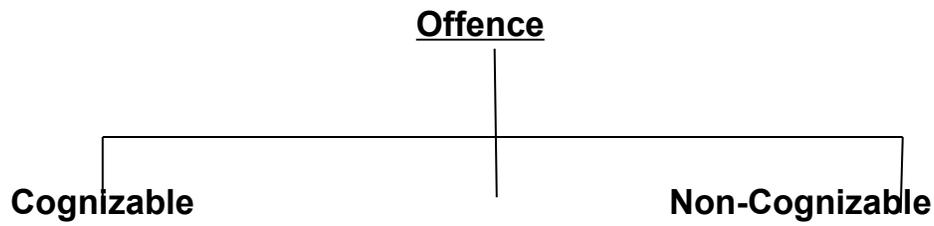
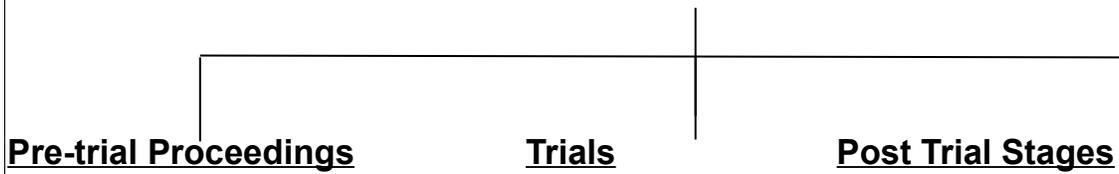


Type of Offences



Criminal Cases different Stages

Criminal Cases Stages



Criminal Cases



(1) Police Complaints

- Information-Complaint
- Arrest
- Production
- Bail/Remand
- Investigation / Inquiry
- Chargesheet (173(2))

- (1) Commencement of Trials**
- (2) Trials**
 - Sessions Trial
 - Warrant Trial
 - Summons Trial
 - Summary Trial

(1) Appeals

- Conviction Appeal
- Enhancement Appeal
- Acquittal Appeal
- (2) Revision (Applications)**

(2) Other Complaints

In Private Complaints
u/s 190(b) or upon
Information received by
Person other than police
or upon own information
Court u/s 190(c); Section 200
to 203 be followed.

Stage-1

Pre-trial Proceedings

Complaint to Police

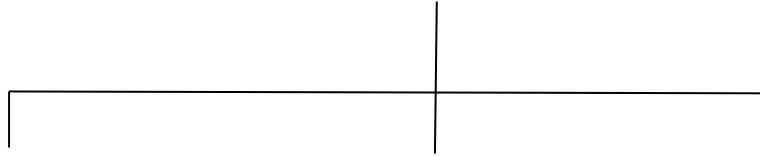
→ **Police do all Investigation, Search, take statements of witnesses, Bail, Remand Arrest and relating Provisions be followed and upon that Police Report is filed u/s 173(Charge sheet)**

Complaints

→ **In Private Complaints to a Magistrate (190(a)), Information received by person other than police (190(c)), or Court upon his own knowledge Court will follow the procedure of Complaints to Magistrate u/s 200 to 203**

Stage-2

Trials



Commencement of Proceedings

→ After Stage-1 proceedings as Police Report is filed u/s 173 or Complaints Proceedings u/s 200 to 203 is followed, This proceedings u/s 204 to 209 are followed.

Trials

→ After the commencing proceedings under section 204 to 209 Trials are Performed.

There are Four

Types of Trials.

1. Sessions Trial
2. Warrant Trial
3. Summons Trial
4. Summary Trial

Except Sessions all Trials are performed by the Magistrate. Trials initiated are same for both started on Police report or Complaints except in the Warrant Trial.

After trial either Accused Acquitted or Sentenced, he may also be given benefit of the Probation.

Stage-3

After Trial Proceedings

Appeals

Revision

- **Conviction Appeal**
Accused prefer Conviction Appeal against the order of Conviction.
- **Enhancement Appeal**
Enhancement Appeal is preferred by the State government (or Central government).
- **Acquittal Appeal**
Acquittal Appeal is filed against order of Acquittal of an accused, by the Government or if Trial was instituted upon Private Complaint Complainant (with leave to appeal by court).

→ **Revision is filed when there are no provisions of Appeal is not given.**

Criminal Cases Stages

Pre-trial Proceedings

Trials

Post Trial Stages

Stage-1 is regarding Pre-trial Proceedings. In case of Police Complaint of Cognizable offences

Pre-trial Stage : Stage-1

There are Two different Proceedings/Procedures for Complaint to police and in Complaint cases. They are also different for Cognizable and Non-Cognizable offences. So, Pre-trial Proceedings for Police Complaint of Cognizable or Non-Cognizable and Private Complaint for Cognizable and Non-Cognizable are different. It could be summarise as under.

- (1) Police Complaint - Cognizable Cases
- (2) Police Complaint - Non-Cognizable
- (3) Private Complaint - Cognizable
- (4) Private Complaint - Non-Cognizable

Infact there are totally four types of complaints. One Police Complaint, Two Private Complaint (Complaint to Magistrate), Three Information received (to the court) from any person other than a police officer, Four upon his (Court/Judge) own knowledge.

So, Includings above four there are other four proceedings in other complaints, that is to say either incase of 'Information received from any person other than police office' or incase 'upon his own knowledge' for the Cognizable and Non-Cognizable offences different.

- (5) Information received from any Person other than a Police - Cognizable
- (6) Information received from any Person other than a Police - Non-Cognizable
- (7) upon his own knowledge - Cognizable
- (8) upon his own knowledge - Non-Cognizable

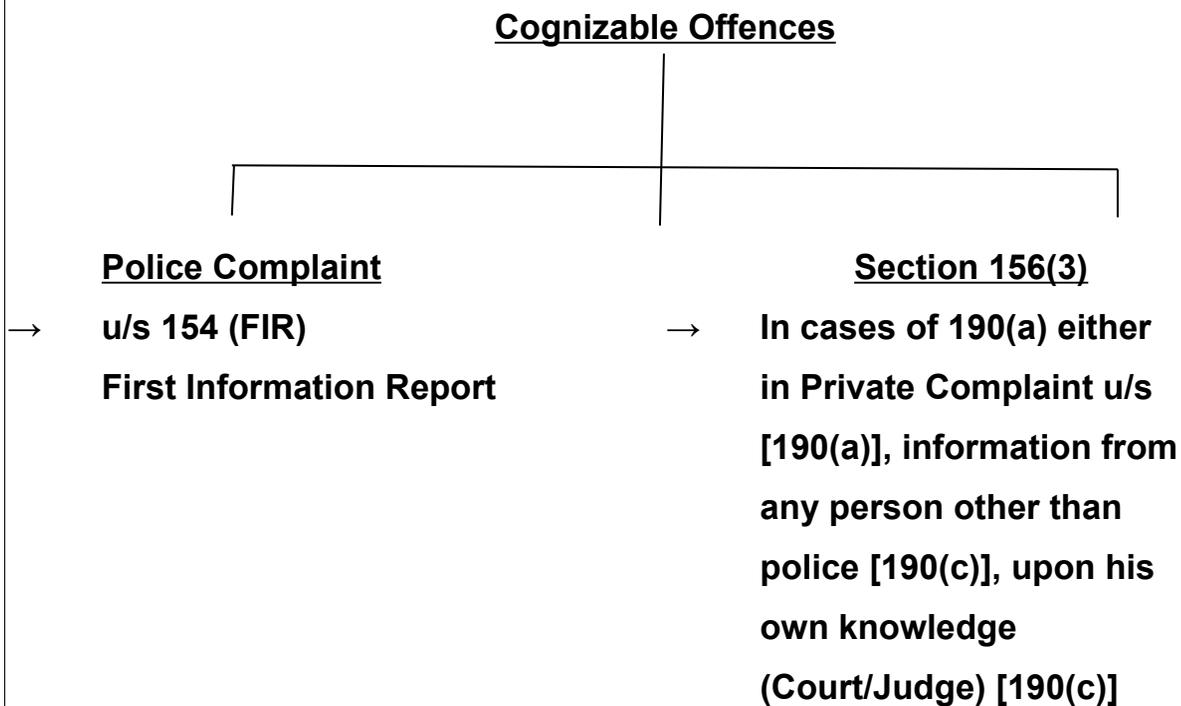
The abovementioned four complaints are based on Section 190 of the Code of Criminal Procedure. It is given that the 'Cognizance of offences by Magistrate'. However considering all provisions given it can be understood that, The Magistrate/Court is taking cognizance in which complaints are made either to court or to police. The Police Report is filed on the complaints made to the court. Where as for other three conditions, that is incases of Private Complaint, upon information from any person other than a police office, or upon his own knowledge falls in Complaints. For the Police Complaints Police follow investigation and file a report, where as in other three cases proceedings Section 200 to 203 are followed. The relevant provisions are given in these sections which make to be believed that when 'any information is given from any person other than a police officer' or when judge took cognizance by own self 'upon his own knowledge' are considered as a

Complaints.

Police Complaint

When Complaint is filed to the Police it be a Police Complaint. In cases of offences alleged are Cognizable Police files a complaint u/s 154 as a FIR (First Investigation Report) and do the Investigation of the offence; In cases of Private Complaint, Information by other person or upon his own knowledge court take cognizance of any 'Cognizable Offence' Court may order to Police do investigation u/s 156(3). Police in its Investigation Proceedings follow relevant Provisions given in sections 161 to 172 and file a Charge sheet u/s 173 which is considered as a Police Report [2(r)] and upon which Magistrate/court take the cognizance of the offence. [190(2)]. The other provisions relating to Arrest and subsequent procedure, Remand, Bail are also followed by the police.

In cases of offences are Non-Cognizable the police may do investigation on the order of court u/s 155(2). some time police starts investigation in the Cognizable Cases but later on its found only occurrence of Non-Cognizable offence/s, in Both of that situations police report is becomes the 'Complaint'. [2(d)]



Non-Cognizable Offences

Police Complaint

→ in cases of complaint
Magistrate orders
to do Investigation u/s 155(2)
and files a report u/s 173)

Section 2(d)

→ Investigation started u/s 154,
in Cognizable offences
later be found only (police
offence committed are
Non-cognizable
(Police report u/s 173
considers as a
Complaint and police
as a Complainant.)

“The Application for Investigate the Non-Cognizable case is only entertained when that is filed by police as a complainant and not otherwise. Private person can not go before the court for the same purpose or file an application under this section.”

“2007 CRI. L. J. 1364

"Kunwar Singh v. State of U. P."

ALLAHABAD HIGH COURT

Coram : 1 VINOD PRASAD, J. (Single Bench)

Cri. R. No. 6300 of 2006, D/- 22 -11 -2006.

Kunwar Singh v. State of U. P. and Ors.

Criminal P.C. (2 of 1974), S.155(2) - INVESTIGATION - POLICE OFFICERS - MAGISTRATE - Application for investigation into non-cognizable case - Can be filed by complainant - Section 155(2), Cr. P. C. does not provide that but for the Police Officer no other person can approach Magistrate for seeking his direction under aforesaid section.

1995 All LJ 1688, held not good law in view of 2006 (4) ALJ 731.”

“when police do investigation u/s 155(2) and file a report u/s 173 is not amount to a 'Complaint' like in section 2(d), its only considered as a 'Police Report' and not as a 'Complaint.’”

1981 CRI. L. J. 1116 "Inder Sain v. State"

DELHI HIGH COURT

Coram : 1 G. R. LUTHRA, J. (Single Bench)

Criminal Misc. (Main) No. 196 of 1980, D/- 22 -5 -1981.

Inder Sain and another, Petitioners v. The State, Respondent.

(B) Dowry Prohibition Act (28 of 1961), S.7(b) and Criminal P.C. (2 of 1974), S.2(d), S.155(2) - COMPLAINT - DOWRY - COGNIZANCE OF OFFENCE - INVESTIGATION - Complaint - Meaning of - Report to police - Does not amount to complaint - Grant of permission to police to investigate into non-cognisable offence on application by police - Such application also not complaint - Report made by police to Magistrate of offence under Dowry Act after one year of commission of offence - Proceedings on the basis of complaint not maintainable.

13. The word 'complaint' is not defined in Dowry Act. Provisions of the Code are applicable to the criminal trials under the special laws also. This is clear from a plain reading of Section 4 of the Code. Sub-Section (1) of Section 4 deals with the investigation and trials etc. of the offences under the Indian Penal Code. Sub-Section (2) deals with the investigation and trials etc. of the offences under any other law. Therefore, according to Sub-Section (2) of Section 4 offences under the Dowry Act are to be investigated, tried etc. under the provisions of the Code. The word complaint is defined in clause (d) of Section 2 of the Code which reads as under :-

" 'complaint' means any 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 does not include a police report."

"Explanation : A report made by a police officer in a case which discloses, after investigation the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant."

It is apparent from the definition that the complaint is always made to a Magistrate and any allegations made orally or in writing to a police officer is not a complaint. Hence complaint made by the complainant in the present case to the police officer on March 13, 1979 was not a complaint within the

meaning of provisions of the Code. As is clear from the definition of the word 'complaint' reproduced above report made by the police officer in respect of commission of non cognizable offence is also complaint. In the present case report under Section 173 of the Code was made to Shri O.P. Dewedi, Metropolitan Magistrate only August 20, 1979. Therefore, in the present case complaint was filed more than one year after the offences committed under the Dowry Act.

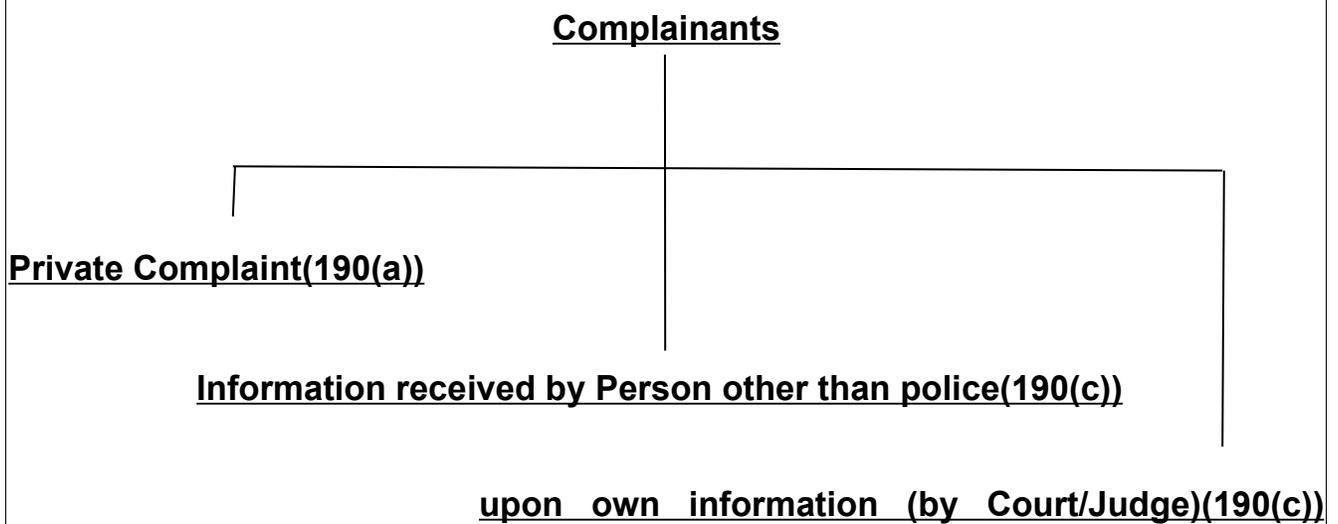
14. There is no doubt that on March 30, 1979 police applied to Metropolitan Magistrate under Section 155(2) of the Code and obtained permission to investigate offences committed under the Dowry Act. But that was an application made to a Magistrate and was not a complaint, definition of which has been reproduced above. It is apparent from that definition that only such report made by Police Officer which has been made after investigation which constitutes a complaint and any application made before investigation for the purpose of obtaining permission to investigate is not a complaint. The words 'after investigation' occurring in the explanation in the aforesaid definition clearly indicate to the above effect.

15. Further as was held in Devarapalli Lakshminarayana v. V. Narayana (1976) 3 SCC 252 : (1976 Cri LJ 1361) cognizance on a complaint is taken after some proceedings are taken by way of regarding statements of the complainant or witnesses under Section 200 of the Code. In that case a Magistrate on receipt of a complaint directed investigation the Police of cognizable offence under Section 156(3) of the Code. It was held that the Magistrate had not taken cognizance of the offence. In the similar way in the present case permitting investigation of non-cognizable offence under Section 156(2) of the Code did not amount to taking cognizance of the offence by the Magistrate.

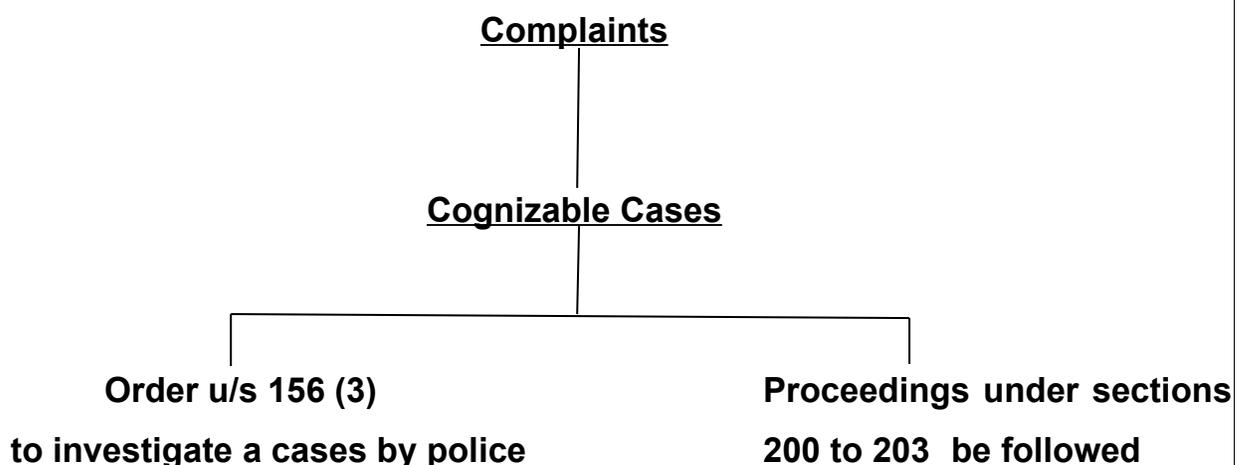
Private Complaints :

There are procedures of the filing Complaints in the court directly as well as there Provisions for taking cognizance of the offence by 'upon Information received from any person other than a police' or 'upon his own knowledge'.

Considering the facts that in Chapter XV 'Complaints to Magistrate' in sections 200 to 203, there is mentioned many times section 192, which is relating to making over cases by magistrate to others when he took cognizance of cases under section 190(c). Section 190(c) includes the Two different types of cognizance, One is 'upon information received form any person other than a police' or 'upon his own knowledge'. In section 202 Proviso (b) also mentioned provisoion for 'complaint not been made by a court'. So, considering these provisions it is to be believed that for Pre-trial stages Complaints made by, One by Private Person, Second 'upon information received from anyperson other than a police' and Third 'upon his own information(Court/Judge)' the provisions of section 200 to 203 of "Complaints to Magistrate", "Chapter XV" is to be followed. There is even no other seperate provisions are available on that.



Cognizance means court considers facts for the trial of the case. In police complaints. However in Police Complaints police do investigation and than file the 'Chargesheet' under section 173. where as in Complaints under section 190(a),(c) Provisions of Complaints are followed as per section 200 to 203.



Complaints



Non-Cognizable Cases



**Proceedings under sections
200 to 203 of Complaints to Magistrate be followed**

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