

# Cognizance



- Meaning (Application of legal mind)
- Limitation/Barred by any Provision
- Appreciation of Fact/Ingredients

# Who can take Cognizance

- Section 190 - BY JMFC/JMSC especially empowered by CJM

(a) upon Complaint

(b) Police Report

(c) information/own knowledge

Section 195 Cr.P.C.

- Offence under Section 172 - 188 and its abetment and conspiracy, No cognizance except on complaint by the Public Servant.

# Section 182 Vis a vis Section 211 IPC

Steps to Be Taken by The Magistrate On Receipt of a Closure Report / FF with A Recommendations for Prosecution 182 / 211 IPC Against the Informant .

- . Notice to Informant

- . Informant does not appear after due Service, **Accept FF and Proceed with Section 182 IPC.**

- . Informant appears after due Service, **No Protest - Accept FF and Proceed with Section 182 IPC**

- . Informant appears after due Service, **Files Protest - Do not accept FF and keep the Proceedings U/S Section 182 IPC on hold, unless fate of Protest is decided.**

## Caution Note ??????

- Offence under Section 199,200, 205 -211, 463, 471, 475, 476 and its abetment and conspiracy, when such offence is alleged to have been committed in relation to proceeding of Court/document produced in Court - **No cognizance except on complaint in writing by the Court or any Officer subordinate to it** .

\*\*\* Preliminary enquiry under Section 340 Cr.P.C. is required to be conducted prior to filing complaint.

- Section 196 Cr.P.C.

Offences under Section 253A, 295A, 505(1) IPC and its abetment conspiracy - Previous Sanction of Central Government/State Government is necessary.

### Section 197 Cr.P.C.

- Prosecution of Judge, Magistrate, Public Servant while acting or purporting to act in discharge of official duty - No cognizance without previous sanction.
- There must be reasonable nexux between the act alleged and Official act.

HOWEVER, IN CASE Of Offence punishable under Section 166A, 166B, 354, 354A,354B, 354C, 354D, 370, 376, 376A, 376C, 376D and 509-NO SANCTION

## Section 198 Cr.P.C.

Offence punishable under Section 493, 494, 495, 496 and 498. No Court shall take cognizance except on the complaint made in writing by the person aggrieved.  
(Bigamy),

HOWEVER,

- > 18 Years, I diot, Lunatic, Sick, Pardanashin lady Husband serving in Army -  
**Authorized person**
- In case the aggrieved person is wife then complaint may be filed by her father, mother, brother, sister, son, daughter, Chacha, Bua, Mama, Mausi .....???

JIIJA/FUFA ?????? XXXXX With leave of Court

- Offence under Section 376 by a man with his own wife being under 18 years of age - after one year of the said occurrence ??? Section 198(6)

## Section 198A Cr.P.C.

No Court shall take cognizance of an offence punishable under Section 498A IPC except upon Police Report or a Complaint made by the person aggrieved or by her father, mother, brother, sister or Chacha, Bua, Mama, Mausi ??????

JIIJA/FUFA ?????? XXXXX With leave of Court

## Section 198B

No Court shall take cognizance of an offence punishable under Section 376B IPC except upon complaint having been filed by the Wife.



# Cognizance under special laws.

- Negotiable Instruments Act
- Epidemic Act,
- Air Pollution Act
- Disaster Management Act Alongwith IPC Offence ??
- MMDR Act + IPC = ??

## Dharampal Vs State of Haryana

AIR 2013 (SC) 3018

## Whether a Court of Session can take cognizance of the offence without the case being committed to it ????? Section 199 Cr.P.C.

Defamation of high dignitaries including President, Vice President, Governor, Minister, Public Servant etc .

## Whether a Court of Session can take cognizance of the offence without the case being committed to it ????? Section 193 Cr.P.C.

- Except as otherwise provided
- No COS shall take cognizance
- Of any Offence
- Original Jurisdiction
- Unless the Case has been Committed

# Care to be taken of while passing cognizance order

- Section 190 (Cognizance of Offence)

. Section 204 (Procees issued against accused person)

. Offenc Centric Vs Accused Centric

. Composite Order.

. Frivolous litigation

. Civil Dispute

. No mechanical cognizance

• **Amaresh Kumar Dhiraj Vs State of Jharkhand**, 2020 (1) JLJR 199

• **Krishna Lal Chawla Vs State of UP and Others Cr .  
Appeal 282/2021 Dated 08.03.21**

• **Pepsi Foods Ltd. Vs Special Judicial Magistrate,  
1908 (5) SCC 749**

# General Mistakes Committed by Court

- . By Magistrate himself
- . No Draft Order
  - . Accused x, Cognizance Y (Not Sent Up)
  - . Typographical Error
  - . Definition Section
  - . Want of Sanction (???)