CRPC NOTES-3
POWER OF MAGISTRATE TO CONTROL DISPUTE OVER POSSESSION OF AN IMMOVEABLE PROPERTY
When and what powers can be used by the magistrate to control dispute over possession of an immoveable property? Can possession be restored back to person dispossessed?
What order can be passed by a magistrate if any apprehension of breach of peace is brought to his notice regarding immoveable property?
INTRODUCTION
RELEVANT PROVISIONS
Section 145 of Cr.P.C
POWER OF MAGISTRATE TO CONTROL DISPUTE OVER POSSESSION OF IMMOVEABLE PROPERTY UNDER SECTION 145
A magistrate of first class can exercise powers to control dispute over possession of an immoveable property which is likely to cause breach of the peace in police report or other information.
ESSENTIALS FOR EXERCISING POWERS BY MAGISTRATE
I- EXISTENCE OF DISPUTE
II- SATISFACTION OF MAGISTRATE
III- DISPUTE CONCERNING LAND
IV- DISPUTE LIKELY TO CAUSE BREACH OF PEACE
V- LAND MUST BE WITHIN JURISDICTION
MAKING OF ORDER
After being satisfied from police report or other information that there is a dispute exists regarding land which is likely to cause breach of the peace, he shall make the order in writing.
SERVICE OF ORDER
An order shall be served in following manner;
I- IN MANNER OF SUMMONS
II- PUBLICATION OF ORDER NEAR DISPUTE
POWERS OF MAGISTRATE
A magistrate can exercise the following powers in respect of the disputed property.
I- DETERMINE THE FACT OF ACTUAL POSSESSION
II- HEAR THE PARTIES
III- RECEIVING OF EVIDENCE
IV- TAKES FURTHER EVIDENCE
V- DECISION AS TO POSSESSION
VI- ATTACHMENT OF PROPERTY
VII- CANCELLATION OF ORDER OF ATTACHMENT
VIII- APPOINTMENT OF RECEIVER
IX- ADDITION AS TO PARTIES
X- DECLARATION OF ENTITLEMENT OF POSSESSION
XI- RESTORATION OF POSSESSION
XII- ORDER FOR DISPOSAL OR SALE
XIII- ISSUING SUMMONS TO ANY WITNESS
XIV- REFERRING PARTIES TO COURT OF COMPETENT JURISDICTION
The magistrate can refer the parties to a court of competent jurisdiction after attaching the property if
i) More of the parties are found in possession. Or
ii) The magistrate is unable to satisfy himself as to which of the parties were at the relevant time in possession.
EFFECT OF ORDER MADE UNDER SECTION 145
An order under section 145 is final and conclusive and is intended to be effective until the party in whose favour the order is made is evicted in due course of law.
REMEDY AGAINST SUCH ORDER
The remedy for the unsuccessful party is to file a civil suit.
SUBORDINATION OF POWER OF MAGISTRATE
Powers of criminal Courts in proceedings under section 145 Cr.P.C are subordinate to powers of civil courts which have dealt with the same property.
ARREST WITHOUT WARRANT
• State circumstances under which the police officer may arrest a person without obtaining a warrant from the court?
• Can police arrest a person even if he has not committed any offence?
• What is arrest without warrant? How and when it is made by whom under what pretext? What are the checks and balances to prevent misuse of this unlimited power? (PCS)
• CAN POLICE ARREST A PERSON EVEN IF HE HAS NOT COMMITTED ANY OFFENCE?
INTRODUCTION
RELEVANT PROVISIONS
Sections 54 to 59, 64, 65, and 151 of CrPC.
ARREST WITHOUT WARRANT
Following persons may arrest without warrant
i- Any Police Officer
ii- Officer-in-Charge of a Police Station
iii- Private Person
iv- Magistrate
OBJECT TO ARREST A PERSON WITHOUT WARRANT
ARREST BY ANY POLICE OFFICER
i) PERSON CONCERNED IN COGNIZABLE OFFENCE
ii) PERSON IN POSSESSION OF IMPLEMENT OF HOUSE BREAKING
iii) PROCLAIMED OFFENDER
iv) PERSON IN POSSESSION OF STALER PROPERTY
v) PERSON OBSTRUCTING POLICE OFFICER
vi) DESERTER FROM THE ARMED FORCES
vii) PERSON APPREHENDED UNDER EXTRADITION LAW
viii) RELEASED CONVICT
ix) PERSON FOR WHOSE ARREST REQUISITION HAS RECEIVED
x) PERSON COMMITTED NON-COGNIZABLE OFFENCE IN PRESENCE OF POLICE
xi) PERSON DESIGNING TO COMMIT COGNIZABLE OFFENCE
xii) PERSON WHOSE REMISSION OR SUSPENSION HAS CANCELLED
ARREST BY OFFICER IN-CHARGE
I- ANY PERSON TRYING TO CONCEAL HIMSELF
II- PERSON WHO HAS NO OSTENSIBLE MEANS OF SUBSISTENCE
III- HABITUAL OFFENDER
ARREST BY PRIVATE PERSON U/SEC 59
i) PERSON COMMITTED NON-BIALLABLE OFFENCE
ii) PROCLAIMED OFFENDER
ARREST BY A MAGISTRATE
I) PERSON COMMITS AN OFFENCE IN HIS PRESENCE
II) PERSON FOR WHOSE ARREST HE CAN ISSUE WARRANT
ARREST TO PREVENT SUCH OFFENCES U/SEC 151 CrPC
PERSON ARRESTED NOT BE DETAINED MORE THAN 24 HOURS U/SEC 61 CrPC FRAMING OF CHARGE
What is charge? How it is framed and what are its contents?
What is charge? How it is framed under Cr.P.C? Can it be amended during the trial?
Can a person charged with one offence be convicted of another?
Can a person charged with one offence? If so when?
What is a charge? What are its objects? What particulars are required to be stated in the charge?
What ate the essentials of a charge? Discuss effects of different types of errors in the charge.
INTRODUCTION
RELEVANT PROVISIONS
Sections 221, 222, 223, 227, 228, 229, 230, 237, 238
MEANING AND DEFINITION OF CHARGE
Definition According To Section 4(c)
OBJECTS OF FRAMING OF CHARGE
PARTICULARS OF FRAMING OF CHARGE
In framing of charge, following essentials must be fulfilled:
I- STATE THE OFFENCE
II- OFFENCE BY NAME
III- LAW AND SECTION OF OFFENCE
IV- LANGUAGE OF CHARGE
V- REDUCED IN WRITING
VI- PREVIOUS CONVICTION
VII- PARTICULARS AS TO TIME PLACE AND PERSON
It is necessary that charge should contain particulars as to;
i) Time of Offence.
ii) Place of Offence.
iii) Person Against Whom Offence Was Committed.
iv) Thing Against Whom Offence Was Committed.
VIII- MANNER OF COMMITTING OFFENCE
AMENDMENT OR ALTERATION IF CHARGE U/SEC 227
CHARGE NOT PREJUDICE THE ACCUSED OR PROSECUTION U/SEC 228
CHARGE PREJUDICE THE ACCUSED OR PROSECUTION U/SEC 229
STAY OF PROCEEDINGS IF ALTERED CHARGE REQUIRES PREVIOUS SANCTION U/SEC 230
PERSON CHARGED WITH ONE OFFENCE BE CONVICTED OF ANOTHER
I- GENERAL RULE U/SEC 237
II- EXCEPTIONS
III- SUBSECTION 3 OF SECTION 238
INQUIRY INVESTIGATION TRIAL
Define and differentiate inquiry, investigation, and trial.
INTRODUCTION
INQUIRY
I- DEFINITION OF INQUIRY ACCORDING TO SECTION 4(1)(K)
II- AUTHORITY TO CONDUCT INQUIRY
III- OBJECT OF INQUIRY
IV- NOT AN EXHAUSTIVE DEFINITION
INVESTIGATION
I- DEFINITION U/SEC 4(1)(L)
II- NATURE OF INVESTIGATION
III- OBJECT OF INVESTIGATION
IV- AUTHORITY TO INVESTIGATE
V- COMMENCEMENT OF INVESTIGATION
The investigation commences in the following two ways
i) When FIR is lodged
ii) When complaint is made to the magistrate then any person authorized by the magistrate can conduct the investigation.
TRIAL
I- DEFINITION
“A formal examination of evidence in a court of law in order to decide if a person is guilty of a crime.”
II- PRESUMPTION REGARDING TRIAL
III- COMMENCEMENT OF TRIAL
IV- PROCEDURE FOR TRIAL
Procedure for trials has been provided by the different provisions of CrPC as under;
i) Trials by magistrate section 241-250
ii) Summary Trial section 260-265
iii) Trial by High Court and Court of Session 265-A to 265-N
V- END OF TRIAL
DIFFERENCE BETWEEN INQUIRY, INVESTIGATION AND TRIAL
I- AS TO COMMENCEMENT
Inquiry It commences when complaint is field to the magistrate.
Investigation It commences when FIR is lodges or complaint is made to the magistrate.
Trial It starts either by framing of charge or arrangement of the accused.
II- PRESUMPTION AS TO COMMISSION OF OFFENCE
Inquiry There is no presumption as to commission of an offence.
Investigation There is no presumption as to commission of an offence.
Trial Trial pre-supposes the commission of an offence.
III- AS TO DEFINITION
Inquiry The term inquiry is defined by CrPC.
Investigation Investigation has been defined by CrPC.
Trial The expression trial has not been defined by CrPC.
IV- END OF PROCEEDINGS
Inquiry If evidence is not found then it can be discharged.
Investigation If evidence is not found then it can be discharged.
Trial it either ends in conviction or in acquittal.
V- CONDUCTING AUTHORITY
Inquiry It can be conducted by a magistrate or the court
Investigation it can be conducted by a police officer or any person authorized by a magistrate.
Trial it can be conducted by a magistrate or judge.
VI- PURPOSE
Inquiry its purpose is to ascertain the truth or falsity of facts of the case.
Investigation its purpose is the collection of evidence regarding the guilt of the accused.
Trial its purpose is to determine the guilt of the accused.
VII- BAR TO SUBSEQUENT PROCEEDINGS
Inquiry this can be conducted again.
Investigation this can be conducted again.
Trial trial barred the subsequent proceedings i.e. principal of double jeopardy.
TRANSFER OF CASES
• What are the powers of High Court to transfer cases from one criminal court to another?
• On what grounds High Court can transfer any criminal case from its subordinate court to another court.
INTRODUCTION
RELEVANT PROVISIONS
Following are the relevant provisions;
Section 526 Cr.P.C
Cross Reference
Sections 527 and 528
TYPES OF TRANSFER OF CRIMINAL CASES
A criminal case may be transferred by the following authorities;
i- High Court under section 526
ii- Provincial Government under section 527
iii- Session Judge under section 528
TRANSFER OF CRIMINAL CASE BY HIGH COURT UNDER SECTION 526
OBJECTS OF SECTION 526
Section 526 has two-fold objects;
i- To provide convenience to the parties and witnesses.
ii- To ensure that justice should be done beyond all doubts.
MODES OF TRANSFER
I- APPLICATION BY PARTY INTERESTED
II- APPLICATION BY LOWER COURT
III- SUO MOTU ORDER
GROUNDS FOR TRANSFER OF CASES UNDER SECTION 526
I- FAIR AND IMPARTIAL TRIAL NOT POSSIBLE
II- UNUSUAL DIFFICULTY IN QUESTION OF LAW
III- WHERE SCENE OF OFFENCE IS NECESSARY
IV- GENERAL CONVENIENCE TO PARTIES
V- EXPEDIENT IN THE ENDS OF JUSTICE
ORDER PASSED BY HIGH COURT UNDER SECTION 526
EXCEPTION TO SECTION 526
PROCLAMATION FOR PERSON ABSCONDING
• What conditions is precedent for proclamation? What penalties in law can be imposed upon absconder?
• What is the legal procedure to be adopted for the surrender of an absconder? Can his property be attached? If so, what?
• How and in what manner an absconder is declared a proclaimed offender? Quote the law.
• How and under what circumstances orders for proclamation and attachment of the property of person absconding are issued?
INTRODUCTION
RELEVANT PROVISIONS
Following are the relevant provisions of the concerned topic;
Sections 87, 88, 89 of CrPC
MEANING OF ABSCONDER
Absconder is a person who intentionally avoids or conceals himself for the purpose of avoiding the execution of the warrant.
PROCLAMATION FOR PERSON ABSCONDING U/SEC 87
I- CONDITIONS FOR PROCLAMATION
Before issuing proclamation, following conditions must be satisfied;
I) ISSUANCE OF WARRANT
II) ABSCONDANCE OF PERSON
III) SATISFACTION OF COURT
II- CONTENTS OF PUBLICATION
i- Name and Address of Absconder
ii- Offence in which he is required
iii- Statement requiring that he must appear before the court
iv- Specification of date not less than 30 days from the date of its publication for the appearance of the absconder.
III- MANNER OF PROCLAMATION
The proclamation shall be published in the following manner;
I- Publicly read
II- Affixation at some conspicuous part of home of accused
III- Affixation of copy at the court
IV- WRITTEN STATEMENT BY COURT U/SEC 87(3)
ATTACHMENT OF PROPERTY OF PERSON ABSCONDING U/SEC 88
I- TIME FOR ATTACHMENT
II- JURISDICTION TO ORDER ATTACHMENT
PROPERTY OUT SIDE JURISDICTION
III- PROPERTY WHICH CAN BE ATTACHED
IV- MODE OF MAKING ATTACHMENT
V- SALE OF PROPERTY
VI- CLAIM OR OBJECTION
PROCEDURE WHEN ABSCONDER APPEARS BEFORE COURT
WHEN ABSCONDER DOES NOT APPEAR BEFORE THE COURT
RESTORATION OF ATTACHED PROPERTY U/SEC 89
I- APPEARANCE OF PERSON IN COURT
II- SATISFACTION OF COURT
III- WHERE PROPERTY HAS BEEN SOLDTRIAL BY COURT OF SESSION
• What procedure does the Court of Session follow in the trial of a murder case?
• Describe briefly the procedure of trial of a case by Court of Session.
INTRODUCTION
RELEVANT PROVISIONS
Following are the relevant provisions of CrPC regarding the topic.
Sections 265-A to 265-N
MEANING OF TRIAL
The term trial has not been defined by CrPC. It may be defined as under:
“A formal examination of evidence in a court of law in order to decide if a person is guilty of a crime.”
PROCEDURE GIVEN IN CRPC FOR THE TRIALS BY HIGH COURT AND COURT OF SESSION
The procedure for trials by the High Court and the Court of Session has been divided into two categories in CrPC.
1- Challan Case
2- Complaint Case.
COGNIZANCE OF OFFENCES BY COURT OF SESSION U/SEC 193
PROSECUTION WHERE TRIAL INITIATED UPON POLICE REPORT U/SEC 265-A
PROCEDURE TO BE FOLLOWED BY COURT OF SESSION U/SEC 265-B
Following procedure shall be followed in a trial by the Court of Session.
I- SUPPLY OF STATEMENTS AND DOCUMENTS U/SEC 265-C
CASES INSTITUTED UPON POLICE REPORT
The following documents shall be supplied free of cost to the accused not later than 7 days before commencement of the trial;
a) FIR
b) POLICE REPORT
c) STATEMENTS OF WITNESSES RECORDED U/SEC 161 AND 164 CrPC
d) INSPECTION NOTES RECORDED BY IO
e) RECOVERY NOTES
CASES INSTITUTED UPON COMPLAINT
The following documents shall be supplied free of cost to the accused not later than 7 days before commencement of the trial;
a) COMPLAINT WHICH IS MADE
b) ANY DOCUMENT ATTACHED WITH THE COMPLAINT
c) STATEMENTS MADE UNDER SECTIONS 200 AND 202 OF CrPC
II- FRAMING OF CHARGE U/SEC 265-D
III- PLEA U/SEC 265-C
IV- RECORDING OF EVIDENCE U/SEC 265-F
If the accused does not plead guilty or the Court does not convict him guilty in its discretion, the court shall proceed to hear the complainant and take all evidence produced by the prosecution.
i) Summoning Of Witnesses
ii) Accused to Be Asked To Adduce Evidence
iii) Evidence Adduced By the Accused
iv) Issuing Of Process
a) Compelling the attendance of any witness or
b) Production of any document or
c) Any other thing.
The court shall issue such person
V- SUMMING UP U/SEC 265-G
Where Accused Adduce Evidence
VI- JUDGMENT U/SEC 265-H
WHERE ACCUSED IS GUILTY
WHERE ACCUSED IS NOT GUILTY
VII- POWER OF COURT TO ACQUIT ACCUSED AT ANY STAGE U/SEC 265-K
SENTENCE WHICH REQUIRES CONFIRMATION
• In what cases sentence awarded by courts always require confirmation in order to make at final? What court confirms it and what are the powers of appellate court in such cases?
INTRODUCTION
RELEVANT PROVISION
Section 374 to 382 of CrPC.
SENTENCE WHICH REQUIRES CONFIRMATION U/SEC 374
When the Court of Session passes sentence of death the High Court confirms the sentence.
SUBMISSION OF PROCEEDINGS BY THE COURT OF SESSION
POWERS OF HIGH COURT U/Sec 375
I- FURTHER INQUIRY
II- TAKE ADDITIONAL EVIDENCE
MODE OF MAKING INQUIRY OR TAKING EVIDENCE
i- High Court may make inquiry or take additional evidence itself.
ii- High court may direct to Court of Session to make inquiry or take additional evidence.
PRESENCE OF CONVICTED PERSON IS NOT NECESSARY
The presence of convicted person is not necessary.
POWER OF HIGH COURT TO CONFIRM OR ANNUAL CONVICTION U/SEC 376
I- CONFIRM THE SENTENCE
II- PASS ANY OTHER SENTENCE
III- ANNUAL THE CONVICTION
IV- ORDER A NEW TRIAL
V- ACQUIT THE ACCUSED
CONFIRMATION OR NEW SENTENCE TO BE SIGNED BY TWO JUDGES U/SEC 377
PROCEDURE IN CASE OF DIFFERENCE OF OPINION U/SEC 378
PROCEDURE IN CASE SUBMITTED TO HIGH COURT FOR CONFIRMATION U/SEC 379
EXECUTION OF ORDER PASSED U/SEC 376, U/SEC 381
i- By issuing a warrant; or
ii- Taking such other steps as may be necessary
Exception
POSTPONEMENT OF DEATH SENTENCE ON PREGNANT WOMAN U/SEC 382
NHERENT POWER OF COURT
• Discuss in detail with reference to law power of High Court by means of which relief can be granted although there is no provision in Cr.P.C.
INTRODUCTION
MEANING OF INHERENT POWER
“An authority possessed without its being derived from another.”
RELEVANT PROVISIONS
Section 561-A Cr.P.C
Section 151 C.P.C
Section 16 General Clauses Act
Article 183 and 199 of Constitution of Pakistan
INHERENT POWER OF COURT UNDER SECTION 561-A
NATURE OF INHERENT POWER
BASIS OF INHERENT POWER
The inherent powers of the court are based on the following maxim
UBI JUS ABI REMEDIUM
There is no wrong without remedy
WHEN INHERENT POWER CAN BE USED UNDER SECTION 561-A
High court can exercise inherent powers under section 561-A Cr.P.C in the following cases
I- IN ABSENCE OF EXPRESS PROVISION OF LAW
II- TO GIVE EFFECT TO ANY ORDER UNDER Cr.P.C
III- TO PREVENT ABUSE OF PROCESS OF ANY COURT
IV- TO SECURE ENDS OF JUSTICE
SECTION 249-A, 265-K AND 561-A Cr.P.C
LIMITATIONS OR RESTRICTIONS AGAINST THE ARBITRARY EXERCISE OF INHERENT POWER
Following are the restrictions on the inherent powers of the courts;
i) Inherent powers cannot be extended to make a new law on the subject
ii) It cannot be used against the express intention of the legislature.
iii) It cannot be used where there is other remedy is provided.
iv) It cannot override the express provision of law.
v) It should not be exercised to assist a party guilty of leaches or delay.
INSTANCES OF INHERENT POWER
Following are some of the instances of inherent powers of Court under section 561-A
i- CORRECTION OF ERRORS
ii- QUASHMENT OF PROCEEDINGS
iii- STAY OF PROCEEDINGS
CONCLUSIVENESS OF FINDINGS OF HIGH COURT UNDER SECTION 561-A
COMPOUNDABLE OFFENCES
• What is compoundable offence? What is the legal effect of a valid composition? How would you differentiate between withdrawal of a case and composition of an offence?
• Which are compoundable offences? When and who can compound the offence of murder?
INTRODUCTION
RELEVANT PROVISIONS
Section 345 is the relevant provision of the concerned topic.
MEANING OF COMPOSITION
“A composition is an agreement or settlement of difference between the injured party and against whom the complaint is made.”
MEANING OF COMPOUNDABLE OFFENCE
A offence which can be legally settled for consideration between the party against whom the offence is committed and by whom the offence is committed is said to be compoundable offence.
SCOPE OF SECTION 345
KINDS OF COMPOUNDABLE OFFENCES U/SEC 345
Compoundable offences are of the following two kinds
i- Offences compoundable without permission of the court.
ii- Offences compoundable with the permission of the court.
ESSENTIALS FOR COMPOUNDING U/SEC 345
Following are the essentials for compounding as offence
I- COMPOUNDABLE OFFENCE
II- COMPROMISE BETWEEN PARTIES
III- WITH OR WITHOUT CONSIDERATION
IV- AGREEMENT FOR COMPROMISE
V- FREE WILL OF PARTIES
VI- COMPROMISE MUST BE MADE BY PERSON MENTIONED IN TABLE U/SEC 345
VII- WITH OR WITHOUT PERMISSION OF COURT
WHO CAN COMPOUND THE OFFENCE OF MURDER
The following persons can compound the offence of murder;
i- Qatal-i-amad under section 302
ii- Qatal under ikrah-i-tam under section 303
iii- Qatal-i-amad not liable to Qisas under section 308
iv- Qatal-i-shibh-i-amad under section 316
v- Qatal-i-khata by rash or negligent driving under section 320
vi- Qatal-bis-sabab under section 322
vii- Attempt to commit Qatal-i-amad under section 324
PROCEDURE TO BE ADOPTED
COMPROMISE IN ABETMENT OR IN ATTEMPT TO COMMIT AN OFFENCE U/SEC 345(3)
PERSON COMPETENT TO COMPOUND IS MINOR, IDIOT OR LUNATIC
COMPOSITION IN PENDING APPEAL U/SEC 345(5)
COMPOSITION IN REVISION U/SEC 345(5)
EFFECT OF COMPOSITION U/SEC 345(6)
BAR ON COMPOSITION U/SEC 345(7)
TIME FOR COMPOSITION
DIFFERENCE BETWEEN WITHDRAWAL CASE AND COMPOSITION OF AN OFFENCE
I- AS TO NATURE
II- SATISFACTION OF MAGISTRATE
III- AS TO DISCRETION
IV- AS TO OFFENCE
APPEAL AGAINST ACQUITTAL
• Discuss in detail the procedure laid down in law to life an appeal from an order of acquittal.
• Does an appeal lie from an order of acquittal?
INTRODUCTION
RELEVANT PROVISIONS
Section 411-A, 417, 422, 423 of Cr.P.C
APPEAL AGAINST ACQUITTAL
It may be divided into categories
i- Appeal against order of acquittal passed by high court.
ii- Appeal against order of acquittal passed by any court other than high court.
APPEAL AGAINST ORDER OF ACQUITTAL PASSED BY HIGH COURT UNDER SECTION 411-A
I- FORUM OF APPEAL
a) Shall be filled to the Division Bench of High Court composed of not less than two judges, other than the judges who heard the trial.
b) If it is not possible to constitute the Division Bench than the appeal may be transferred by the Provincial Govt. under section 527 Cr.P.C to another High Court.
II- GROUNDS OF APPEAL
INST ORDER OF ACQUITTAL PASSED BY ANY COURT OTHER THAN HIGH COURT UNDER SECTION 417
Appeal may lie to the high court against an order of acquittal passed by any court other than high court.
I- FORUM OF APPEAL
II- WHO MAY APPEAL UNDER SECTION 417
a) Provincial Government
b) Complaint
c) Any Aggrieved Person
A- PROVINCIAL GOVERNMENT
Provincial government may file an appeal through the public prosecutor, against an order of acquittal, whether original or appellate, passed by any court other than a high court.
B- COMPLAINT
If an order of acquittal is passed in a case instituted upon a complaint, the complaint may file an appeal to the High Court after fulfilling following conditions
i) Application for leave to appeal
Complaint has to file an application to the High Court for the grant of special leave to appeal against an order of acquittal.
ii) Limitation
An application has to be made within a person of six months from the date of an order of acquittal.
C- ANY AGGRIEVED PERSON
By virtue of sub-section 2-A of section 417, any person aggrieved by an order of acquittal may file appeal against it.
NOTICE TO ACCUSED UNDER SECTION 422
POWERS OF APPELLATE COURT IN AN APPEAL AGAINST ACQUITTAL UNDER SECTION 423
In disposing appeal against acquittal, appellate court may order the following
i) Dismiss the appeal; or
ii) Reserve such order and direct further inquiry be made; or
iii) Direct the re-trial of the accused; or
iv) Sent the accused for trial to the court of session or High court; or
v) Finds him guilty and passed sentence according to law
V- EFFECT
JOINDER OF CHARGES
• What persons may be charged jointly? Discuss in detail.
• What are necessary elements of charge? How it is framed whether separate charge should be framed for every distinct offence?
• Explain the term joinder of charge? Enumerate the provisions contained in Cr.P.C.
• What is meant by joinder of charges? Discuss in detail the law on the subject.
INTRODUCTION
RELEVANT PROVISIONS
Section 234, 235, 236 and 239
SEPARATE CHARGES FOR DISTINCT OFFENCES UNDER SECTION 233
For every distinct offence of which any person is accused, there shall be a separate charge and such charge shall be tried separately.
JOINDER OF CHARGES--- EXCEPTIONS TO THE RULE MENTIONED IN SECTION 233
Following are the exceptions to the rule mentioned in section 233
I- MORE THAN ONE OFFENCES OF SAME KIND WITHIN A YEAR MAY BE CHARGED TOGETHER UNDER SECTION 234
II- TRIAL FOR MORE THAN ONE OFFENCES UNDER SECTION 235
III- OFFENCES FALLING WITHIN TWO DEFINITIONS UNDER SECTION 235
IV- ACTS CONSTITUTING ONE OFFENCE BUT CONSTITUTES A DIFFERENT OFFENCE WHEN COMBINED
V- OFFENCE FOR WHICH A PERSON MIGHT HAVE BEEN CHARGED UNDER SECTION 236
VI- WHAT PERSONS MAY BE CHARGED JOINTLY UNDER SECTION 239
Following persons may be charged jointly
i) Persons accused of the same offence committed in the course of same transaction.
ii) Persons accused of an offence and persons accused of any abetment or an attempt to commit it.
iii) Persons accused of more than one offences of the same kind committed jointly within a year.
iv) Persons accused of different offences committed in the course of same transaction.
v) Persons accused of theft, extortion or criminal misappropriation and persons accused of receiving or retaining or assisting in the disposal or concealment of the property obtained in the commission of these offences.
vi) Persons accused of an offence under chapter XII P.P.C relating to counterfeit coin and person accused of any other offence relating to the same coin, or of abetment or attempt to commit such offence.