

BA-LLB 9th Sem
Criminal Procedure Code
BL-902
Jurisdiction of criminal court

Introduction:-

This chapter belongs to jurisdiction. This chapter is XIII, and sections are 177 to 189. Sec 177 and 189 deals with the jurisdiction of Criminal Courts in inquiries and trial. This context of the general principles for determining which shall be the proper court to inquire or try an offence. Jurisdiction means power or legal authority. The word jurisdiction is derived from Latin terms Juris meaning “law” and dicer or dicto meaning “to speak”. So jurisdiction means “I speak by law”. It can be defined as “the authority, which a court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for its decision. The local jurisdiction means the limit of the area in which the court can exercise its power.¹ The basic rule in the context of local jurisdiction is contained in Section 177 which provides that ordinary every offence is to be inquired into or tried by a court within whose local jurisdiction it was committed.²

Harjit Singh v. Union Of India³ In this case the court held that anticipatory bail can be granted by the High Court/Sessions Court having territorial jurisdiction over the place of commission of the offence.

Meaning of Inquiry and Trial: -

Inquiry:- according to sec 2(g) Inquiry means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.⁴

Bundela Ailaliah v. State of A.P.⁵ In this case the court held that Inquiry means trial conducted under this code by a Magistrate or Court.

Types of Inquiry: -

- 1) Judicial Inquiry
- 2) Non-judicial Inquiry
- 3) Preliminary Inquiry

¹ Lal Batuk, The Code of Criminal Procedure, Central Law Agency, 2nd Edition 2010, P.291.

² Kelkars R.V., Criminal Procedure, Eastern Book Company, 6th Edition 2020, P.203.

³ 1994 Cr. L. J.3134 (P&H),

⁴ Code Of Criminal Procedure, 1973, Universal Law Publishers, (Amendment) Act 2018, Edition 2019, P.3.

⁵ 1995 Cr.L.J 1083

4) Local Inquiry

Trial :- when the Inquiry stage comes to an end. It is the most important and third part

of a judicial proceeding. It is the process by which the guilt of an allegation on a person is ascertained.

Types of Trial: -

- 1) Session trial
- 2) Warrant trial
- 3) Summons trial
- 4) Summary trial

Jurisdiction of Criminal Court: -

Ordinary place of inquiry and trial Sec 177: - Every offence shall ordinarily be inquired into and tried by court within whose local jurisdiction it was committed.⁶

Abraham Ajith v. Inspector of Police,⁷ In this case the court held that “Ordinarily” word indicates that the provision is a general one and must be read subject to the special provisions contained in this code.

Original jurisdiction means a power of court to hear and decide a case before any appellate review. A trial court must necessarily have original jurisdiction over the types of cases it hears.

Mohan Baitha v. State of Bihar,⁸ In this case the court held that the exceptions implied by the word ordinarily need not be limited to those specially provided for by the law and exception may be provided by law on considerations of convenience or may be implied from other provisions of law permitting joint trial of offences by the same court.

Place of inquiry or trial sec 178: -

a) Uncertain Area:- When it is uncertain in which of the several local areas an offence is committed.

⁶Code of Criminal Procedure, 1973. (Amendment) Act 2018, Universal Law Publishers, Edition 2019, P.89

⁷(2004) 8 SCC 100.

⁸AIR 2001 SC 1490, (2001) 4 SCC 350.

- b) **Doubtful Area:** -where an offence is committed in one local area and partly in another, it may be inquired into or tried by a court having jurisdiction over any of such local areas.
- c) **Continue offence:** -where an offence is continuing one, and continues to be committed in more local areas than one, it may be inquired into or tried by a court having jurisdiction over any such local areas.
- d) **Different local areas:** -where it consists of serial acts done in different local areas it may be inquired into or tried by a court having jurisdiction over any of such local areas.⁹

Satvinder Kaur v/s. State¹⁰In this case held that where it is uncertain in which of the several local areas the offence was committed or where several acts are done in different local areas, it is said that offence can be inquired into or tried by a court having jurisdiction over any of such local areas.

Offence triable where act is done or consequence ensues sec 179: -Where an offence is incurable and triable by a court within whose local jurisdiction the act is done or consequence has ensued. for example.

A is wounded within the local jurisdiction of court X, and dies within the local jurisdiction of court Y. the offence of culpable homicide of A may be inquired into or tried by Court X or Y.¹¹

Place of trial where act is an offence by reason of relation to other offence sec 180: -When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first mentioned offence may be inquired into or tried by a court within whose local jurisdiction either act was done.

For example -theft, to keep the stolen property.¹²

Place of trial in case of certain offence sec 181: -

1) **Certain Offence:** -Like Theft, dacoity or escaping from custody.

According to sec 181 (1) such type of offence may be inquired into or tried by a court within whose local jurisdiction the offence was committed or accused person was found.

⁹Ratan Lal & Dhiraj Lal, The Code of Criminal Procedure 1973, Lexis Nexis, 21st Edition 2013, P.359.

¹⁰AIR (1999) 8 SCC 728.

¹¹Kelkar's R.V., Criminal Procedure, EBC, 6th Edition 2014, Reprinted 2020, P.206-207.

¹²Mishra S.N. Code of Criminal Procedure 1973, Central Law Publications, 3rd Edition 2011, P.275.

2) **Kidnapping or Abduction:** - According sec 181 (2) Provides that the offence of kidnapping or abduction may be inquired into or tried by a court within whose local jurisdiction the person was kidnapped or was conveyed or concealed or detained.

The word “conveyed” does not include “conveyance by police or magisterial authority after arrest.

3) **Theft, Extortion, Robbery:** - According to Sec 181(3) these offences may be inquired into or tried by a court within whose local jurisdiction, the offence was committed or the stolen property was possessed, or received or retained.

4) **Criminal Misappropriation, Criminal Breach of Trust:-** According to Sec 181(4) these offence may be inquired into or tried by a court within whose local jurisdiction, the offence was committed or any part of the property was received or retained or was required to be returned or accounted for, by the accused person.

5) **Possession of Stolen Property:** - Sec 181(5) provides that any offence the possession of stolen property may be inquired into or tried by a court within whose local jurisdiction the offence was committed or stolen property was possessed by any person who received or retained it.¹³

Offence committed by Letters (sec 182): -

1) any offence which includes cheating may, if the deception is practiced is practiced by means of letters or telecommunication messages, be inquired into or tried by court within whose local jurisdiction such letters or messages were sent or were received.

2) Any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused.

3) Any offence punishable under Sec 494 or Sec 495 of Indian Penal Code may be inquired into or tried by a court within whose local jurisdiction.

- the offence was committed or
- The offender last resided with her or his spouse by the first marriage or
- The wife by the first marriage has taken up permanent residence after the

¹³Chaturvedy Dr. M. D, The Code of Criminal Procedure, 1973, Allahabad Law Agency Publications, 5th Edition 2015, P.290-291.

commission of offence.

TekumallaMuneiah v. C.B.Ammanamma,¹⁴In this case the Court held that in case of bigamy,the Magistrate having jurisdiction over the place,where the offence is committed and also the magistrate having jurisdiction over the place,where the offender last lived will have jurisdiction.

Offence committed on journey or voyage Sec 183:-When an offence is committed during in journey or voyage ,when the person by,or against whom,or the thing in respect of which, the offence is committed .the offence may be inquired or trial by the court whose has local jurisdiction.

The words “journey” and “voyage” appear to mean one and same thing.The section would be applicable only when the journey is continuous and uninterrupted.¹⁵

Harish Tewari v.Vimal Kumar Singh¹⁶In his case court held that where a quarrel took place on a running train between Shahjahanpur and Moradabad and the accused got down at Moradabad,but the complainant terminated his journey at Jalandhar,where he filed the complaint against the accused .it was held that Jalandhar Court had jurisdiction to try the case.

Place of trial for offence triable together Sec 184: -when any offence is committed by any accused person,he may be charged with and tried at one trial for each such offence in sec 219,sec 220,sec 221.such offence may be inquired or tried by any competent court.

When the offence is committed by several person .they may be charged with and tried together in sec 223,such offence may be inquired or tried by any competent court, who has jurisdiction .

Power to order cases to be tried in different sessions divisions Sec 185: -the state Government may direct that any cases committed for trial in any district may be tried in any session division.This is the special power of its in this section .

Provided that such direction is not repugnant to any previously direction issued by the High Court or Supreme Court.

High Court to decide, in cases of doubt, district where inquiry or trial shall take place Sec 186: -where two or more Courts have taken cognizance of the

¹⁴1991 Cr.L.J.548.

¹⁵ Kelkar`s R.V., Criminal procedure, Eastern Book Company, 6th Edition 2014 Reprinted 2020,P.213,

¹⁶ 1995Cr.L.J 3859.P&H

same offence and a question arises here to whom of them ought to inquire or try that offence, the question shall be decided –

- a) If the Courts are subordinate to the same High Court, by that High Court.
- b) If the Court are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceeding were first commenced,

The main object of this section is to protect accused person, who is harassed unnecessarily for the same offence by the different court.

Power to issue summons or warrant for offence committed beyond local jurisdiction Sec 187:- when a magistrate of the first class sees reason to believe that any person has committed such offence within his local jurisdiction, which is not describe in sec 177 to 185. but such offence under some law for the time being in force triable in India. such magistrate may inquire that offence as if it had been committed within local jurisdiction and send such person to the magistrate having jurisdiction to inquire or tried such offence, or if such offence is not punishable with death or life imprisonment and such person may be release on bail and take abond with or without sureties.

Note when there are one or more Magistrates, send to the High Court for decided the jurisdiction. And the jurisdiction shall be decided by the High Court.

State of West Bengal v. Jugal Kishor,¹⁷In this case the court held that a Magistrate can issue warrant and send it to the Secretary, Home Department, for onward transmission to Government of India for taking further steps to get the person outside India to be arrested.

Offence committed outside India Sec 188:- When an offence is committed outside India –

- a) By a citizen of India, whether on high seas or elsewhere, or
 - b) By a person not being such citizen, on, any ship aircraft registered in India,
- He may be deal with in respect of such offence as if it had been committed at any place within India at which he may be found.

Provided that no such offence shall be inquired or tried in India except with the previous sanction of the Central Government.

¹⁷AIR 1969 SC 1171, 1969 Cr. L.J 1559.

Central Bank of India Ltd.v. RamNarain,¹⁸In this case the court held that when an offence is committed by a citizen of India outside India whether on high seas or else where ,he may be tried in respect of such an offence as if the offence had been committed at any place within India at which he may be found.

Found word means only the cases where the person is to be discovered in India.¹⁹

Receipt of evidence relating to offence committed outside India Sec 189:-When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of Section 188, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before a judicial officer in or for that territory or before diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.²⁰

Exercise-

Q-1 Define jurisdiction?

Q-2 What is the place of inquiry or trial?

Q-3 Explain the original jurisdiction under sec 177?

Q-4 Where will be the place of trial of offence committed on journey or voyage?

Q-5 Explain the provision of the place of trial in criminal cases under Cr.P.C?

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¹⁸AIR 1955 SC36, 1955Cr.L.J. 152.

¹⁹ Lal Batuk, The code of Criminal Procedure ,Central Law Agency, 2nd Edition 2010, P.300.

²⁰ Chaturvedi Dr. M. D., The Code of Criminal Procedure 1973, Allahabad Law Agency, 3rd Edition 2011, P.290