60)

The CrPC provides detailed procedures for arresting individuals to ensure that legal safeguards are maintained.

A. Arrest Without Warrant (Section 41)

Police officers can arrest without a warrant in the following cases:

Cognizable Offenses: Where punishment is more than three years (e.g., murder, rape, robbery).
When a person obstructs a police officer from performing duties.
When a person is found in possession of stolen property.
When a person is a proclaimed offender.

B. Arrest with Warrant (Sections 41-44)

A Magistrate issues a warrant for arresting a person accused of a non-cognizable offense (e.g., defamation, cheating).

Section 44: A Magistrate can arrest a person present in court if necessary.

C. Rights of Arrested Persons (Sections 50-56)

Right to be informed of the grounds of arrest (Section 50).

Right to bail in bailable offenses (Section 50(2)).

Right to inform a relative or friend about the arrest (Section 50A).

Right to be presented before a Magistrate within 24 hours (Section 56 & 57).

Right to medical examination (Section 53).

Summary of Powers of Courts and Arrest Procedures (CrPC Sections 26-60)

1. Jurisdiction and Sentencing Powers of Courts (Sections 26-35)

- **Jurisdiction of Courts in Criminal Cases (Section 26):**
 - **High Courts:** Handle appeals and revisions.
 - **Sessions Courts:** Try serious offenses (e.g., murder, rape).
 - **Judicial Magistrates:** Handle lesser offenses based on severity.
 - **Executive Magistrates:** Maintain public order and security.
- **Sentencing Powers of Courts (Sections 27-30):**
 - **Sessions Judge:** Can impose any sentence, including the **death penalty** (requires High Court confirmation).
 - **Assistant Sessions Judge:** Can impose imprisonment up to **10 years**.
 - **Chief Judicial Magistrate (CJM):** Can impose up to **7 years of imprisonment**.
 - **Judicial Magistrate First Class (JMFC):** Can impose up to **3 years** of imprisonment.
 - **Judicial Magistrate Second Class (JMSC):** Can impose up to **1 year** of imprisonment.
- **Trial of Juveniles (Section 27):**
 - Juveniles (below 16 years) must be tried under the **Juvenile Justice Act**.
- **Sentences in Default of Fine (Section 30):**
 - Additional imprisonment can be imposed if the accused **fails to pay a fine**.

2. Arrest Procedures (Sections 41-60)

- **Arrest Without Warrant (Section 41):**
 - Police can arrest without a warrant in **cognizable offenses** (e.g., murder, robbery).
 - If a person obstructs a police officer from performing duties.

- If a person is found with **stolen property** or is a **proclaimed offender**.
 - **Arrest With Warrant (Sections 41-44):**
 - Issued by a **Magistrate** for **non-cognizable offenses** (e.g., defamation, cheating).
 - **Section 44:** A Magistrate can **arrest a person present in court** if required.
 - **Rights of Arrested Persons (Sections 50-56):**
 - **Right to know grounds of arrest** (Section 50).
 - **Right to bail in bailable offenses** (Section 50(2)).
 - **Right to inform relatives or friends** (Section 50A).
 - **Right to be presented before a Magistrate within 24 hours** (Sections 56 & 57).
 - **Right to medical examination** (Section 53).
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Quiz Questions

Question 1:

Which court has the power to impose the **death penalty**?

- A) Chief Judicial Magistrate
- B) Judicial Magistrate First Class
- C) Sessions Court ☒
- D) Executive Magistrate

Question 2:

Under which section can a **Magistrate arrest a person present in court**?

- A) Section 27
- B) Section 41
- C) Section 44 ☒
- D) Section 53

Question 3:

A **police officer can arrest a person without a warrant** in which of the following cases?

- A) When the offense is **non-cognizable**
- B) When the offense is **cognizable** ☒
- C) When the accused **refuses to pay a fine**
- D) When the accused has **filed a complaint**

Question 4:

Under which section does an arrested person have the **right to be informed of the grounds of arrest**?

- A) Section 41
- B) Section 50 ☒
- C) Section 26
- D) Section 60

