

A REVIEW OF SECTION 41A OF THE CODE OF CRIMINAL PROCEDURE, 1973

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ABSTRACT

The power to arrest possessed by the Police under the Code of Criminal Procedure, 1973 (2 of 1974) ('CrPC') is of a thorough nature and has been sought to be modulated through various judicial and legislative devices.

Section 41A was first introduced by the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009), which provided that in all cases where arrest is not required u/s 41(1) of the CrPC, the investigating officer 'may' issue a notice of appearance, which by the Code of Criminal Procedure (Amendment) Act, 2010 (41 of 2010) was made mandatory as 'shall'.

Nevertheless, sub-section 3 of Section 41-A of the CrPC provides that where an accused person complies with such notice u/s 41A (1) and attends before the Police officer issuing such notice, such Police officer can still arrest if he/she believes that such arrest is necessary. This power to arrest is subject only to the condition of recording such satisfaction, but without any judicial control over its exercise.

The Supreme Court has laid down that a preliminary inquiry must be conducted in cases where a cognizable offence is not disclosed by the information received. The scope of such preliminary inquiry is limited to gauging whether such information reveals a cognizable offence which may justify the registration of a First Information Report. The procedure u/s 41A of CrPC therefore is not contemplated at the stage of preliminary inquiry to receive self-inculpatory material from a proposed accused.

Self-incrimination at the pre-FIR stage is unknown to criminal law and is illegal.

The purpose of this paper is to explore the real position of law with respect to procedural justice at the stage of investigation and to suggest legislative changes to streamline the same.

Keywords: Section 41A, Code of Criminal Procedure, Notice of Appearance, Arrest, arbitrary exercise of power, investigation, processual justice

POWER TO ARREST

The power to arrest a person suspected of committing an offence is a significant instance of the coercive power of the Stateⁱ. It is an important power possessed by an investigating agency and is necessary in order to unravel the truthⁱⁱ. Section 41 of the Code of Criminal Procedure, 1973 ('CrPC') lays down the standards for the investigator to satisfy himself/herself on whether to arrest a suspect/accused:

"41. When police may arrest without warrant. —

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

[(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing:

[Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.]

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;]

(c) who has been proclaimed as an offender either under this Code or by order of the State Government; or

(d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(f) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(h) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 356; or

(i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

[(2) Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.]”ⁱⁱⁱ

The powers of arrest possessed by a Police officer are thus truly wide and encompass all such situations in which it may be difficult to obtain a warrant of arrest from a Magistrate.

HISTORY OF THE ‘NOTICE OF APPEARANCE’

The 177th Report of the Law Commission of India^{iv} quotes^v from the Royal Commission Report on Criminal Procedure^{vi}:

“The Royal Commission in the above-said Report at page 46 also suggested: “To help to reduce the use of arrest we would also propose the introduction here of a scheme that is used in Ontario enabling a police officer to issue what is called an ‘appearance notice’. That procedure can be used to obtain attendance at the police station without resorting to arrest provided a power to arrest exists, for example to be finger-printed or to participate in an identification parade. It could also be extended to attendance for interview at a time convenient both to the suspect and to the police officer investigating the case....”^{vii}

The ‘**appearance notice**’ under Canadian criminal procedure is “A notice issued by a police officer requiring the accused’s appearance before a judge or justice of the peace to answer a charge. This is typically given instead of arresting the accused.”^{viii}

A ‘**promise to appear**’ under Canadian criminal procedure is “A *written promise in accordance with Form 10 of the Criminal Code to attend court at a particular place and time. It is a potential basis upon which bail can be granted.*”^{xix}

The Supreme Court has held in Joginder Kumar’s case that:

“A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.”^{xx}

Even the refusal to grant anticipatory bail does not necessarily obligate an investigating officer to arrest an accused person^{xi}

Section 41A was introduced by the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009). However, soon after the enactment of this Amendment, representations were received by the Union Government^{xii} and hence, certain amendments were brought in by the Code of Criminal Procedure (Amendment) Act, 2010 (41 of 2010). The earlier sub-section (1) of section 41A read:

*“The police officer **may**, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.”*^{xiii} (emphasis supplied here)

The 2010 amendment made it obligatory for a police officer to issue such notice by substituting ‘*shall*’ in place of ‘*may*’ vide section 3(a) of the 2010 amendment Act^{xiv}. The amendment also enacted a proviso to section 41(1)(b)(ii) providing for recording of reasons for not arresting an accused^{xv}.

It was not until the Supreme Court directed in the case of *Arnesh Kumar*^{xvi} that the provision for issuing a notice of appearance under section 41A was seriously implemented. The Supreme Court laid down that:

“Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

(2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case,

which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.”^{xvii}

The directions laid down in *Arnesh Kumar*’s case are a salutary set of instructions in order to avoid unnecessary arrest. However, the safeguards in this case deal with the incident of arrest and the power of arrest itself is not curtailed thereby.

In the case of *Hema Mishra v. State of UP and Ors.*^{xviii} the Supreme Court has held that

“21. Above mentioned provisions make it compulsory for the police to issue a notice in all such cases where arrest is not required to be made under Clause (b) of sub-section (1) of the amended Section 41. But, all the same, unwillingness of a person who has not been arrested to identify himself and to whom a notice has been issued under Section 41A, could be a ground for his arrest. Legislation has laid down various parameters, warranting arrest of a person, which itself is a check on arbitrary or unwarranted arrest and the right to personal liberty guaranteed under Article 21 of the Constitution of India.”^{xix}

Citing this qualification in the case of *Hema Mishra*, the Bombay High Court has held in the case of *Jagdishprasad Joshi v. State of Maharashtra*^{xx} that

“The interpretation done by the Apex Court and the provision itself show that whenever notice is issued to any person by the investigating officer, such person is bound to comply with the terms of the notice considering the wording of section and considering provision of Section 41-A(1) which provides that satisfaction of the investigating officer is sufficient for issuing such notice and that can be done even on reasonable suspicion. It can be said that Courts are not expected to lightly interfere in this power of the police. It always needs to be kept in mind by the Courts that it is the statutory power given to the police to make investigation and the persons interested are always trying to use some provisions to protract the things.”^{xxi} (emphasis supplied here)

In the case of *Amandeep Singh Johar v. State of NCT of Delhi and Anr.*^{xxii} the Delhi High Court has laid down a model format for issuance of notice under section 41A of the CrPC which contains a warning at the end of the model notice format which states *“Failure to attend/comply with the terms of this Notice, can render you liable for arrest under Section 41A(3) and (4) of CrPC.”*^{xxiii}

However, sub-section 3 of section 41A contains a wider premise for arresting in spite of the fact that an accused appears before the investigating officer in response to the notice of appearance:

“41-A(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.”^{xxiv}

The review of the legality, propriety and justifiability of the arrest is a post-arrest judicial control. There is no pre-arrest regulation of this power under sub-section 3 of section 41A of the CrPC.

‘Reasonable complaint’, ‘Credible information’, ‘Reasonable suspicion’, ‘Preliminary investigation’ and the check on custodial self-incrimination

Reasonable complaint, credible information and reasonable suspicion are among the grounds provided for arresting a suspect under section 41(1)(b) and for issuing notice of appearance under section 41A(1). The power to arrest on the basis of these terms has been dealt with by the High Court of Tripura as follows:

“Under Section 54(1) first, a police officer can arrest a person who has been concerned in any cognizable offence or against whom credible information has been received or a reasonable suspicion exists of his having been so concerned. It is clear from this that a cognizable offence must have been committed and the person sought to be arrested must have been concerned with the said offence or at least reasonable suspicion existed of his having been so concerned. It is not enough to arrest under Section 54 that there was likelihood of a cognizable offence being committed in the future.”^{xxv}

For obvious reasons, the terms cannot be narrowed down to specific instances or defined exhaustively, otherwise, the power to arrest might be rendered meaningless by unforeseen circumstances. However, the usage of the terms definitely circumscribes the power of arresting a suspect to such cases and circumstances where facts reasonably justify its exercise.

One more judicial remedy to curb the abuse of power to arrest evolved by the Supreme Court is that of ‘preliminary inquiry’^{xxvi} where before the registration of a First Information Report under section 154 of the CrPC, a preliminary inquiry into the veracity of the complaint must be conducted in order to ensure that the information received is credible. The Supreme Court has directed that:

“111) In view of the aforesaid discussion, we hold:

- (i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*
- (ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be*

conducted only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

(iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

(v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

(vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/ family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and, in any case, it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”^{xxvii}
(emphasis supplied here)

The purpose of the preliminary inquiry thus, is only to ascertain whether the information received discloses any cognizable offences or not. The Police at the stage of the preliminary inquiry are not entitled to summon the proposed accused and to fish out information that may lead to inculcate such accused person in a cognizable offence to be registered later. It is submitted that the practice of summoning prospective accused persons by resorting to section 41A(1) of the CrPC at the stage of preliminary inquiry prescribed in Lalita Kumari’s case, is unfounded and illegal. First of all, section 41A(1) contemplates the receipt of a ‘reasonable complaint’, ‘credible information’ or ‘reasonable suspicion’. The stage of preliminary inquiry is described in direction (ii) laid down in Lalita Kumari’s case, where “*the information received does not disclose a cognizable offence but indicates the necessity for an inquiry*”^{xxviii} Thus, the procedure of preliminary inquiry cannot be twisted to gather self-incriminating material from a prospective accused in order to fix criminal liability upon such accused prior to the registration of crime. Section 41A(1) contemplates the securing of the attendance of an accused person in cases where the arrest of the accused is not required under section 41(1) of the CrPC. It thus contemplates the registration of a First Information Report and the naming of an accused therein.

The law places certain necessary checks on custodial self-incrimination and thus, circumscribes the scope of custodial investigation to fact-finding, subject to the safeguard against self-incrimination, even in matters of procedure.

An accused person cannot be summoned to produce documents incriminating himself/herself^{xxix} or to record statements incriminating himself/herself^{xxx}. Refusal to self-incriminate and ‘confess’ cannot be a ground for seeking cancellation of bail^{xxxi}.

Thus, the use of preliminary inquiry or a notice of appearance to get an accused to self-incriminate is not contemplated by law. The purpose of the preliminary inquiry is to gauge from the materials of the complaint whether a cognizable offence is made out and if so, to register an offence. The purpose of the notice of appearance is to secure the attendance of an accused person to aid investigation in cases where the punishability of the alleged offences does not exceed 7 years. The Police are supposed to be able to gather materials for filing a charge sheet from their fact-finding where the accused person is protected from self-incrimination in any form and at all stages of the criminal process, preliminary inquiry, investigation as well as trial. The Police need to be trained not to use the procedure of preliminary inquiry and notice of appearance to gather pre-investigation evidence to incriminate the proposed accused and then register a formal First Information Report with the materials gathered.

MAKING THE POWER UNDER SUB-SECTION 41A (3) OF THE CRPC MAGISTRATE-WARRANTABLE IN ORDER TO MAKE SECTION 41A TRULY JUST

With regard to the safeguards against pre-investigation evidence gathering from the accused which may amount to self-incrimination (and not other forms of preliminary fact-finding) and the general safeguards against self-incrimination, the power of the investigating officer under section 41A(3) to effect an arrest for reasons to be recorded in writing, even in cases where the accused person attends before the investigating officer in response to a notice of appearance under section 41A(1), needs to be subjected to the statutory control of warranting of such arrests by Judicial Magistrates and a show-cause notice to the prospective arrestee on why such arrest should not be effected. The latter part of the proposed procedure is necessary, as sub-section 3 of section 41A presupposes that the accused is attending in deference to the notice of appearance and is not absconding from the process of investigation.

In the absence of the above proposed procedural control, every case of notice of appearance invariably goes to the District Court or to the High Court for granting anticipatory bail under section 438 of the CrPC. This defeats the purpose of mitigating the procedural excess of impending arrest, as an accused person fearing the possibility of arrest under sub-section 3 of

section 41A, would move an anticipatory bail application, which also takes up the time of the investigating officer.

A warrantable arrest after show-cause would also leave it open to the proposed arrestee to move an anticipatory bail application. However, the person taking the decision on the application for warrant to arrest would be a judicially trained officer, who is not a part of the executive administration and this would help to curb the menace of abuse of the power to arrest as the investigating officer would have to show good cause for effecting arrest. Being a judicial proceeding, the investigating officer would also be liable to face charges of contempt and perjury for wrong and misleading statements, if any are made, which the present procedure does not provide.

CONCLUSION AND SUGGESTIONS

1. From the above discussion, it is clear that just because an investigating agency possessing powers under the CrPC has the power to arrest an accused for the reasons under section 41 of the CrPC, it is not necessary to arrest an accused person in every case where a criminal offence is registered and is under investigation.
2. A fair amount of discretion has to be left with the investigating officer to be fair to the public purpose of investigation, which is to find out the truth in the case of criminal offences, which are classically treated as offences against the peace of the society at large. However, this cannot be at the cost of common procedural fairness. If a procedure is codified for protecting an accused from unnecessary arrest and for pre-FIR preliminary inquiry, it must be interpreted for the purpose of protecting an accused from unnecessary harassment. Such procedure therefore, cannot be implied by any chance, to cause prejudice to a prospective accused or accused person.
3. Looking at the safeguards built into the law, securing the custody of an accused person to get himself/herself to 'confess' is not one of the purposes of allowing arrest under the law. The grounds justifying an arrest have to be interpreted strictly in terms of section 41 of the CrPC, and cannot be stretched by abuse of the procedure of preliminary inquiry and notice of appearance to get a prospective accused or accused

person to produce self-incriminatory material which the investigating agency can use against such accused person.

4. In order to realise the purpose of section 41A of the CrPC, it is necessary to amend sub-section 3 thereof and to make every proposed arrest in cases where an accused person attends before the investigating officer in response to a notice of appearance, subject to the satisfaction of a Judicial Magistrate who may hear both sides and issue a warrant of arrest only after being satisfied of the need for arresting of the accused who has attended in response to the notice of appearance. Again, the binding principles of protection against self-incrimination should be built into such amendment, i.e. it should be provided in the amended sub-section 3 that the following **shall not be grounds for authorising arrest** under sub-section 3 where a Police officer applies for a warrant of arrest of an accused even when such accused attends investigation before such police officer in response to a notice of appearance under section 41A(1) of the CrPC:
 - a) Refusal to self-incriminate or ‘confess’;
 - b) Refusal to produce self-incriminatory material including documents or objects;
 - c) Refusal to record self-incriminatory statements.
5. Defining by legislative amendment to the Code of Criminal Procedure, 1973, the term ‘preliminary inquiry’ and specifically barring from such inquiry, the procurement of evidence from a prospective accused.

The proposed reforms will make section 41A of the CrPC truly fair and just and enable a true realisation of its legislative purpose.

ENDNOTES

ⁱ *Arnesh Kumar v. State of Bihar and Anr.*, AIR 2014 SC 2756

ⁱⁱ *State Represented by CBI v. Anil Sharma*, AIR 1997 SC 3806

ⁱⁱⁱ Code of Criminal Procedure, Available at:

<https://indiacode.nic.in/acts/11.%20Code%20of%20Criminal%20Procedure,%201973.pdf> (Last visited on February 5, 2019)

^{iv} Law Commission of India, 177th Report on Law Relating to Arrest (December 2001) (Volume I), available at: <http://lawcommissionofindia.nic.in/reports/177rtp1.pdf> (Last visited on February 5, 2019)

^v Law Commission of India, 177th Report on Law Relating to Arrest (December 2001) (Volume II), available at: <http://lawcommissionofindia.nic.in/reports/177rtp2.pdf> (Last visited on February 5, 2019)

- ^{vi} Description of 'Royal Commission on Criminal Procedures', Royal Commission on Criminal Procedures, 1978-1984. LSE Library Archives and Special Collections. GB 97 RCCP' on the Archives Hub website, *available at*: <https://archiveshub.jisc.ac.uk/data/gb97-rccp> (Last visited on February 5, 2019)
- ^{vii} Law Commission of India, 177th Report on Law Relating to Arrest (December 2001) (Volume II), *available at*: <http://lawcommissionofindia.nic.in/reports/177rpt2.pdf> (Last visited on February 5, 2019)
- ^{viii} Irwin Law, 'Appearance Notice', *available at*: https://www.irwinlaw.com/cold/appearance_notice (Last visited on February 5, 2019)
- ^{ix} Irwin Law, 'Promise to Appear', *available at*: https://www.irwinlaw.com/cold/promise_to_appear (Last visited on February 5, 2019)
- ^x *Joginder Kumar v. State of U.P.*, (1994) 4 SCC 260
- ^{xi} *M.C. Abraham v. State of Maharashtra*, (2003) 2 SCC 649
- ^{xii} Debate in Lok Sabha. Dated 12th August 2010. Union Law Minister Palaniappan Chidambaram, *available at*: <http://164.100.47.194/Loksabha/Debates/DebateAdvSearch15.aspx> (Last visited on February 5, 2019)
- ^{xiii} Gazette notification of Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009), *available at*: http://egazette.nic.in/WriteReadData/2009/E_6_2010_016.pdf (Last visited on February 5, 2019)
- ^{xiv} Gazette notification of Code of Criminal Procedure (Amendment) Act, 2010 (41 of 2010), *available at*: http://egazette.nic.in/writereaddata/2010/E_50_2010_011.pdf (Last visited on February 5, 2019)
- ^{xv} *Ibid*
- ^{xvi} AIR 2014 SC 2756
- ^{xvii} *Ibid*
- ^{xviii} AIR 2014 SC 1066
- ^{xix} *Ibid*
- ^{xx} Criminal Writ Petition No. 416 of 2015 (Aurangabad Bench), Order dated 31st March 2015
- ^{xxi} *Ibid*
- ^{xxii} W.P.(C) 7608/2017, Order dated 7th February 2018
- ^{xxiii} *Ibid*
- ^{xxiv} Code of Criminal Procedure, 1973 (2 of 1974), S. 41A(3) added by section 6 of the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009)
- ^{xxv} *Easih Mia v. Tripura Administration*, 1962 CrLJ 673
- ^{xxvi} *Lalita Kumari v. Government of UP*, (2011) 11 SCC 331
- ^{xxvii} *Ibid*
- ^{xxviii} *Ibid*
- ^{xxix} *Shyamlal Mohanlal Choksi v. State of Gujarat*, AIR 1965 SC 1251 : *State Represented by Inspector of Police v. N.M.T. Joy Immaculate*, (2004) 5 SCC 729
- ^{xxx} *Nandini Satpathy v. P. L. Dani*, AIR 1978 SC 1025
- ^{xxxi} *Santosh s/o Dwarkadas Fafat v. State of Maharashtra*, Criminal Appeal No. 1759 of 2017 (Supreme Court), Decided on 10th October 2017 : *Selvi v. State of Karnataka*, (2010) 7 SCC 263