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<b>TITLE OF ASSIGNMENT</b>	<b>:</b>	<b>ANNUAL EXAMINATION 2021</b>
<b>TITLE OF COURSE</b>	<b>:</b>	<b>CRIMINAL PROCEDURE CODE(CR. P.C) &amp; MEDICAL JURISPRUDENCE</b>
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## **PART A (CR. P.C)**

### **Answer Sheet**

**Answer Question 1:**

#### **Answer Sheet**

**Answer Question (1):**

**(a) Describe in detail the five important schedules Cr.P.C?**

Following are the 5 schedules of Cr.P.C:

**1. Schedule -I (Enactments):**

It is repealed

**2. Schedule – II (Tabular Statement of Offences):**

This Schedule is tabular statement showing total 8 heads containing following:

- I. PPC Section.
- II. Offence.
- III. Whether the police may arrest without warrant or not.
- IV. Whether a warrant or a summons shall ordinarily issue in the first instance.
- V. Whether bailable or not.
- VI. Whether compound-able or not.
- VII. Punishment under the Pakistan Penal Code.
- VIII. By what Court triable.

Further details of these heads are explaining in B part of the same question.

**3. Schedule – III (Cr.P.C. Section 36): ORDINARY POWERS OF PROVINCIAL  
MAGISTRATES:**

Importance of Schedule – III is mentioned in Section 36 of Cr.P.C. and it is mentioned as that All Judicial and Executive Magistrates have the powers hereinafter respectively conferred upon them and specified in the Third Schedule. Such powers are called “their ordinary powers”.

**4. Schedule – IV (Cr.P.C. Section 37): ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATE MAY BE INVESTED:**

Importance of Schedule – IV is mentioned in Section 37 of Cr.P.C. and it is mentioned as that In addition to his ordinary powers, any Magistrate may be invested by the Provincial Government with any powers specified in the Fourth Schedule:

Provided that, in case of a Judicial Magistrate, such powers shall be conferred on the recommendation of the High Court;

Provided further that the Provincial Government may authorize a District Magistrate to invest any Magistrate subordinate to him with any powers specified in Part II of the Fourth Schedule.

**5. Schedule –V (Cr.P.C. Section 555): FORMS;**

In Section 555 of Cr.P.C. it is mentioned that Subject to the powers conferred by Section 554, and by Articles 202 and 203 of the Constitution, the forms set forth in the Fifth Schedule, with such variation as the circumstances of each case require, may be used for the, respective purposes their in mentioned, and if used shall be sufficient.

There are Forms from Form#1 to Form# 53.

**(b) Discuss in detail the different heads of II Schedule with examples?**

The **Code of Criminal Procedure** commonly called Criminal Procedure Code (CrPC) is the main legislation on procedure for administration of substantive criminal law in Pakistan whereas Schedule II is very useful document giving information of PPC section reference,

offence, cognizable and non-cognizable, warrant or summon requirement in case of non-cognizable offence, bailable or non bailable, compoundable and non compoundable, punishable under PPC or not and finally where the trial will be run; all necessary information of any specific offence will be executed through the information available in schedule II of CrPC.

There are eight heads in schedule II of CrPC which are as under:

1. P.P.C Section
2. Offences
3. Whether the police may arrest without warrant or not
4. Whether a warrant or a summon shall ordinarily be issued in the first instance
5. Whether bailable or not
6. whether compoundable or not
7. Punishment under the PPC
8. By what court triable

Aforementioned all eight heads of schedule II is described one by one with examples as follows:

### **1. PPC section**

First head of schedule II is reference of Pakistan Penal Code section as a reference of substantive law to deal with.

#### ***For instance:***

- 145 : means “Joining or continuing in unlawful assembly, knowing it has been commanded to disperse”
- 295C : means “Use of derogatory remarks etc. in respect of the Holy Prophet”
- 337M : means “Hurt not liable to qisas”

We can conclude that the refer section of PPC is quick reference for lawyer and other related officers of law enforcement agency i.e. normally police.

### **2. Offences**

Offences are available in the schedule II for quick review purpose but the disclaimer is written on the top of the schedule II that in some cases the offence descriptive information is not available but sections are available and can be checked from PPC directly.

We have description is also available in most of the cases even in short form.

*For example*

- Person of Quadiani group, etc., calling himself a Muslim or preaching or propagating his faith : section 298C
- Qatl-i-amd : section 302
- Qatl committed under ikrah-i-tam : section 303

### **3. Whether the police may arrest without warrant or not**

Schedule II defines cognizable or non-cognizable offence. Accordingly to the section 4 clause (f) of CrPC cognizable offences are those in case of which police officer may arrest the accused in accordance with second schedule or any other law for the time being enforce without any warrant. In contrary with the above situation police officer may require prior warrant or order by the court to arrest the accused if the matter is declared as non cognizable in schedule II.

Please note that all major cases like murder, rape, theft etc. are cognizable and police has right to arrest accused without any warrant or court order.

*For instance* if a crime qatl-e-amd is committed by someone, police has full right to arrest the accused due to power given in schedule II of CrPC, this is declared as cognizable offence.

### **4. Whether a warrant or a summon shall ordinarily be issued in the first instance**

The schedule II also provide the information that either warrant or summon shall be ordinarily be issued in first instance or not. This information is needed for non cognizable offences.

*For instance* in section 109 a warrant or summon may be issued in first instance while in section 121 only warrant may be issued while against section 137 only summons may be issued.

**5. Whether bailable or not**

According to the section 4 clause (b) of Cr. P.C. : Bailable offences are those mentioned in second schedule and declared as bailable under this code or any other law of the time being in force. All offences other than mentioned as bailable are non-bailable offences.

**6. Whether compoundable or not**

The second schedule is also giving information as per law that the case is compoundable or non-compoundable. Compoundable means : Compoundable offences are those offences where, the complainant (one who has filed the case, i.e. the victim), enter into a compromise, and agrees to have the charges dropped against the accused.

**For example**

- Section 140 is Non-compoundable offence
- Section 426 is compoundable in some offence
- Section 355 is purely compoundable offence

**7. Punishment under the PPC**

Punishment under PPC is also a part of second schedule but it is mentioned on the schedule that if punishment detail is not available anywhere in the schedule it may be checked with the P.P.C.

*For example*

Section 354-A - Punishment - Death or imprisonment for life, and fine

Section 269 - Punishment - Imprisonment of either description for 6 months or fine or both

**8. By what court triable**

This is also mentioned in the second schedule that where the trial will be run. Trial may be done in Court of session or Magistrate of 1<sup>st</sup> class or any judicial magistrate etc.

*For example*

Section 447 offence trial may be run by any judicial magistrate

Section 453 offence trial may be run by Magistrate of First or Second Class

Section 459 offence trial may be run y court of session

**Conclusion**

We may conclude that the schedule II of Cr.P.C. is the primary document for law officer and other law professional. This document provides all necessary informations to run the trail as per procedural law whereas reference of substantive law is also available in each case. Schedule II is like a key for every law professional and greatest useful document.

**Answer Question 2:**

**Question 02(a):**

Answer:

**COGNIZABLE OFFENCE:**

The cognizable offence has been defined in Section 2(C) of the Code, wherein a Police officer can arrest without warrant. The offence is of serious nature and is a public wrong, where the prosecution is done at the discretion of the state. Punishment is given with imprisonment of 3 years or more and with or without fine.

**Example** –Robbery, Rape, Murder, etc.

When the cognizable offence occurred, the police officer reduced the offence in writing in register No. 1 (FIR Register) at police Station.

**NON-COGNIZABLE OFFENCE:**

Non Cognizable offence and case have been defined in Section 2 (1) of the Code, wherein the police cannot arrest without warrant. The offence is less serious in nature and the prosecution is done at the initiative of the parties. Punishment may be given not exceeding 3 years of imprisonment.

**Example** – Assault, Forgery, Defamation, etc.

When the Non cognizable offence occurred, the police officer reduced the offence in writing in register No. 2 (Roynamcha / Daily Diary) at police Station.

**DETAIL ABOUT LODGING THE FIR AT POLICE STATION:**

First information report (FIR) is a document prepared by police, when police receive information about the commission of a cognizable offence by the victim of a cognizable offence or by someone on his or her behalf (informant / complainant), but anyone can make

such a report either orally or in writing to the police and firstly police has to see whether the offence is cognizable, if found any cognizable offence then police has to reduce the offence in 1<sup>st</sup> registered (FIR Registered) as described under as per law and following procedures were adopted by police when an FIR is to be lodged.

- When information about the commission of a cognizable offence is given orally, the police must write it down.
- The complainant or supplier of the information has a right to demand that the information recorded by the police be read to him or her.
- Once the information has been recorded by the police, it must be signed by the person giving the information.
- The complainant can get a free copy of an FIR.
- An FIR includes the date, time, place, incident details, and a description of the person(s) involved.

**Question 02(b):**

**Answer:**

**LODGING OF FIR TILL CHALLAN (SECTION 154 TO 173 Cr.P.C)**

The Sections 154 to 173 deals with Investigation. An investigation is an important segment of criminal procedure. The first step after a crime is committed or information received by a police officer about the commission of an offence a procedure is start called investigation. Investigation includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

**The preliminary proceeding of an offence consists of:**

1. Proceeding to the spot.
2. Ascertainment of facts and circumstances of the case.

3. Discovery and arrest of the suspect.
4. Collection of evidence which may include:
  - Examination of persons concerned and reducing their statement to writing.
  - Search and seizure of places and things respectively considered necessary.
5. Formation of opinion as to whether there is a case for trial, and taking necessary steps accordingly.

### **1. INFORMATION TO THE POLICE OFFICER (SECTION 154 CR.P.C):**

Section 154 of the code talks about when information is given as a cognizable offence. The information must be given by the informant to the officer in charge of a police station in writing or must be reduced into writing by the officer in charge of the police station. The written information has to be read over to the informant and be signed by him, which is called “First Information Report.” When the information is given by a woman against whom any of the offences under Sections 326-A, 326-B, 354, 354-A to 354-D, 376, 376-A to 376-E or 509 PPC is alleged to have been committed or attempted, such statement shall be recorded by a woman police officer.

After the information has been received by the police officer, he shall start his investigation, provided he has reasons to suspect that a cognizable offence has been committed.

### **2. POWER OF POLICE TO INVESTIGATE (SECTION 156 CR.P.C):**

Section 156 of the code empowers the officer in charge of a police station to investigate a case in his territorial jurisdiction without the order of the Magistrate if the offence is cognizable in nature. The officer may also initiate an investigation on the orders of the Magistrate empowered under Section 190.

### **3. PROCEDURE OF INVESTIGATION (SECTION 157 CR.P.C):**

Section 157 of the Code lays down the procedure of investigation to be followed by the police, for collection of evidence. The investigation of a cognizable case begins when a police

officer in charge of a police station has reason to suspect the commission of a cognizable offence on the basis of FIR or any other information so received. It requires that prompt intimation of the FIR be sent to the Magistrate. The officer shall then proceed in person to the spot for investigation of facts and circumstances, or shall depute one of his subordinate officers for the same, and if required, measures for the discovery and arrest of the person shall be taken.

**4. SENDING A REPORT TO THE MAGISTRATE (SECTION 158 Cr.P.C):**

A report is sent to the Magistrate which is called the police report. It is sent by the superior police officer, so as to make the Magistrate aware that a particular case is being investigated by a police officer. The main objective of sending a report is to enable the Magistrate to control the investigation and give directions if required under Section 159 of the Code.

**5. ORDER OF INVESTIGATION BY THE MAGISTRATE (SECTION 159 Cr.P.C)**

The Magistrate, under Section 159, has been empowered, if he feels necessary, after receiving the report to direct investigation, or to conduct himself or direct a subordinate Magistrate to hold a preliminary inquiry. And as held by the Supreme Court, the Magistrate has no power to stop the investigation after it has started.

**6. ATTENDANCE OF WITNESSES (SECTION 160 CR.P.C):**

The police officer making the investigation is empowered under Section 160 to require the attendance of any person as a witness who is acquainted with the facts and circumstances of the case. The above-mentioned section also provides that no male person or woman who is under the age of fifteen years shall be required to attend any place other than the one in which the male person or women resides. The State Government shall make rules for the payment of reasonable expenses incurred by persons for attending any place other than their residence.

**7. EXAMINATION OF WITNESSES BY POLICE (SECTION 161 CR.P.C):**

Any police officer who is in charge of the investigation or any other officer who is acting on the request of an officer in charge shall and is empowered to examine a witness or person who is acquainted or aware of the facts and circumstances of the case put before him. Section 161 of the Code confers powers on police to examine witnesses. The statements of witnesses are important as they can make a person guilty or innocent. The persons who are being investigated are expected and bound to answer truly all the questions relating to such cases put before them. They are not bound to truly answer the questions which would expose them to a criminal charge or any other charge. After the examination, the police officer making the investigation shall reduce the number of statements given by the person in the course of the examination. And if done so, he shall keep a separate record of the same. He is not bound to reduce the statements into writing but it is preferred that he does so.

**8. STATEMENTS TO THE POLICE NOT TO BE SIGNED (SECTION 162 CR.P.C):**

The statements made by the witnesses during examination need not be signed by him. Neither should be used at any inquiry or trial. The statements made by the witness can be used in the court only to contradict him, and not corroborate him. If the witness is brought from the prosecution side, any part of his statement if proved may be used by the accused and can be used by the prosecution only with the Court's permission, to contradict him. That is, statements made under Section 161 can be used to contradict him.

**9. RECORDING OF CONFESSIONS AND STATEMENTS (SECTION 164 CR.P.C):**

Any magistrate whether metropolitan or judicial, if he has jurisdiction or not in the case, is empowered under Section 164 to record any statement or confession made to him in the course of the investigation. But a police officer on whom powers of a magistrate have been conferred for the time being is not empowered to record the same. The magistrate, before recording the statement is required to explain it to the person giving the statement that he is not bound to give it and the statements can be used as evidence against him. The magistrate has to

make sure that the person making the confession is doing it voluntarily. The Magistrate cannot authorize the detention of that person in police custody if the person refuses to give a statement at any time before the confession is recorded.

**Recording of Confession When Magistrate has no Jurisdiction:** A Magistrate who records statements and confession when he does not have the jurisdiction to do so, he shall forward it to the competent Magistrate who has to inquire into the case or by whom the trial is to be done.

**Admissibility of Evidence:** The confession recorded under section 164 can be used as substantive evidence, without being formally proved. Record of such confession is admissible as evidence. Entire confession must be brought on record. The Court must carefully weigh it with other evidence. The Court may reject part of it.. Where the confession was found rejected, the convictions based on them could not be sustained.

#### **10. SEARCH BY POLICE OFFICER (SECTION 165 CR.P.C):**

A police officer is empowered under Section 165 of the Code to search for any place which he has reasonable grounds to believe that contains something necessary with respect to the investigation he is authorized to make.

The grounds for issuing a warrant for search are provided in Section 93(1) of the Code. The search is required to be noted in a diary which is prescribed for this purpose, by the state government.

A police officer has to record in writing his reasons for the search, the place to be searched and the thing that has to be searched in that place, after which he proceeds in person. If the police officer is unable to do the search himself, then he may, in writing, order his subordinate officer to conduct the search, directing him to the place to be searched and the thing to be searched for. And the subordinate officer can then conduct the search on the basis of the written order given to him. The officer should make a record of the search done and send

a report of the same to the nearest Magistrate who can further furnish it to the owner/occupier of the place searched, free of cost, on application.

**11. WHEN INVESTIGATION IS TO BE DONE OUTSIDE THE JURISDICTION OF P.S. (SECTION 166 CR.P.C):**

When the investigating officer or any of his superior officer has reasons to believe that necessary evidence may be available in a place outside the jurisdiction of P.S,

**12. PROCEDURE WHEN INVESTIGATION CANNOT BE COMPLETED WITHIN 24 HOURS (SECTION 167 CR.P.C):**

Section 167 deals with the procedure when investigation cannot be completed within 24 hours. The purpose of this section is to ensure liberal democratic ideology. The object is to protect the accused from atrocities of the police and to give the opportunity to the Magistrate to decide the question of further custody, to facilitate the investigation, and no detention without trial. For this purpose, it has been provided that the accused or arrested person cannot be detained for more than 24 hours. Section 167 is attracted in the following circumstances:

1. When the accused is arrested without a warrant and is detained by the police officer in his custody.
2. More than 24 hours needed for an investigation.
3. There are grounds to believe that accusation or information against him is well-founded.
4. The officer in charge of a police station or the investigating officer not below the rank of sub-inspector forwards the accused for remand before the Magistrate.

The judicial Magistrate to whom the accused is so forwarded may authorize the detention of such person in such custody for a term not exceeding 15 days. If the Magistrate does not have the jurisdiction to try the case and considers further detention unnecessary then the accused shall be further forwarded to the Magistrate having jurisdiction to try the case.

The Magistrate shall authorize the detention of the accused (but not in police custody) if he has reasons and grounds to believe the necessity of doing so. But in any situation, the Magistrate cannot order detention for a period exceeding:

1. 90 days, when the person is accused of an offence punishable with imprisonment for a period not less than 10 years of imprisonment for life or death.
2. 60 days, when accused of any other offence. And on the expiry of the period of 60 days or 90 days, whatever the case may be, he shall be released on bail if he is able to furnish sureties.

This period is to be calculated from the date of detention and not from the date of arrest.

If the Judicial Magistrate is absent, the Executive Magistrate or the Metropolitan Magistrate on whom the powers of a Judicial Magistrate have been conferred for the time being will act. The Executive Magistrate shall order for detention for a period not exceeding 7 days. If further detention is to be made, the accused shall be forwarded to the competent Magistrate. If the order is given by any Magistrate other than the Chief Judicial Magistrate, he shall forward a copy of his orders also stating the reasons for making so, to the Chief Judicial Magistrate.

In a Summons Case, if the investigation is not complete within 6 months, the Magistrate is required to order to stop the investigation unless he has reasons and grounds to believe that further investigation is necessary for the interest of justice. If the Magistrate has ordered to stop the investigation and an application is made to the Sessions judge against the order, then the sessions judge is empowered under Section 167(6) to discard the order given by the Magistrate under subsection 5, if reasonable grounds exist for doing so.

**13. RELEASE OF ACCUSED WHEN EVIDENCE IS DEFICIENT (SECTION 169 CR.P.C):**

When there is not sufficient evidence and reasonable grounds to justify the forwarding of the accused to the Magistrate, the police officer shall release him on him executing a bond, with or without sureties, and may direct him to appear before the magistrate when required.

**14. CASES TO BE SENT TO MAGISTRATE WHEN EVIDENCE SUFFICIENT (SECTION 170 CR.P.C.):**

When the police officer has sufficient evidence and reasonable grounds, he shall forward the accused to the Magistrate, so that the Magistrate can take cognizance of the offence

and try the accused or commit him for trial. If the offence is bailable, the accused shall be given security and be released on bail, only to appear before the Magistrate when required, and for his day to day attendance before the Magistrate.

**Note:** The Complainant and witness are not required to accompany police officer in section 171 Cr.P.C

**15. DIARY OF PROCEEDINGS IN AN INVESTIGATION (SECTION 172 CR.P.C):**

This section relates to the contents of a case diary, which every police officer making an investigation has to maintain. The object of this section is to enable the Magistrate to know what was the day to day information by a police officer who was investigating the case. Oral statements of witnesses should not be recorded in this case diary. This diary may be used at trial or inquiry, not as evidence, but to assist the court in proceeding with the case.

**16. REPORT OF POLICE ON COMPLETION OF THE INVESTIGATION (SECTION 173 CR.P.C):**

Final report of a police officer after the completion of the investigation is to be sent to the Magistrate under Section 173. This report is generally called a “Chargesheet” or “Challan”. Where a superior officer has been appointed by the State government, the report shall be sent by him to the Magistrate. And while the orders of the Magistrate are pending, he shall direct further investigation to the officer in charge of the police station.

If according to the police officer, a part of the statement in the report submitted by him is not relevant, he shall request the Magistrate to exclude that part and not consider it. Also, further investigation can be made even after the submission of the report to the Magistrate.

**CONCLUSION:**

The Sections 154 Cr.P.C to 173 Cr.P.C from lodging of FIR till submission of Challan is collectively called investigation and investigation is an extremely thorough process in criminal law.

**Answer Question 3A:**

**COMPLAINT BEFORE THE MAGISTRATE:-**

Before Magistrate a Complaint is filed by an aggrieved person who wishes to commence Private Prosecution. Private Prosecution is the pursuit of criminal legal proceedings by a private individual, who believes that an offence has been committed against him.

Complaint means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code that some person whether known or unknown, has committed an offence, but it does not include the reports of a police-officer.

**THE PROCEEDINGS OF THE COMPLAINT:**

The followings sections of Criminal Procedure Code dealt with proceedings of complaint before Magistrate.

**1. EXAMINATION OF COMPLAINANT (SECTION 200 CR. P.C):**

A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows:--

i). when the complaint is made in writing, nothing herein contained shall Be deemed to require a Magistrate to examine the complainant before transferring the case under Section 192, [or sending it to the Court of Session];

ii). When the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complainant has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;

iii). When the case has been transferred under Section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

**2. COGNIZANCE NOT TAKEN BY MAGISTRATE (SECTION 201 Cr. PC):**

If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect. When the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

**3. POSTPONEMENT OF ISSUE OF PROCESS (SECTION 202 Cr. PC)**

Any Court, on receipt of a complaint of an offence of which is authorized to take cognizance, or which has been sent to it under Section 190, sub-section (3), or transferred to it under Section 191 or Section 192, may, if it thinks fit, for reasons to be recorded, postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case itself or direct an inquiry or investigation to be made by a police-officer, or by such other person as it thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of Section 200.

(2) A Court of Session may, instead of directing an investigation under the provisions of sub-section (1), direct the investigation to be made by any Magistrate subordinate to it for the purpose of ascertaining the truth or falsehood of the complaint.

(3) If any inquiry or investigation under this section is made by a person not being a Magistrate, (or justice of the Peace) or a police-officer, such person shall exercise all the powers

conferred by this Code on an officer-in-charge of a police-station, except that he shall not have power to arrest without warrant.

(4) Any Court inquiring into a case under this Section may, if it thinks fit, take evidence of witnesses on oath]

#### **4. DISMISSAL OF COMPLAINT (SECTION 203 Cr. PC)**

If a Magistrate found that the complaint is not maintenance as per law then same be dismissed in this section.

#### **Issuance of process (SECTION 204 Cr. PC):-**

If in the opinion of a Court for taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be done in which, according to the fourth column of the second schedule a summons should issue in the first instance, Court shall issue summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, Court may issue a warrant, or, if, Magistrate thinks fit, a summons for causing the accused to be brought or to appear at a certain time before such Court or has no jurisdiction [itself] some other Court having jurisdiction.

(2) Nothing in this section shall be deemed to affect the provision of Section 90.

(3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees, are not paid within a reasonable time, the Court may dismiss the complaint.

#### **5. MAGISTRATE MAY DISPENSE WITH PERSONAL ATTENDANCE OF ACCUSED (SECTION 205 CR.P.C):**

(1) Whenever, a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

**Answer No. 3B**

**Introduction: -**

In every trial by magistrate initiated upon a police report or direct complaint before a magistrate U/s 200 of code of criminal procedure, may take cognizance of any offence upon receiving a complaint of facts which constitute such offence, and a report in writing of such facts made by any police office, or upon information received from any person other than a police officer, or upon his knowledge or suspicion.

**Trial proceedings before Magistrate: -**

According to section 241 of code of criminal procedure, a magistrate may observe in trial of cases follow the procedure in section 241 to 245 for trial of cases falling in his jurisdiction.

- 1) Supply of copies u/s 241-A
- 2) Charge of framed u/s 242
- 3) Conviction on admission u/s 243
- 4) Process when the accused plead not guilty
- 5) Evidence
- 6) Acquittal or sentence.

**Trial proceedings before District and High court: -**

The following procedure shall be observed by the High courts and the courts of session in the trial of cases triable by the said courts.

- 1) Public prosecution means any person appointed under section 492, Cr pc and includes assistant public prosecutor and any person conduction prosecution under public prosecutor;

- 2) Section 265-B relates to procedure in cases trailable by High Court and session court.
- 3) In all cases instituted upon police report copies of the documents are to be Supplied free of cost to the accused seven days before the commencement of the trail u/s 265-C, section 265-C makes obligatory on the part of prosecution to supply to the accused free of cost, the following documents, i.e (a) the first information report (b) the police report (c) the statement of all witness recorded under section 161 and 164 of code of criminal procedure
- 4) The inspection note recorded by an investigation officer on his first visit to the place occurrence and note recorded by him on recoveries made if any.
- 5) Section 265-D provides that after perusing the police report and the complaint and all other documents and the statement filed by the prosecution as the case may be, the court is to form his opinion as to the existence of ground for proceeding trial.
- 6) According to section 265-E the charge is to be read explained to the accused and he shall be asked whether he plead guilty or has any defense to make.
- 7) Section 265-E deals with production of evidence by the prosecution is case the accused does not plea guilty or the court does not convict him on his plea.
- 8) Section 265-G refers to summoning up by prosecution or the accused as the case may be.
- 9) It is entirely in the discretion of the public prosecutor to say what witness he will examine and in what order.
- 10) Section 265-J confers power on the trail court to treat the statement of a witness duly having U/s 164 Crpc on notice and in the presence of the accused having been opportunity of cross-examining the witness as evidence for all purpose subject to the provision of Qanun-e-shahadat.
- 11) Section 265-K empowers the trail court to acquit the accused at any stage even if the witness are not examined.

**Answer No. 4(A)**

**INTRODUCTION:**

The criminal justice processes have serious repercussions for an individual's right to life and personal liberty and therefore, the decisions of lower courts should be scrutinized to obviate any miscarriage of justice. Every institution created by humans is fallible and so is true of courts. It is this realization that demands that the laws on criminal procedures contain specific provisions on appeal against a judgment or order of the courts.

The Code of Criminal Procedure, 1973 (hereinafter Cr.P.C), contains elaborate provisions on appeals against a judgment or order of the criminal courts. However, C.r.P.C provisions are not the only provisions wherein one can find the process pertaining to appeals. Several of special and local legislations incorporate appellate process which may mark a departure from the general appellate process contained in C.r.P.C.

**APPEAL :**

The word "appeal" has not been defined in The Code of Criminal Procedure, 1973, (hereinafter Cr.P.C), however, it can be described as the judicial examination of a decision, given by a lower court, by a higher court. The Merriam-Webster dictionary defines appeal as "*a legal proceeding by which a case is brought before a higher court for review of the decision of a lower court*"

**Appeals to the Sessions Court:**

A Sessions Court is the highest court within the Sessions Division. This in no way means that appeals against the decisions of the criminal courts shall lie straight to the Sessions Court. An appeal against a conviction recorded by a Magistrate of the Second Class may be heard and decided by an Assistant Sessions Judge or a Chief Judicial Magistrate.<sup>6</sup> However, an Additional Sessions Judge, an Assistant Sessions Judge or a Chief Judicial Magistrate shall

hear only such appeals as the Sessions Judge may make over to him or as the High Court may, by special order direct him to hear.

This shows that even the first appeal is subject to statutory limitation and there is no right to appeal as such. The rationale being that courts which try a case are competent and there shall be a presumption that the trial has been fair.

**Manner and form of appeal to the Sessions Court:**

Ordinarily, appeals made to the Court of Session or a Sessions Judge are heard by the Sessions Judge or Additional Sessions Judge. However, where the conviction has been recorded by a Magistrate of the Second Class, it may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate. Every such appeal shall be made in the form of a petition in writing presented by the appellant or his pleader and every such petition shall be accompanied by a copy of the order or judgment of the court appealed against, unless otherwise directed by the appellate Court. If the appellant is in jail, he may appeal to the appropriate appellate Court by submitting his petition of appeal to the concerned officer in charge of the jail who shall forward the said petition to the appellate Court.

**Appeals to the High Court:**

In view of Section 374 (2), C.r.P.C, any person, convicted on a trial held by a Sessions Judge or Additional Sessions Judge or any other court whereby a sentence of more than seven years has been passed against him or any other person convicted at the same trial, may appeal to the High Court concerned. For every accused person sentenced to death by a Sessions Judge or Additional Sessions Judge in a trial held before him, there is a right of first appeal on facts to the High court under Section 374 (2) of the C.r.P.C. Independent of that right of appeal, the C.r.P.C contains an in-built mechanism for an automatic appeal on facts to the High Court under Section 366 of the C.r.P.C and this right of appeal is not dependent upon the option of the accused to prefer an appeal or not. This right of appeal has to be compulsorily afforded to

the accused by the Court of Sessions by making a reference under Section 366, C.r.P.C. When a reference under Section 366 of the C.r.P.C for confirmation of death sentence is made and an appeal under Section 374(2) has also been preferred, they are to be heard together. But if the appeal is preferred within the prescribed time, the reference will by itself constitute the first appeal on facts. Hence, as against an order of confirmation of death sentence passed under Section 368 of the C.r.P.C.

Special legislations may also provide for appeals directly to the High Court from the decisions of trial courts.

### **Appeals to the Supreme Court:**

The appellate process usually culminates with an appeal to the Supreme Court which is primarily a court of appeal. The Supreme Court, therefore, enjoys extensive appellate jurisdiction. However, every decision of the High Court may not be appealable in the Supreme Court. In order to restrict the flow of the criminal appeals to the Supreme Court and in recognition of the important place which the High Court enjoy in the appeals hierarchy, Article 134 of the Constitution regulates criminal appeals to the Supreme Court in such a manner that only important criminal appeals reach the Supreme Court.

Thus, an appeal lies to the Supreme Court from a judgment, final order or sentence of the High Court where the High Court has, on appeal, reversed an order of acquittal of an accused person and sentenced him to death. The Supreme Court has said that an accused person, who has been acquitted by the trial Court but sentenced to death at the appellate level, or has been tried by the High Court by withdrawal of the case from any other Court subordinate to it and in such trial has been visited with death sentence, or has secured a certificate that his case is of such great moment as to qualify for pronouncement by the Supreme Court.

Moreover, exercising its powers the Supreme Court may also hear criminal appeals firstly, if the High Court has on appeal reversed an order of acquittal of an accused and

sentenced him to imprisonment for life or for a period of not less than 10 years and secondly, if the High Court has withdrawn for trial before itself any case from a subordinate court and has convicted the accused and sentenced him to imprisonment for life or for a period of not less than 10 years.

**Summary:**

The appellate process provides an opportunity to correct any possible factual or legal errors in a judgment or order. However, appeals against the judgment, order or sentence of a Court can be preferred only when specifically provided for. Usually the right to appeal is a very constricted right as it has to be exercised within the statutory framework of the C.r.P.C or some other special and local legislation. Decision to appeal is completely discretionary except in the case where the accused has been sentenced to death by the Sessions Court. Moreover, appeals may not be allowed in certain cases and the judgment/order/sentence of the Court shall attain finality after it is delivered.

**QUESTION NO 04: B**

**INTRODUCTION:**

Criminal offences in Pakistan are divided into two categories: bailable and non-bailable offences. For bailable offences, bail is an accused person's right, whereas in non-bailable cases, bail may only be granted at the discretion of the court.

For non-bailable offences, Section 497 of the Code of Criminal Procedure (CrPC) provides that accused shall not be given bail if there are "reasonable grounds for believing" that they are "guilty of an offence punishable with death, imprisonment for life or imprisonment for ten years".

The designation of certain offences in Pakistan's Penal Code as 'bailable' or 'non-bailable' appears arbitrary: for example, kidnapping, assault, and accidental homicide are

bailable, whereas hurting religious sentiment, sedition, and promoting enmity between different groups are non-bailable.

The offences committed by an accused fall under two categories:

### **1.Bailable offences**

When any person accused for a bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail. In case of a bailable offence bail is a matter of right. If such officer or Court, thinks it fit such person may be released on a personal bond or with or without sureties it is up to him.

### **2.Non -bailable offences**

In case a person is accused of a non- bailable offence it is a matter of discretion of the court to grant or refuse bail and application has to be made in court to grant bail.

1. When a person accused of, or suspected of, the commission of any non- bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but –Provided that the Court may direct that a person referred to in clause (i) or clause (ii) as above, be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm: Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason: Provided also that the mere fact that an accused may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise

entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

- i. such person shall not be released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;
- ii. such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non- bailable and cognizable offence :
- iii. If it appears to such officer or Court at any stage of the investigation; inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed non- bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, subject to the provision of section 446-A and pending such inquiry, be released on bail or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.
- iv. When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter 6, Chapter 16 or Chapter 17 of the Indian Penal Code (45 of 1860) or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (!), the Court may impose any condition which the Court considers necessary-
- v. in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or
- vi. in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or
- vii. otherwise in the interests of justice.

- viii. An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons or special reasons for so doing.
- ix. Any Court, which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.
- x. If, in any case triable by a Magistrate, the trial of a person accused of any non- bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.
- xi. If, at any time after the conclusion of the trial of a person accused of a non- bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

## **PART B (Medical Jurisprudence)**

### **Answer Question 5:**

- 1) What are the important vital parts of our body? Describe in detail the difference between the Anti mortem and post Mortem injuries?

**Ans.**

There are five vital parts of human body are as under.

1. Heart
2. Brain
3. Kidney
4. Liver
5. Lungs

Difference between the Anti mortem and post Mortem injuries

<b>Anti- Mortem Injury</b>	<b>Post Mortem Injury</b>
Blood will freeze under skin If injury cause by blunt weapon	Blood will not freeze under skin If injury cause by blunt weapon
Edges on injury will be open due to muscular tissue and reaction of skin	Edges of injury will not be open
Blood which comes out from injury will freeze surrounding and around the injury	Blood comes out does not freeze, but it will be flowing
There will be swelling	Swelling will not be present very near
Color of injury will be pink	Color of injury will be white
Muscular and skin will be shrunk and turned Out	Muscular and skin will not be shrunk and turned out

**2) Describe in detail the Role and responsibilities of the following forensic experts and their reporting:**

**a) Finger print Expert**

Following is the system to apply finger system.

1. Recognition of chance impressions left at a scene of crime.
2. Identification of the weapon used for committing suicide or homicide.
3. Identification of habitual criminals.
4. Identification of suicides.
5. Recognition of deserters (defect).
6. Identification of persons suffering from loss of memory or those dead or unconscious after being involved in an accident.
7. Identification of decomposing bodies of unknown persons.
8. Prevention of impersonation.
9. As an extra precaution, on cheques, banker notes, and other legal documents which may bear a fingerprint in addition to manual signature.

The Advantages of fingerprint system: The advantage of this system are.

1. It is applicable to persons of all ages.
2. Prints can be obtained even from putrefied bodies.
3. Absolute identification is possible.
4. No special training or expensive instruments are necessary.
5. The system tends itself to easy classification.
6. The actual print is always available to check any suspected error.
7. The print can be transmitted from one place to another by a code message.

**b) Toxicologist expert**

A Toxicology expert witness is **a physician Toxicologist** who testifies on poisoning, overdose, and exposure to drugs, alcohol, toxins, or biological agents. Toxicology is a field of medicine dealing with the treatment of poisoning, drug overdose, and exposure to toxins or biological agents.

**c) Serologist**

The forensic serologist will be able to say where the blood came from. As a police serologist, his job was to match their blood to samples found at the scene of the crime. PGM is one of the enzymes examined by serologists.

**d) Anthropologist**

An anthropologist is a person engaged in the practice of anthropology. Anthropology is the study of aspects of humans within past and present societies. Social anthropology, cultural anthropology and philosophical anthropology study the norms and values of societies.

**B. What do you understand by the different systems of the human body, describe in detail the death and its reasons in case of.**

ANS.

Different systems of the human body

**1) Digestive system:**

This system intakes food, breaks it down into usable nutrients and excretes solid waste products. It includes the mouth, esophagus, stomach, and intestines. One of the most important purposes of food is to serve as cellular fuel. Also, carbohydrates, proteins, and fats can all be used by our cells as sources of the energy that they need to stay alive.

**2) Respiratory system:**

It executes the gas exchange between cells and the environment and includes trachea and lungs. The respiratory system takes oxygen from the environment and convert it into a form

that cell can use. In human, its mean that our lungs take in oxygen, and rapidly diffuse into the blood,

2) **Reproductive system:**

The human female reproductive system contains three main parts: the vulva, which leads to the vagina, the vaginal opening, to the uterus;

3) **Nervous system:**

This system allows perception, emotion, thought, and rapid response to the environment. It includes the brain and nerves. The nervous system allows us to sensory stimuli such as light, sound, smell, and touch from our environment.

It also allows rapid communication of stimuli within our body, such as sensations of pain, illness, and wellness. The nervous system accomplishes all of this using highly specialized cells

called neurons, which can transmit signals extremely fast by firing electrochemical potential

5) **Circulatory system**

This system moves materials between body systems, including oxygen, nutrients, hormones, and waste products. It includes the heart, arteries, and veins. This system takes only about a minute to circulate the whole body's entire blood volume thus making This a truly high- speed expressway for distributing oxygen, nutrients, messages, and removing waste.

In addition to oxygen and nutrients, this organ system also transports chemical messages, such as hormones, around the body. This allows the adrenal glands, for example, to send messages that cause our whole body to prepare for fight or flight

a) **Syncope**

This is death from failure of the function of the heart resulting in anaemia of the brain. It occurs when death is due to:

- 1) From hemorrhage,
- 2) Heart disease
- 3) Tobacco
- 4) Poisoning due to digitalis
- 5) Pathological state of blood
- 6) Aconite
- 7) Oleander
- 8) Exhausting disease

A part from organic diseases a syncopal type of death may result from reflex cardiac arrest or inhibition of the heart due to vagal stimulation or spontaneous ventricular fibrillation due to massive instantaneous physiologic death

**b) Asphyxia**

This is death from failure of the function of the lungs. It occurs in pathological condition or respiration system, such as in pneumonia, in paralysis of the respiratory center as in opium poisoning occlusion of the air [assuages, breathing of irrespirable gases, Postmortem appearances: the postmortem appearances are indeed characteristic and Comprise, cyanosis, pronounced lucidity petechial hemorrhages, and cardiac dilatation.as for

Example, the local injuries to the neck in hanging strangulation and throttling and colour of blood in acute carbon monoxide poisoning. Certain biochemical changes have also been regarded characteristic in case of frowning.

**c) Comma**

This is death from failure of function of the brain. It is due paralysis of the vital Centre. It is the mode of dying that occurs in compression of the brain resulting from.

**C. Describe in detail the different kinds of injuries, distinguish between SHUJJA AND JURRAH? Describe in detail their kinds under 337 Cr.P.C**

**ANS.**

Introduction of injuries: -

Injuries and their study are very important in medico-legal aspects. It often determines the guilt of the accused and helps in awarding punishment to him. Injuries often provide valuable information in respect of duration time and the manner of committing it.

**Meaning of Injury:**

An injury means a solution of disruption of the anatomical of any of the tissues of the body.

**Kinds of injuries: -**

- 1) Mechanical injuries
- 2) Abrasion injury
- 3) Bruises
- 4) Incised wound
- 5) Stab wound
- 6) Lacerated wound
- 7) Firearms Wound
- 8) Traffic injury
- 9) Thermal injury

**KINDS OF SHAJJAH JURRAH**

Shujjah has following kinds u/s 337 of Pakistan Penal Code.

1. Shajjah-i-khafifah
2. Shajjah-i-mudihah
3. Shajjah-i-hashimah
4. Shajjah-i-munaqillah
5. Shajjah-i-ammah
6. Shajjah-i-damigha

**KINDS OF JURRAH**

Jurran has following kinds u/s 337 of Pakistan Penal Code

1. Jaifah
2. Ghayr-jaifah