



Recovery of Fine

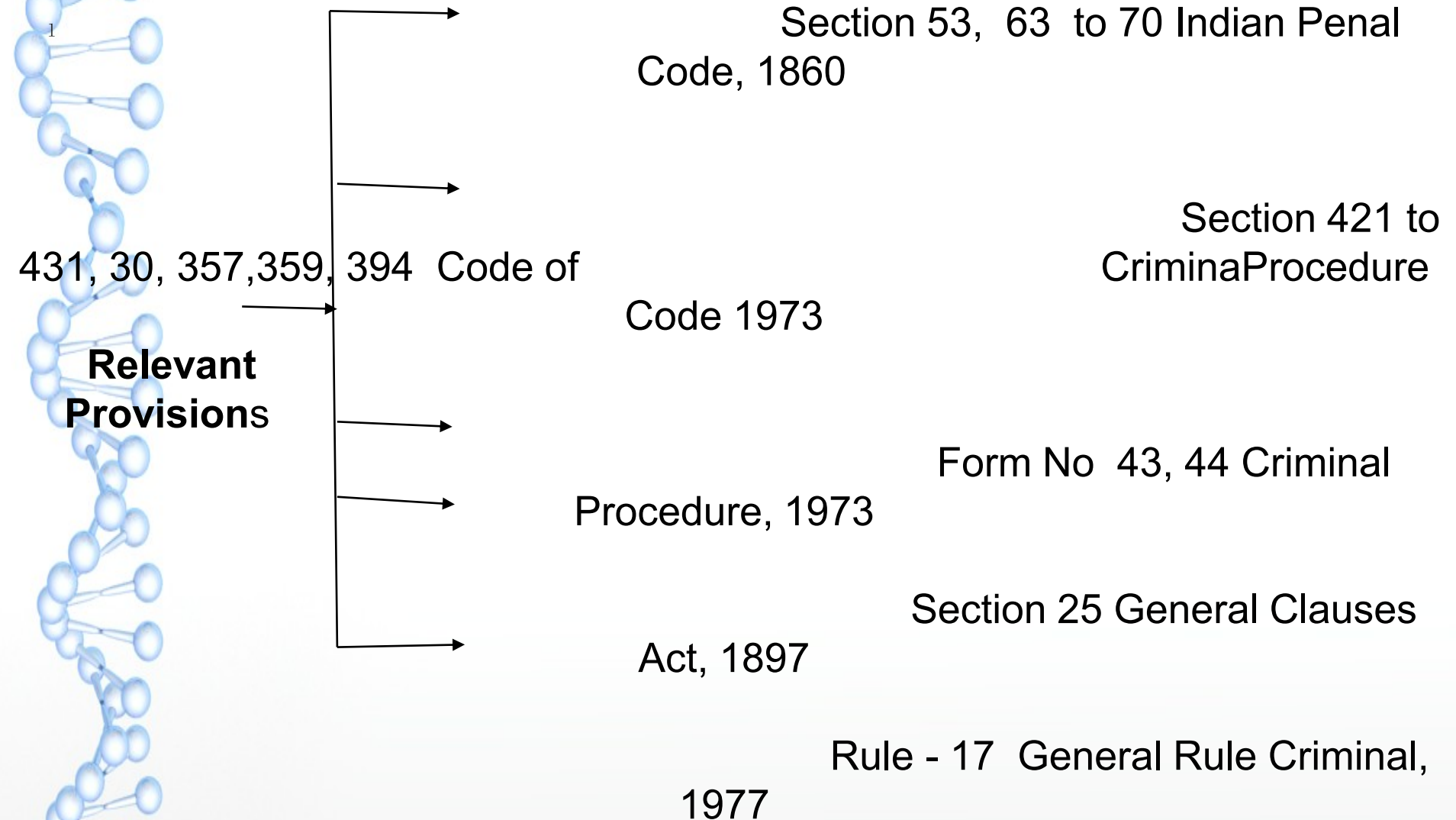
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Recovery of Fine





Provisions under Indian penal code 1860

Section 53 - Provides for punishment to which offenders are liable under the provisions of this Code

First.—Death;

Secondly—Imprisonment for life;

Thirdly.—***

Fourthly.—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly.—Forfeiture of property;

Sixthly — Fine.



Section 63 - Provides for amount of fine -unlimited but not excessive.

Section 64 - Provides for Sentence of imprisonment for non payment of fine.

Section 65 - Provides for Limit to imprisonment for non payment of fine
Shall not exceed one-fourth of the term of imprisonment
Which is the maximum fixed.

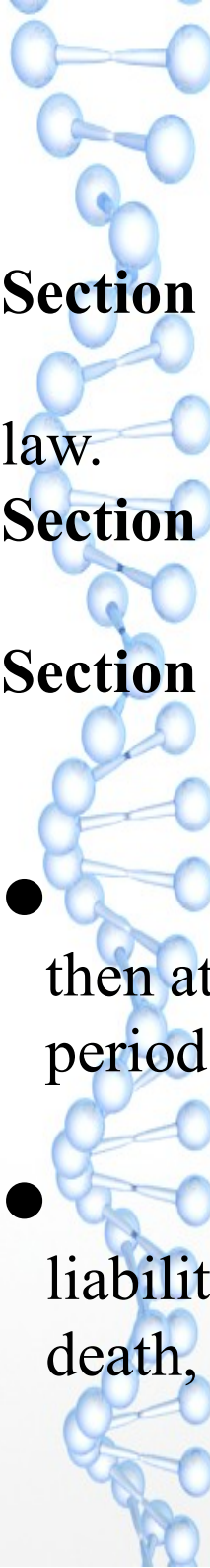
Section 66 - Provides for Description of imprisonment for non-payment of fine - any description to which the offender might have been sentenced.

Section 67 - Provides for Imprisonment for non-payment of fine, when offence punishable with fine only -

Fine Upto 50 Rupees - Not exceeding two months

exceeding Four months
Fine more than Fifty but upto 100 Rupees - Not

months.
Fine above 100 Rupees - any term not exceeding six



Section 68 - Provides for termination of imprisonment on payment of fine - either paid or levied by process of law.

Section 69 - Provides for Termination of imprisonment on payment of proportional part of fine.

Section 70- Provides for Fine leviable within six years of during imprisonment –

- If imprisonment is longer period than six years, then at any time previous to the expiration of that period.
- Death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.



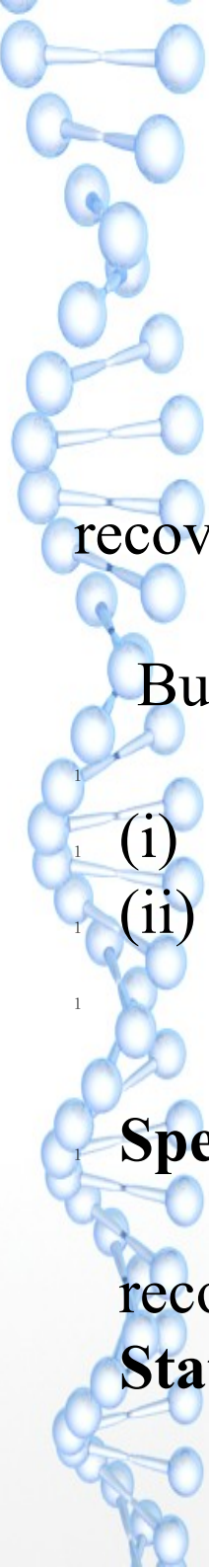
Section 25 General Clauses Act, 1897

Recovery of fines.—Sections 63 to 70 of the Indian Penal Code (45 of 1860) and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.



Mode for recovery of Fine

- Section 421 Cr.P.C (Section 461 Bharatiya Nagarik Suraksha Sanhita, 2023) Provides two mode for recovery of fine -
 - (i) By issuing warrant for attachment and sale of any movable property belonging to the offender.
 - (ii) By issuing warrant to the Collector of the district authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter.
- **Court Can adopt any one mode or both mode.**
- No such warrant shall be executed by arrest or detention in prison of the offender



If offender has undergone Whole Imprisonment in default of
Payment of fine then warrant shall not be issued for
recovery of fine.

But warrant may be issued-

(i) after recording special reason in writing.

(ii) Where Court has made an order for payment of expenses or
Compensation out of fine Under Section 357 CRPC.

Special Reason - Accused got property after undergone Imprisonment
in default, resistance by accused during
recovery of fine etc (**ParasNath Vs
State AIR 1969 All.**)



Limitation for recovery of fine

- No time limit has been prescribed for recovery of fine under section 421 Code of Criminal Procedure, 1973. Section 421 Code of Criminal Procedure, 1973 must be read with section 70 Indian Penal Code, 1860.
- Fine may be levied at any time within 6 years after passing of sentence, if sentence of imprisonment is longer than six years at any time previous to expiration of that period.

(Mehtab Singh Vs State of U.P 1979)



Section- 431 CrPC (Section 471 Bharatiya Nagarik Suraksha Sanhita, 2023)

- Provides mode for recovery of **any money**, other than fine.
- If method of recovery of any money (Other than fine) not expressly provided - shall be recoverable as fine.



Compensation

- If Compensation is part of Fine Under section 357 (1) and not paid by accused - Default sentence.
- If Compensation not part of fine and not paid by accused - Default sentence.

Vijayan Vs. Sadanandan K. (2009) 6 SCC 652

- If recourse can only be had to Section 421 Cr.P.C. for enforcing the same, the very object of Sub-Section (3) of Section 357 would be frustrated and the relief contemplated therein would be rendered somewhat illusory.
- The provisions of Sections 357(3) and 431 Cr.P.C., when read with Section 64 IPC, empower the Court, while making an order for payment of compensation, to also include a default sentence in case of non-payment of the same.



R.Mohan vs A.K. Vijaya Kumar on 3 July, 2012

1 The idea behind directing the accused to pay compensation to the complainant is to give him immediate relief so as to alleviate his grievance. In terms of Section 357(3) compensation is awarded for the loss or injury suffered by the person due to the act of the accused for which he is sentenced. If merely an order, directing compensation, is passed, it would be totally ineffective. It could be an order without any deterrence or apprehension of immediate adverse consequences in case of its non-observance.

1 The whole purpose of giving relief to the complainant under Section 357(3) of the Code would be frustrated if he is driven to take recourse to Section 421 of the Code. Order under Section 357 (3) must have potentiality to secure its observance. Deterrence can only be infused into the order by providing for a default sentence.



Kumaran Vs State of Kerala (SC) DOJ- 05/05/2017

The position in law now becomes clear. The deeming provision in Section 431 will apply to Section 421(1) as well, despite the fact that the last part of the proviso to Section 421(1) makes a reference only to an order for payment of expenses or compensation out of a fine, which would necessarily refer only to Section 357(1) and not 357(3). Despite this being so, **so long as compensation has been directed to be paid, albeit under Section 357(3), Section 431, Section 70 IPC and Section 421(1) proviso would make it clear that by a legal fiction, even though a default sentence has been suffered, yet, compensation would be recoverable in the manner provided under Section 421(1).** This would, however, be without the necessity for recording any special reasons. This is because Section 421(1) proviso contains the disjunctive “or” following the recommendation of the Law Commission, that the proviso to old Section 386(1) should not be a bar to the issue of a warrant for levy of fine, even when a sentence of imprisonment for default has been fully undergone. The last part inserted into the proviso to Section 421(1) as a result of this recommendation of the Law Commission is a category by itself which applies to compensation payable out of a fine under Section 357(1) and, by applying the fiction contained in Section 431, to compensation payable under Section 357(3).



Dayawati vs Yogesh Kumar Gosain Delhi HC DOJ-17 October, 2017

- When a criminal court passes order accepting the mediated settlement between the parties and directs the accused to make payment in terms thereof, the settlement amount becomes payable under the order of the court. Such order in cheque bouncing cases, would be an order under Section 147 of the NI Act and Section 320 of the Cr.P.C
- In the event of default or non-compliance or breach of the settlement agreement by the accused person, the magistrate would pass an order under Section 431 read with Section 421 of the Cr.P.C. to recover the amount agreed to be paid by the accused in the same manner as a fine would be recovered.



G. J. Raja vs Tejraj Surana DOJ- 30

July, 2019

- The imposition and consequential recovery of fine or compensation could arise only after the person was found guilty of an offence- this status of law changed by Sec- 143A.
- Now, 143A imposes a liability that even before the pronouncement of guilt or order of conviction, the accused may be forced to pay interim compensation with the aid of State machinery for recovery of the money as arrears of land revenue.
- The conclusion, therefore, is that the order to pay compensation may be enforced by awarding sentence in default.



Ramanand Vs Hiralal S.A No. 1698 of 1990

Alld Dated 30-09-2022

- A conjoint reading of the provisions of Sections 125(3) and 421(1) of the Code shows that it is open to the Magistrate to enforce an order of maintenance that remains uncomplied with, for every breach of it, by the issue of a warrant for levying the amount due in the manner provided for levying fines.
- The substantial question of law framed is, accordingly, answered in the affirmative and it is held that the Magistrate has power to enforce an order of maintenance passed under Section 125 Cr.P.C. by issuing a warrant to the Collector to recover the same as arrears of land revenue.



Section 394 Code of Criminal Procedure, 1973

- 394 (2) Every other appeal under this Chapter except an appeal from a sentence of fine shall finally abate on the death of the appellant.



Harnam Singh Vs. State of Himanchal 1975

Cr.L.J. 276

- Where appeal is against sentence and fine and appellant dies - Appeal shall not abate.



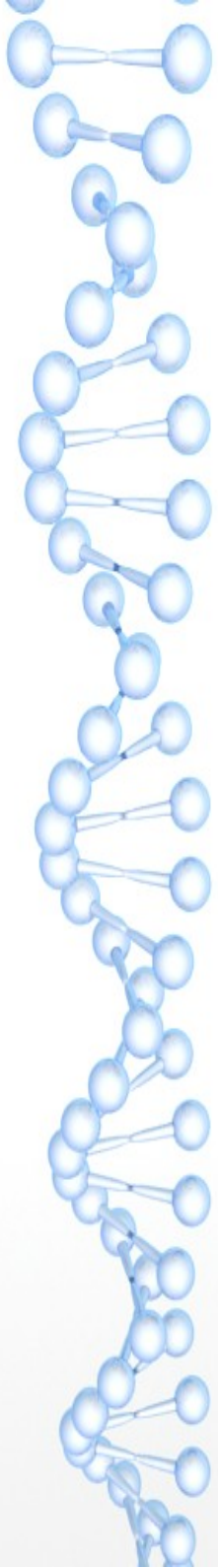
Ramesan (Dead) Through LR. Girija vs The State Of Kerala SC, DOJ- 21 January, 2020

- Even if sentence of fine is imposed alongwith the sentence of imprisonment under Section 431, such appeal shall not abate.
- Appeal against Composite sentence not to abate on mere death of accused.



Form

- Form No 43 Criminal Procedure, 1973
- Form No 44 Criminal Procedure, 1973



Thank you...